



TENTATIVE:
SUBJECT TO
REVISION

TOWN OF PALM BEACH

Town Manager's Office
TOWN COUNCIL MEETING

**TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD**

AGENDA

SEPTEMBER 14, 2021

9:30 AM

To Participate via Zoom, please click on the link below:
<https://us06web.zoom.us/j/87384113262>

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. PRESENTATIONS

- A. Legislative Update** Page 9
TIME CERTAIN: 9:45 AM
Brian Mast, U.S. Congressman for the 18th District of Florida
- B. Presentation by the Palm Beach County Supervisor of Elections** Page 17
Regarding the Upcoming Elections and Senate Bill 90
Wendy Sartory Link, Palm Beach County Supervisor of Elections

VI. BOARDS AND COMMISSIONS PRESENTATIONS AND APPOINTMENTS

- A. Presentations by the Applicants and Appointments to the Planning and Zoning Commission** Page 39
Queenester Nieves, CMC, Town Clerk

VII. COMMENTS OF MAYOR DANIELLE H. MOORE

VIII. COMMENTS OF TOWN COUNCIL MEMBERS

IX. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

X. APPROVAL OF CONSENT AGENDA (SEE NOTE 5)

A. MINUTES

1. Town Council Meeting Minutes Page 79
Queenester Nieves, CMC, Town Clerk
- July 13, 2021, Town Council Meeting
July 15, 2021, Special Town Council Meeting - Proposed FY22 Budget
July 27, 2021, Special Town Council Meeting - COVID-19
August 10, 2021, Town Council Meeting
August 11, 2021, Local Planning Agency Meeting
August 11, 2021, Town Council Development Review Meeting
2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of August 25, 2021. Page 186
Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 085-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Consent to Deemed Assignment of Investment Advisory Agreement(s) with PFM Asset Management, and Authorizing the Town Manager to Execute all Documents Necessary on Behalf of the Town. Page 226
Jane Le Clainche, Director of Finance
2. RESOLUTION NO. 105-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Designating Page 230

Town Depositories for Fiscal Year 2022 Pursuant to Section 2-517 of the Town Code of Ordinances and Designating Parties to Sign Checks or Warrants on Behalf of the Town Pursuant to Section 2-36 of the Town Code of Ordinances.

Jane Le Clainche, Director of Finance

3. RESOLUTION NO 106-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing an Agreement with the State of Florida, Division of Emergency Management, Agreement No. Y5252, for Funding through the American Rescue Plan Act of 2021, Coronavirus Local Fiscal Recovery Fund, in the Amount of \$4,415,526.00, and Authorizing the Mayor to Execute all Documents Necessary on Behalf of the Town. Page 235

Jane Le Clainche, Director of Finance

4. RESOLUTION NO. 107-2021 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Approving Proposed Fixed Costs for Property, Liability, Workers' Compensation, Automobile and Ancillary Coverages for FY2022 in the Amount of \$1,061,517 and Variable Costs in the Amount of \$1,100,000; Approving a Non-Exclusive Insurance Broker Services Agreement with Relation Insurance Service of Florida, Inc. "Relation", in the Amount of \$40,000; Approving a Non-Exclusive Insurance Broker Services Agreement with Arthur J. Gallagher Risk Management Services, Inc., "AJG," in the Amount of \$7,500; Approving a Third Party Administration Services Agreement with Preferred Governmental Claim Solution "PGCS" in the Amount of \$53,230; Conditioning All Matters Contained Herein Subject to Approval of the Fiscal Year 2022 Budget; and Authorizing the Town Manager to Execute the Non-Exclusive Insurance Broker Services Agreements with Relation, AJG and PGCS on Behalf of the Town. Page 264

Carolyn Stone, Assistant Town Manager

5. RESOLUTION NO. 108-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Electronic Data Collection CPR in the Amount of \$46,700 to Support the Parking Ticket Management Software, Contingent upon FY22 Budget Authorization. Page 313

Dean Mealy, Purchasing Manager

6. RESOLUTION NO. 109-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to MCCI, Laserfiche in the Amount of \$50,000 as a Sole Source Acquisition to Support the Town's Electronic Document Management System Used by the Town, Contingent Upon Budget Approval. Page 318

Dean Mealy, Purchasing Manager

7. RESOLUTION NO. 110-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Superior, LLC dba Central Square for Annual Page 323

Purchase of Software Maintenance in an Amount Not To Exceed \$125,321 to Support Police Operational Requirements, Contingent Upon FY22 Budget Approval.

Dean Mealy, Purchasing Manager

8. RESOLUTION NO. 111-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to GovConnection Inc. for the Purchase of Dell Laptops for Public Safety in the Amount of \$95,330. Page 332

Dean Mealy, Purchasing Manager

9. RESOLUTION NO. 112-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Tyler Technologies, Inc. for Annual Software Support and Licensing in an Amount Not To Exceed \$95,000, Contingent Upon FY22 Budget Approval. Page 338

Dean Mealy, Purchasing Manager

10. RESOLUTION NO. 113-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to AEGION/Insituform Technologies LLC for Lining of Sewer Pipes Within the A6 Basin from the National Cooperative, Buyboard in the Amount of \$1,425,890 and Establish a Project Budget of \$1,641,773, Contingent upon FY22 Budget Approval. Page 344

Savings Were Noted in the Amount of \$566,470 by Re-Engineering Approach to the Award of the Contract

Dean Mealy, Purchasing Manager

11. RESOLUTION NO. 114-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to the Award of Bid No. 2019-30, Plans, Review, And Inspection Services in the Amount of \$60,000 for FY21 and a New Contract Amount of \$300,000 and to Approve a Change Order to the Remaining Three Years of the Contract Award from \$240,000 Annually to \$325,000 Annually, Contingent Upon Budget Approval. Page 349

Dean Mealy, Purchasing Manager

C. OTHER

1. Health Insurance Rates for Calendar Year 2022 Page 353
Carolyn Stone, Assistant Town Manager

XI. COMMITTEE REPORTS

- A. Report of the Ordinances, Rules and Standards Committee Meeting Held on Thursday, July 1, 2021 Page 360
Julie Araskog, Committee Chair
TIME CERTAIN: 11:00 AM

1. Recommendations Regarding Modifications to Construction Hours

Jay Boodheshwar, Deputy Town Manager

2. Recommendations Regarding Addition of Synthetic Turf Regulations in the Town Code

Wayne Bergman, Director of Planning, Zoning and Building

3. Discussion Regarding Application of Existing Regulations Pertaining to Native Plants

Wayne Bergman, Director of Planning, Zoning and Building

XII. REGULAR AGENDA

A. Matters Pulled From Consent Agenda: If needed

B. Old Business

1. COVID-19 Update

Kirk W. Blouin, Town Manager

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a. COVID-19 Monthly Report

Darrel Donatto, Fire Rescue Chief

b. Discussion Regarding Board, Commission, and Committee Meeting Format and Participation For Upcoming Meetings

Margaret A. Zeidman, Council President

c. RESOLUTION NO. 115-2021 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 October 12, 2021, 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. Request for Direction Regarding Completion of Retail Study

Wayne Bergman, Director of Planning, Zoning and Building

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3. Town-wide Undergrounding Project

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

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402

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

b. RESOLUTION NO. 116-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Dedicate Two (2) Easements Between the Town of Palm Beach and Florida Power and Light (FPL) at 202 Plantation Road for Access and Maintenance of FPL Equipment.

c. RESOLUTION NO. 117-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing

the Town Manager to Dedicate Two (2) Easements Between the Town of Palm Beach and Florida Power and Light (FPL) at 226 Via Las Brisas and 244 Via Las Brisas for Access and Maintenance of FPL Equipment.

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428

4. Coastal Update:

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

a. RESOLUTION NO. 118-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing State Grant of Florida Department of Environmental Protection Contract No. 22PB8, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach Under the Florida Beach Management Funding Assistance Program, Specifically Reimbursement for Phipps Ocean Park Beach Nourishment Project Monitoring, in the Amount of \$19,500, and Authorizing the Mayor to Execute Same on Behalf of the Town.

b. RESOLUTION NO. 119-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing State Grant of Florida Department of Environmental Protection Contract No. 22PB12, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach Under the Florida Beach Management Funding Assistance Program, Specifically Reimbursement for Lake Worth Inlet Management Plan/Beach Management Agreement Monitoring, in the Amount of \$324,500, and Authorizing the Mayor to Execute Same on Behalf of the Town.

c. Woods Hole Group Coastal Resiliency Implementation Plan Presentation

TIME CERTAIN 1:00 P.M.

C. New Business

1. Proposed 2022 Town Council Meeting Schedule

Kirk W. Blouin, Town Manager

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502

2. How Do We Preserve Palm Beach's Unique Small Town Charm, Businesses, and Community Amid Palm Beach County's Explosive Growth?

Bobbie Lindsay, President Pro Tem

XIII. ORDINANCES

A. Second Reading

1. Modification of Beach Access Hours and Inclusion of Root Trail as a Public Access Point

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505

ORDINANCE NO. 21-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending

Chapter 74 of the Town's Code of Ordinances by Amending Article V, Beach Access Closure to Include the Beach Access Point at Root Trail as Public; Providing For Closure from Sunset to Sunrise Daily; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Jay Boodheshwar, Deputy Town Manager

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: September 14, 2021

Section of Agenda

Presentations

Agenda Title

Legislative Update

TIME CERTAIN: 9:45 AM

Presenter

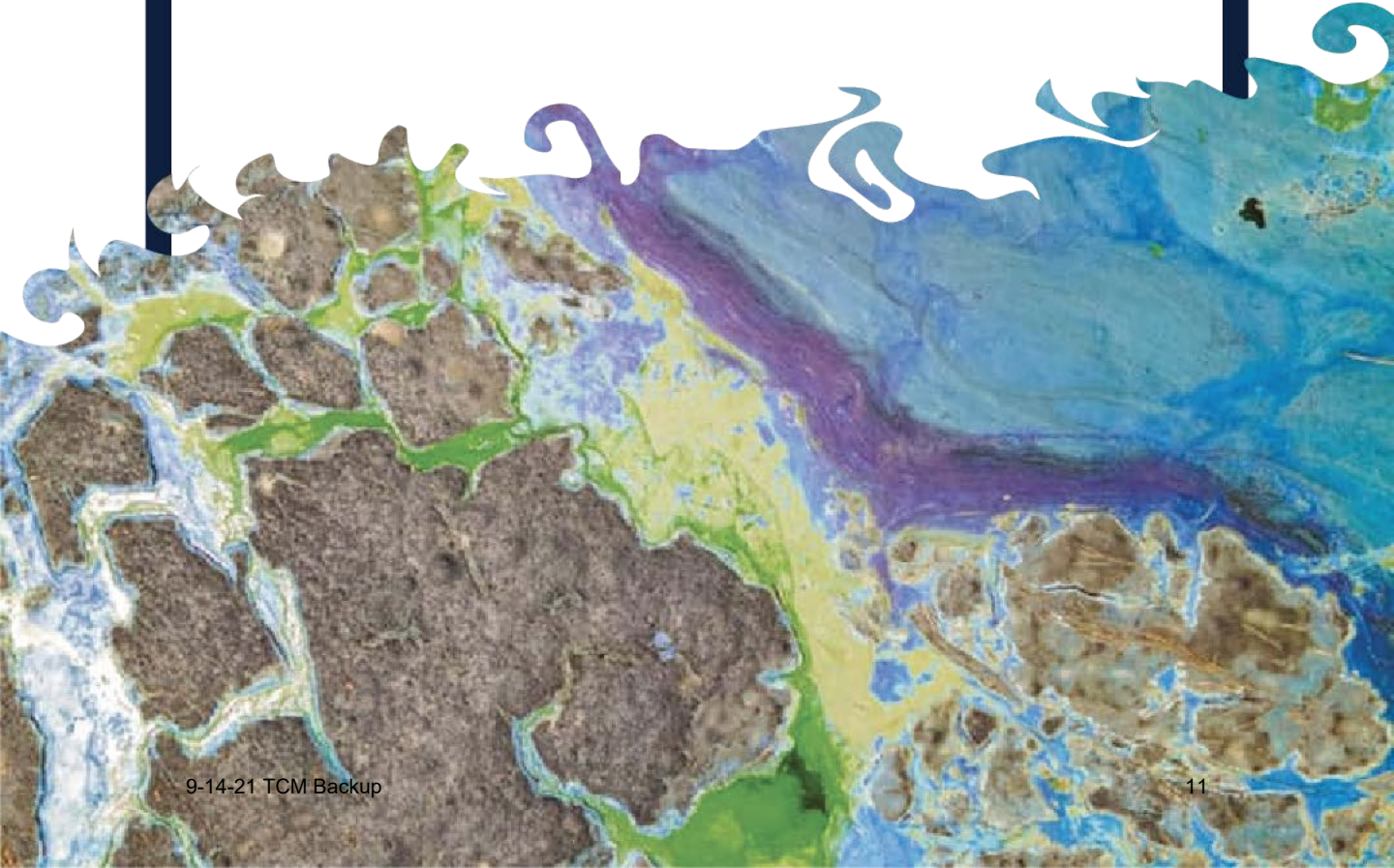
Brian Mast, U.S. Congressman for the 18th District of Florida

ATTACHMENTS:

- ▣ **Presentation by Congressman Mast**

9/14/2021

IMPACT OF LOSOM IN THE LAKE WORTH LAGOON



**HOLDING LAKE OKEECHOBEE
HIGHER FOR AGRICULTURAL
WATER SUPPLY**

=

**MORE DISCHARGES TO
THE LAKE WORTH LAGOON**



MAY 4, 2021

PICTURE BY MIKE KNEPPER

**WEST PALM
BEACH**

**16.6
BILLION
GALLONS**

**EVERGLADES
AGRICULTURAL
AREA**

**859
BILLION
GALLONS**

**THE EAA REQUESTS 50 TIMES MORE WATER
THAN WEST PALM BEACH**

“The difference with the Lake Worth Lagoon versus the Caloosahatchee Estuary and the St. Lucie River is that when both of those water bodies empty into the bay, they immediately hit an outlet to the ocean. And when water is sent southeast out through the C51 canal... into the intracoastal, where the nearest outlets are 8.5 miles in one direction, and nearly 10 miles in the other direction.

So that water has no natural filter system, and it ends up just sitting there. And the silt builds up and we have further degradation of the Lake Worth Lagoon, which is why that water body can’t handle the same amount of water that the other two water bodies handle.”

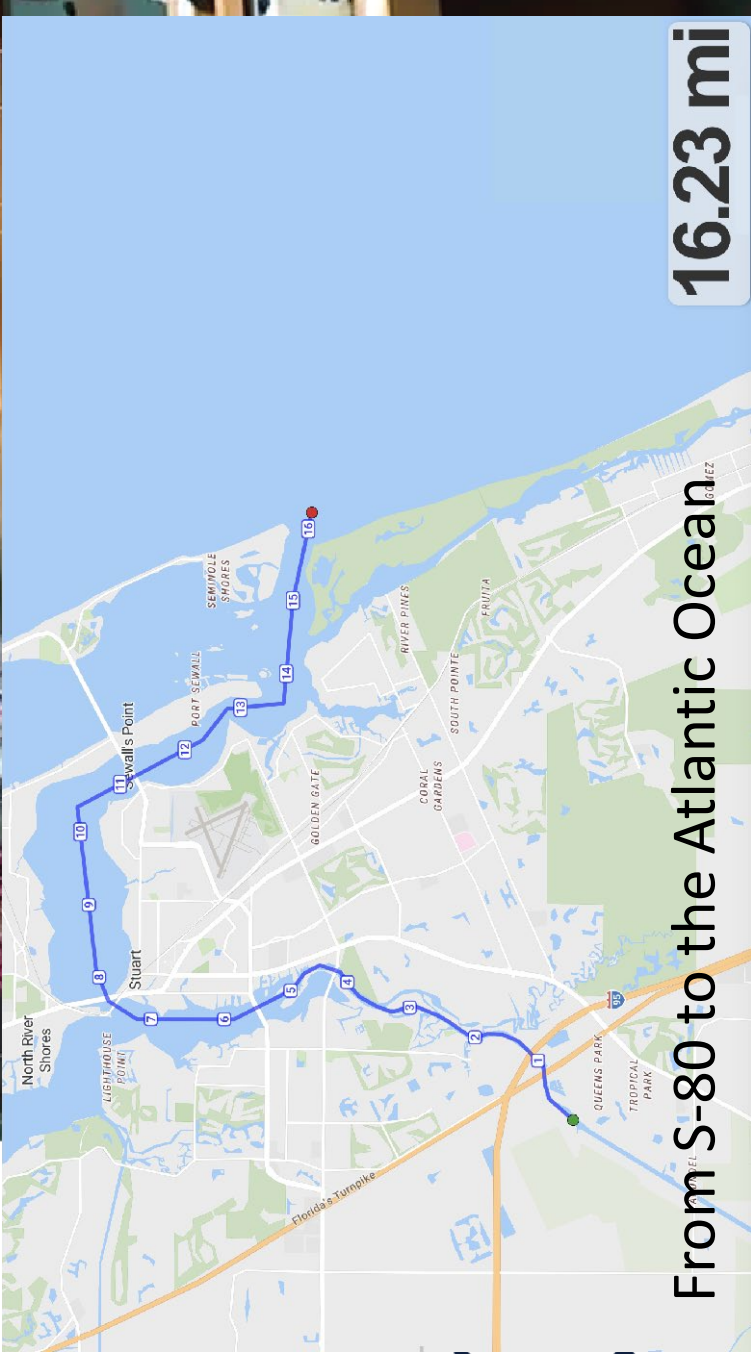
– Melissa McKinlay, District 6 Commissioner



“The difference with the Lake Worth Lagoon versus the Caloosahatchee Estuary and the St. Lucie River is that when both of those water bodies empty into the bay, they immediately hit an outlet to the ocean. And when water is sent southeast out through the C51 canal... into the intracoastal, where the nearest outlets are 8.5 miles in one direction, and nearly 10 miles in the other direction.”

So that water has no natural filter system, and it ends up just sitting there. And the silt builds up and we have further degradation of the Lake Worth Lagoon, which is why that water body can’t handle the same amount of water that the other two water bodies handle.”

– Melissa McKinlay, District 6 Commission



9/14/2021

IMPACT OF LOSOM IN THE LAKE WORTH LAGOON

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Presentations

Agenda Title

Presentation by the Palm Beach County Supervisor of Elections Regarding the Upcoming Elections and Senate Bill 90

Presenter

Wendy Sartory Link, Palm Beach County Supervisor of Elections

ATTACHMENTS:

- ▣ **SOE Presentation**
- ▣ **Senate Bill 90**

Palm Beach County Supervisor of Elections

Integrity • Accountability • Service

Award – Winning Office

Palm Beach County Supervisor of Elections has been recognized for excellence in leadership, security, and administration.

2021 Nonprofit of the Year Nominee
Palm Beach North Chamber

2021 Leadership Excellence Award Nominee
Leadership Palm Beach County

**2021 Honorable Mention for Innovations in
Cybersecurity and Technology**
United States Election Assistance Commission

**Nominated to the Executive Office of Governor for
Significant, Positive Impact in the Community**
Florida Department of State Laurel M. Lee

2021 Nonprofit of the Year Nominee
Chamber of Commerce of the Palm Beaches



Wendy Sartory Link
Palm Beach County Supervisor of Elections

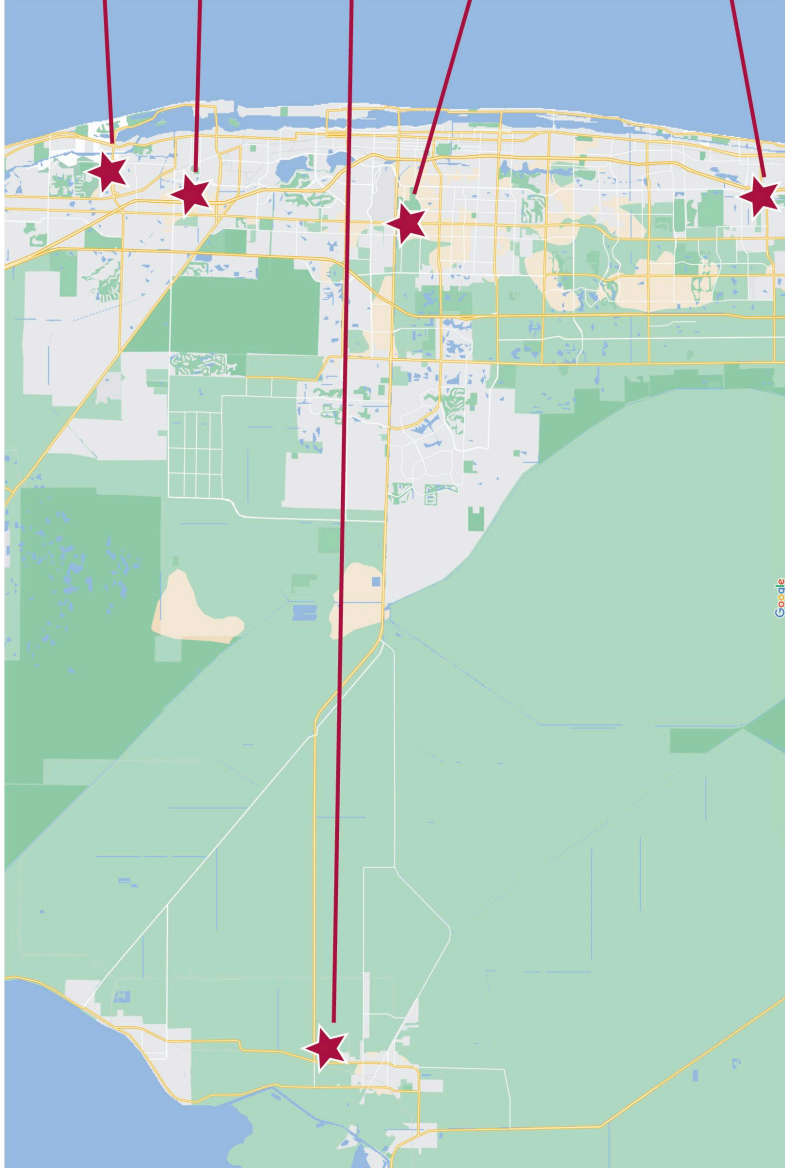
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Locations to Serve You

9-14-21 TCM Backup



NORTH COUNTY BRANCH OFFICE

3188 P.G.A. Blvd., Rm. #2401, Palm Beach Gardens, FL 33410

SUPERVISOR OF ELECTIONS VOTING EQUIPMENT CENTER

7835 Central Industrial Drive, Riviera Beach, FL 33404

WEST COUNTY BRANCH OFFICE

2976 State Road #15, Second Floor, Belle Glade, FL 33430

MAIN OFFICE

240 South Military Trail, West Palm Beach, FL 33415

SOUTH COUNTY BRANCH OFFICE

345 South Congress Avenue, Rm. #103, Delray Beach, FL 33445



Wendy Sartory Link
Palm Beach County Supervisor of Elections

www.VotePalmBeach.gov



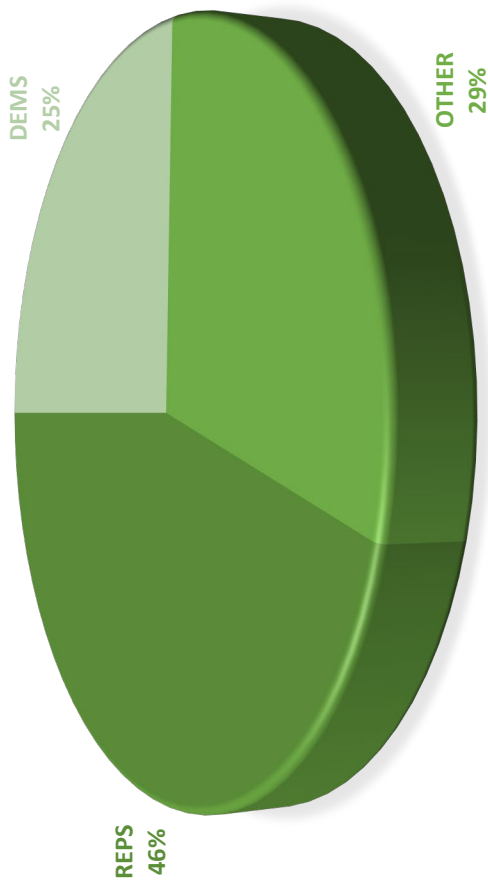
Town of Palm Beach Voter Registration Statistics



Town of Palm Beach Voter Registration Statistics

There are a total of 8,150 Registered Voters in the Town of Palm Beach as of September 8, 2021.

Democratic Party – 25%
Republican Party – 46%
NPA & Minor Parties – 29%



Wendy Sartory Link
Palm Beach County Supervisor of Elections

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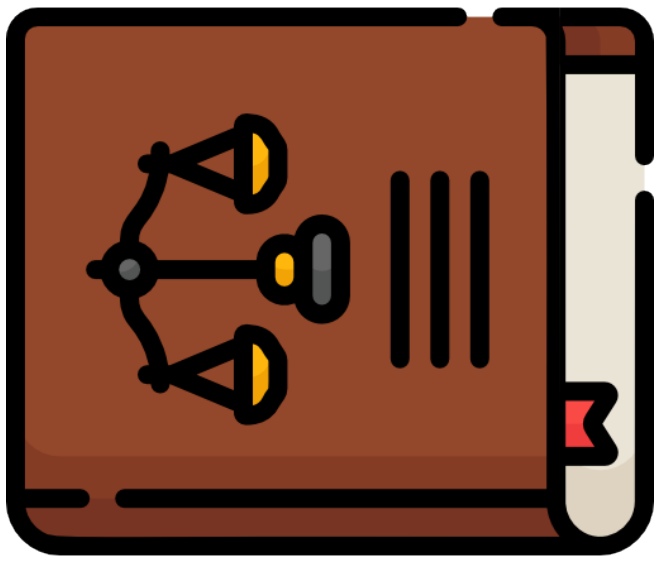
Florida Election Laws

Florida Election Laws

9-14-21 TCM Backup

All Florida elections are governed by Florida Statutes Title IX (Chapters 97-107)

- Qualification and registration of electors
- Registration office, officers, and procedures
- Candidates
- Mandating voting methods and procedures
- Conducting elections and ascertaining the results



Wendy Sartory Link
Palm Beach County Supervisor of Elections

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2021 Election Law Changes

Senate Bill 90

9-14-21 TCM Backup

Changes to Voter Registration:

- Voter name and party affiliation change requests must made by submitting a voter registration application.
- New verification requirements are required to update your residential address.



Wendy Sartory Link
Palm Beach County Supervisor of Elections

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Senate Bill 90

9-14-21 TCM Backup

Changes to Vote-by-Mail (VBM):

- All existing "all elections" VBM requests on file are valid through the end of 2022.
- Requests for elections after 2022 must be made after the Nov. 8, 2022, election.
- New verification requirements are required to request a VBM ballot.
- New verification requirements are required for anyone requesting a ballot on behalf of a family member.



Wendy Sartory Link
Palm Beach County Supervisor of Elections

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Senate Bill 90

9-14-21 TCM Backup

Changes to VBM (cont.):

- The checkbox to extend VBM requests will no longer appear on voter certificates.
- New restrictions will limit the availability of VBM ballot drop boxes.
- VBM drop boxes will be monitored by election personnel during hours of operation.
- Possessing more than two mail ballots besides your own or an immediate family member's is a misdemeanor.



Wendy Sartory Link
Palm Beach County Supervisor of Elections

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Senate Bill 90

Changes to Third-Party Voter Registration Organizations:

- There are new notification requirements for organizations soliciting voter applications.
- There are new restrictions and penalties regarding the submission of registration applications.

Changes to No-Solicitation Zones:

- Adds VBM drop boxes to locations protected by the 150 ft. no-solicitation zone.
- Redefines the term “solicit” to include “engaging in any activity with the intent to influence or effect of influencing a voter.” However, this does not prohibit Supervisor of Elections personnel from providing non-partisan assistance within the no-solicitation zone.



Important Office Updates

Voting Equipment

ExpressVote Pilot Program

- Save cost on consumables
- Save time during check-in
- Save room in the precinct scanner ballot box
- Audio and visual voting in English, Spanish, and Creole
- Prevents a voter from overvoting



Wendy Sartory Link
Palm Beach County Supervisor of Elections

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New and Updated Website

9-14-21 TCM Backup

- ✓ Track your VBM
- ✓ Early voting location wait time visibility
- ✓ Easy poll worker application form
- ✓ New, secure domain name - www.VotePalmBeach.gov



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Voter Education & Outreach

Voter Education & Outreach

Adopt-A-Precinct

- Community partnership that supports 501c3 organizations, associations, or charitable institutions.
- Organization members are trained to work as poll workers and will “adopt” a precinct for Election Day.
- The Supervisor of Elections pays the amount that would have been paid to the poll workers to the organization for those volunteering to “adopt” a precinct.



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Palm Beach County Supervisor of Elections

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Voter Education & Outreach

9-14-21 TCM Backup

Vote in Honor of a Veteran

- ✓ Encourage voter participating by honoring those who served.
- ✓ Palm Beach County is home to 85,000 veterans.



Volunteer Task Force

- ✓ Join our team for volunteer programs and opportunities to give back.
- ✓ Community service hours offered all year. Email us! Volunteer@votePALMBeach.gov



High School & University Programs

- ✓ Palm Beach County School District partnership for virtual and in-person voter education.



Wendy Sartory Link
Palm Beach County Supervisor of Elections

www.VotePalmBeach.gov



Stay Connected

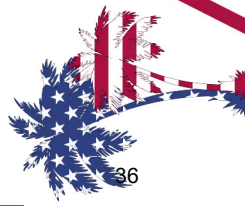
9-14-21 TCM Backup

Sign-up for our monthly newsletter and email updates

www.VotePalmBeach.gov



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Wendy Sartory Link
Palm Beach County Supervisor of Elections

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Questions?

Palm Beach County Voter Notice: Recent Changes to Florida Election Code

Florida Senate Bill 90 was signed into law on May 6, 2021. The new law took immediate effect, revising specific sections of Florida's Election Code that affect voters and voting access.

Learn how Senate Bill 90 may affect you!

Voter Registration

- ▶ Voter name and party affiliation change requests must be made by submitting a voter registration application.
- ▶ Additional voter information is required when updating your residential address, including your Date of Birth AND the last four digits of Social Security Number or FL Driver License/ID (whichever may be verified by our office).

Vote-by-Mail (VBM)

- ▶ One request for a vote-by-mail ballot will cover all elections through the end of the calendar year of the next scheduled general election. Existing "all elections" vote-by-mail requests on file are valid through the end of 2022. A request to receive a vote-by-mail ballot through 2024 must be made after the November 8, 2022 General Election.
- ▶ A voter requesting a vote-by-mail ballot for themselves must provide their name, address, date of birth and Florida Driver License/ID or the last four digits of their social security number, whichever may be verified by our office. When making a written request, the voter's signature is also required.
- ▶ If you are making a request for a vote-by-mail ballot on behalf of another voter, you must now also provide the voter's FL Driver License/ID or their Social Security Number, your relationship to the voter (you must be their legal guardian or immediate family member, including grandchild), as well as your FL Driver License/ID or Social Security Number, if available, and your signature.
- ▶ The check box to extend a vote-by-mail request will no longer appear on the vote-by-mail return envelope. Voters must call, email or submit a written request, and provide the requisite information to receive a vote-by-mail ballot.
- ▶ New restrictions regarding vote-by-mail drop boxes will affect access and availability. Drop boxes will be available at Early Voting locations during Early Voting hours, and at each of our four offices. All drop box hours of operations and locations will be published on our website at least 30 days prior to each election, and all drop boxes will be monitored by elections personnel during hours of operation.
- ▶ Physically possessing more than two vote-by-mail ballots per election in addition to your own ballot or a ballot belonging to an immediate family member is committing a misdemeanor of the first degree.

Third-Party Voter Registration Organizations

- ▶ There are new notification requirements for organizations soliciting voter applications.
- ▶ There are new restrictions and penalties regarding the submission of registration applications.
- ▶ Please contact our office if you have any questions about how these changes affect your organization.

No-Solicitation Zones

- ▶ Adds vote-by-mail drop boxes to locations protected by the 150 ft. no-solicitation zone.
- ▶ Redefines the term "solicit" to include "engaging in any activity with the intent to influence or effect of influencing a voter." However, this does not prohibit Supervisor of Elections personnel from providing non-partisan assistance within the no-solicitation zone.

Have questions or want to know more?

Visit VotePalmBeach.gov, email info@VotePalmBeach.gov, or call (561) 656-6200



Wendy Sartory Link
Palm Beach County Supervisor of Elections
www.votePalmBeach.gov | [@VotePalmBeach](https://www.facebook.com/votepalmbeach)



TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

BOARDS AND COMMISSIONS PRESENTATIONS AND APPOINTMENTS

Agenda Title

Presentations by the Applicants and Appointments to the Planning and Zoning Commission

Presenter

Queenester Nieves, CMC, Town Clerk

ATTACHMENTS:

- ▣ **Memorandum Dated September 7, 2021, from Queenester Nieves, Town Clerk**
- ▣ **Attendance Record**
- ▣ **Status Sheet**
- ▣ **Sample Ballot**
- ▣ **Application - Gail Coniglio**
- ▣ **Application - William J. Gilbane, III**
- ▣ **Application - Richard M. Kleid**
- ▣ **Application - Martin Klein**
- ▣ **Application - Nicki McDonald**
- ▣ **Application - Mario Nievera**
- ▣ **Application - Mary Elizabeth Speer**
- ▣ **Application - John J. Tatooles**

TOWN OF PALM BEACH

Information for Town Council Meeting on September 14, 2021

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Jay Boodheshwar, Deputy Town Manager

FROM: Queenester Nieves, CMC, Town Clerk

RE: Planning and Zoning Commission Appointment of Two (2) Regular Members

DATE: September 7, 2021

STAFF RECOMMENDATION

Staff recommends that the Town Council review the attached applications and appoint two (2) regular members to the Planning and Zoning Commission. These members will fill the vacancy created on the term expirations for Michael Ainslie who is termed out and Richard Kleid who is eligible for reappointment.

GENERAL INFORMATION

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

1. Richard Kleid - 2660 S. Ocean Blvd., Palm Beach, FL.

The Town Clerk's office has received three (3) applications seeking **PROMOTION TO REGULAR MEMBER** from:

1. William J. Gilbane - III, 675 N. Lake Way, Palm Beach, FL;
2. Nicki McDonald - 234 Merrain Road, Palm Beach, FL;
2. John J. Tatooles - 122 Oceanview Road, Palm Beach, FL.

The Town Clerk's office has received two (2) applications seeking **NEW APPOINTMENT** from the following:

1. Gail Coniglio - 1139 North Ocean Boulevard, Palm Beach, FL;
2. Martin Klein - 1050 N. Ocean Blvd., Palm Beach, FL;
3. Mario Nievera - 2770 S. Ocean Blvd., Palm Beach, FL;
3. Mary Elizabeth Speer - 270 Seminole Avenue, Palm Beach, FL.

cc: Wayne Bergman, Director of Planning, Zoning and Building



MEMBERS

ALTERNATE MEMBERS

LEGEND P=PRESENT

** = Did not reappoint

41

PLANNING AND ZONING COMMISSION

Next appointment: **September 14, 2021, Town Council meeting**

Openings advertised via news release: **July 1, 2021**

Deadline to submit applications: **Friday, September 3, 2021, by 5:00 p.m.**

Number of openings: **2 Regular Members**

Applicants

<u>NAME</u>	<u>SEEKING</u>
Gail Coniglio	New Appointment
Martin Klein	New Appointment
Mario Nievera	New Appointment
Mary Elizabeth Speer	New Appointment
William J. Gilbane, III	Promotion to Regular Member
Nicki McDonald	Promotion to Regular Member
John J. Tatooles	Promotion to Regular Member
Richard M. Kleid	Reappointment

Current members and open seats

<u>NAME</u>	<u>TERM EXPIRES</u>
<u>Regular Members</u>	
Michael L. Ainslie (Chair)***	September, 2021
Richard M. Kleid (Vice Chair)*	September, 2021
Rick Pollock	September, 2023
Michael Vincent John Spaziani	September, 2022
Eric Christu	September, 2022
Marilyn N. Beuttenmuller	September, 2023
Jorge Sanchez	September, 2023
<u>Alternate Members</u>	
William J. Gilbane, III**	September, 2023
Nicki McDonald**	March, 2024
John J. Tatooles**	March, 2024

Highlighted in yellow=term currently expiring/vacant

*=Applied for reappointment

**=Applied for appointment from alternate member to regular member

***=Termed out

BALLOT FOR APPOINTMENT OF **REGULAR** MEMBER(S)
TO THE **PLANNING AND ZONING COMMISSION**
Town Council Meeting on **September 14, 2021**

Positions to be filled:

 2 Regular Members

Please circle 2 from the list of names appearing below

Regular Member Applying for Reappointment

Richard M. Kleid

Alternate Members Applying for Promotion to Regular Member

(Listed alphabetically)

William J. Gilbane, III

Nicki McDonald

John J. Tatooles

Others Who Have Submitted Applications

(Listed Alphabetically)

Gail Coniglio

Martin Klein

Mario Nievera

Mary Elizabeth Speer

Signature of Town Council Member: _____
Town Council Member



TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

PLANNING AND ZONING COMMISSION

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. (Please be advised that members of the Planning and Zoning Commission must file an annual financial disclosure form per State law.)

Name: Gail Coniglio

Residence Address: 1139 North Ocean Blvd Palm Beach FL 33480

Mailing Address: 1139 North Ocean Blvd. Palm Beach FL 33480

Home Telephone: (561) 644 0892

E-mail Address: Gailconig1@aol.com

Work Telephone: _____

I am a registered voter of the Town of Palm Beach GLC (please initial)

Appointment to Planning and Zoning Commission requires the applicant to be a registered voter in the Town of Palm Beach. Please attach a copy of BOTH SIDES of your Voter Registration card with your application. Failure to provide the copy of the required voter registration card shall be grounds for rejection of the application.

1. Why are you interested in serving on the Planning and Zoning Commission? (Please explain and attach additional pages if necessary)

I am a 40 year resident of the Town and would be honored to share in the planning process for the next generation of Palm Beach residents.

The unique character, charm and traditions should be preserved while balancing the ultimate progress needed to ensure its longevity.

I believe that I could offer my 16 years of expertise as a voting member of the Planning and Zoning Commission.

2. How many meetings of the Planning and Zoning Commission have you attended in the last year? I have attended or listened remotely for 14 years.

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 record, etc.

Mayor 10 years / Town Council member 4 years with President pro tem 3 years / Landmarks and Preservation Commission 2 years

PB. Recreation Advisory Board 10 years with 4 years as Chairman

4. Are you willing and available to attend meetings of the Planning and Zoning Commission as described below?

- | | | |
|---|---|-----------------------------|
| A. Meetings which last a full day (9:30 a.m. to 5:00 p.m., or even later)? | Yes ☒ | No ☐ |
| B. Meetings on consecutive dates? | Yes ☒ | No ☐ |
| C. Meetings which might be scheduled for multiple dates within the same month | Yes ☒ | No ☐ |
| D. Meetings scheduled year-round | Yes ☒ | No ☐ |

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

Available at all times.

6. Do you have any experience in requesting comprehensive plan amendments or zoning approvals from the Town of Palm Beach or other jurisdictions? (Please explain. Attach additional pages if necessary)

I have many years of experience reading and reviewing the comprehensive plans with resources at the State, Palm Beach County and municipal levels.

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

- ☐ Palm Beach Chamber of Commerce
☒ Palm Beach Civic Association
☒ Citizens' Association of Palm Beach

- ☐ Preservation Foundation of Palm Beach
☐ North End Property Owners Association
☒ Other Four Arts Association

8. Present occupation. RN / Restaurateur and Owner

No. of years. 45 years

Employer.

E.R. Bradleys Saloon

9. Past occupation(s). Same as above

No. of years.

Employer(s).

10. Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable)

- | | | |
|--|---|------------------------------------|
| ☐ Architecture | ☐ Social Sciences | ☐ Geography |
| ☐ Landscape Architecture/Design | ☐ Urban and Regional Planning | |
| ☐ Law | ☐ Building Construction and/or Development | |

11. Please provide details regarding your educational background:

Registered Nurse in both Florida and Maryland

Town Council School

Advanced studies of Landmarks and Preservation history and qualifications

12. Why do you feel that you are qualified to serve on the Town's Planning and Zoning Commission? (Attach additional page if necessary)

As a 40 year resident intimately involved in the community coupled with a personal knowledge and background in residential and commercial properties I feel that I can offer my experience from a business perspective.

As identified by the Town Council, Planning Building and Zoning staff, code reform is a critical component in preparation for the Town's protective measures for FEMA, sea level changes and future development. However, the process should be

predicated on a wide community outreach and involvement to promote approval.

13. To enable 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.

Family Member Name	Relationship	Address	Occupation	Employer
Nicholas and Carissa Coniglio	Son and daughter in law	201 El Dorado Lane	Restaurateur / Real estate	E.R. Bradleys Saloon / Tina Fanjul Real Estate
Cara and Jared McClure	Daughter and son in law	359 Seaspray Avenue	Real estate / Owner Landscape co.	Douglas Elliman / Plant well
Christina and Adam Silverstein	Daughter and son in law	217 Oleander Avenue	Senior Director of Design, VP of Design	Love Shack Fancy / In Store Experience

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

15. 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 seeking in this application.
 board/committee/commission

16. In the event you are applying to be a Regular Member of Planning and Zoning Commission and you are not successful, will you accept appointment as an Alternate Member of the Commission should the Town Council wish to appoint you as an Alternate Member? ☒ Yes ☐ No

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

RACE

- ☐ African American ☐ Native American
☐ Asian American ☒ Caucasian
☐ Hispanic American ☐ 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: Gail Coniglio

Digitally signed by Gail Coniglio
 Date: 2021.09.03 15:05:43 -04'00'

DATE: September 3, 2021

Please provide a copy of BOTH SIDES of your Palm Beach County Voter Registration card, which shows your Town of Palm Beach address, with your application.

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

PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission acts in an advisory capacity to the Town Council in all matters relating to municipal planning and development. The Commission is required to follow the concepts and contents of the Town's comprehensive land use plan in all planning, zoning and development related deliberations and decisions. The Commission shall also have such powers and duties as may be prescribed by Ordinance. The members of the Commission must be registered voters in the Town of Palm Beach. The seven regular members serve for terms of three years. Three alternate members of the Zoning Commission may be appointed by the Town Council who serve when called upon by the Chair of the Commission in the absence of any regular member.

**RECEIVED***By gayle at 4:35 pm, Jul 07, 2021***TOWN OF PALM BEACH**

APPLICATION FOR SERVICE ON

PLANNING AND ZONING COMMISSION

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. (Please be advised that members of the Planning and Zoning Commission must file an annual financial disclosure form per State law.)

Name: William J Gilbane III Residence Address: 675 N Lake WayMailing Address: 675 N Lake Way Home Telephone: 646-453-9440E-mail Address: billy@billygilbane.com Work Telephone: 646-453-9440I am a registered voter of the Town of Palm Beach WJGIII (please initial)

Appointment to Planning and Zoning Commission requires the applicant to be a registered voter in the Town of Palm Beach. Please attach a copy of BOTH SIDES of your Voter Registration card with your application. Failure to provide the copy of the required voter registration card shall be grounds for rejection of the application.

1. Why are you interested in serving on the Planning and Zoning Commission? (Please explain and attach additional pages if necessary)

~~I have enjoyed my service as an Alternate Member this year and would be honored to serve as a full voter.~~

~~I am very excited for the work that is ahead of us and feel my experience would add value.~~

2. How many meetings of the Planning and Zoning Commission have you attended in the last year? All since my appointment

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 record, etc.

~~Alternate Member of Planning and Zoning Commission~~

4. Are you willing and available to attend meetings of the Planning and Zoning Commission as described below?

- | | | |
|---|---|-----------------------------|
| A. Meetings which last a full day (9:30 a.m. to 5:00 p.m., or even later)? | Yes ☒ | No ☐ |
| B. Meetings on consecutive dates? | Yes ☒ | No ☐ |
| C. Meetings which might be scheduled for multiple dates within the same month | Yes ☒ | No ☐ |
| D. Meetings scheduled year-round | Yes ☒ | No ☐ |

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

None.

6. Do you have any experience in requesting comprehensive plan amendments or zoning approvals from the Town of Palm Beach or other jurisdictions? (Please explain. Attach additional pages if necessary)

No

7. 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 | ☐ Other _____ |

8. Present occupation. CEO No. of years. 1

Employer.

Equitix N.A.

9. Past occupation(s). Senior Executive and Director No. of years. 17 Years

Employer(s).

Gilbane Inc.

10. Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable)

- | | | |
|--|--|------------------------------------|
| ☒ Architecture | ☒ Social Sciences | ☐ Geography |
| ☐ Landscape Architecture/Design | ☒ Urban and Regional Planning | |
| ☐ Law | ☒ Building Construction and/or Development | |

11. Please provide details regarding your educational background:

I graduated from Brown University with a BA in Political Science and studied the History of Architecture.

My graduate degree is from New York University in Real Estate.

12. Why do you feel that you are qualified to serve on the Town's Planning and Zoning Commission? (Attach additional page if necessary)

I led our family's Construction business in NYC for 16 years. In that role I had primary involvement interfa

In the aftermath of Superstorm Sandy I was a key member of the NYC Superstorm Sandy Recovery with

My current role as CEO of Equitix is focused on Infrastructure in North America which also will add value.

13. To enable 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.

Family Member Name	Relationship	Address	Occupation	Employer
Mary O and Thomas J. Gilbane, Jr.	Spouse	206 Dunbar Road	Chairman	Gilbane Building Company
Sara B and Robert C. Gilbane	Spouse	575 Island Drive	Chairman	Gilbane Development Company

14. Have you ever been convicted of a crime or pled guilty or nolo contendere to a crime other than minor traffic violations?

No _____

15. 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 Planning and Zoning Commission if I am appointed to the position I am seeking in this application.
board/committee/commission

16. In the event you are applying to be a Regular Member of Planning and Zoning Commission and you are not successful, will you accept appointment as an Alternate Member of the Commission should the Town Council wish to appoint you as an Alternate Member? ☒ Yes ☐ No

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

RACE

- ☐ African American ☐ Native American
☐ Asian American ☒ Caucasian
☐ Hispanic American ☐ Not known

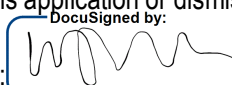
GENDER

☒ 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: 
570DF9AAD95E40F...

DATE: July 7, 2021

Please provide a copy of BOTH SIDES of your Palm Beach County Voter Registration card, which shows your Town of Palm Beach address, with your application.

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

PLANNING AND ZONING COMMISSION

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TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

PLANNING AND ZONING COMMISSION

TOWN OF PALM BEACH

AUG 5 2021

Town Manager'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. (Please be advised that members of the Planning and Zoning Commission must file an annual financial disclosure form per State law.)

Name: RICHARD M. KLEIN Residence Address: 2665 OCEAN BLVD, 403S
2665 OCEAN BLVD
Mailing Address: 403S Home Telephone: 588 7631
PALM BEACH, FL 33480
E-mail Address: KLEIN061@AOL.COM Work Telephone: 239 0714 (C)

I am a registered voter of the Town of Palm Beach Bmk (please initial) PLC

Appointment to Planning and Zoning Commission requires the applicant to be a registered voter in the Town of Palm Beach. Please attach a copy of BOTH SIDES of your Voter Registration card with your application. Failure to provide the copy of the required voter registration card shall be grounds for rejection of the application.

1. Why are you interested in serving on the Planning and Zoning Commission? (Please explain and attach additional pages if necessary)

TO ASSIST THE TOWN COUNCIL IN MAKING
DECISIONS ON ALL ZONING 1999 TO 2005 + 2020-2021

2. How many meetings of the Planning and Zoning Commission have you attended in the last year? 12

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 record, etc.

PLANNING & ZONING COMMISSION 1999 TO 2005 + 2020-2021
TOWN COUNCIL 2005 TO 2018 100% ATTENDANCE
SCHOOL BOARD, UPPERST CHAIR, PA - 4 YEARS 1973-1977 100% ATTENDANCE

4. Are you willing and available to attend meetings of the Planning and Zoning Commission as described below?

- | | | |
|---|---|-----------------------------|
| A. Meetings which last a full day (9:30 a.m. to 5:00 p.m., or even later)? | Yes ☒ | No ☐ |
| B. Meetings on consecutive dates? | Yes ☒ | No ☐ |
| C. Meetings which might be scheduled for multiple dates within the same month | Yes ☒ | No ☐ |
| D. Meetings scheduled year-round | Yes ☒ | No ☐ |

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

6. Do you have any experience in requesting comprehensive plan amendments or zoning approvals from the Town of Palm Beach or other jurisdictions? (Please explain. Attach additional pages if necessary)

REAL ESTATE LAWYER

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

- ☐ Palm Beach Chamber of Commerce
☒ Palm Beach Civic Association
☒ Citizens' Association of Palm Beach

- ☒ Preservation Foundation of Palm Beach
☐ North End Property Owners Association
☐ Other 4 ARTS FLAGLER MUSEUM
WORTHEN MUSEUM

8. Present occupation. RETIRED No. of years. 25

Employer.

9. Past occupation(s). LAWYER No. of years. 40 YEARS

Employer(s).

J C PENNEY COMPANY, INC

10. Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable)

- | | | |
|--|---|------------------------------------|
| ☐ Architecture | ☐ Social Sciences | ☐ Geography |
| ☐ Landscape Architecture/Design | ☐ Urban and Regional Planning | |
| ☒ Law | ☐ Building Construction and/or Development | |

11. Please provide details regarding your educational background:

COLUMBIA AB, COLUMBIA LAW SCHOOL JD, NYU
GRADUATE SCHOOL OF LAW LL.M (TAXATION)

12. Why do you feel that you are qualified to serve on the Town's Planning and Zoning Commission? (Attach additional page if necessary)

PAST EXPERIENCE AS A MEMBER OF SAID
COMMISSION AND THE PALM BEACH TOWN
COUNCIL, AS WELL AS A REAL ESTATE LAWYER

13. To enable 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.

Family Member Name	Relationship	Address	Occupation	Employer
N/A				

14. Have you ever been convicted of a crime or pled guilty or nolo contendere to a crime other than minor traffic violations?

N/A

15. 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 seeking in this application.
board/committee/commission

16. In the event you are applying to be a Regular Member of Planning and Zoning Commission and you are not successful, will you accept appointment as an Alternate Member of the Commission should the Town Council wish to appoint you as an Alternate Member? ☐ Yes ☒ No

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

RACE

- ☐ African American ☐ Native American
☐ Asian American ☒ Caucasian
☐ Hispanic American ☐ 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: Rebecca M. Kell

DATE: 7/30/21

Please provide a copy of BOTH SIDES of your Palm Beach County Voter Registration card, which shows your Town of Palm Beach address, with your application.

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

PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission acts in an advisory capacity to the Town Council in all matters relating to municipal planning and development. The Commission is required to follow the concepts and contents of the Town's comprehensive land use plan in all planning, zoning and development related deliberations and decisions. The Commission shall also have such powers and duties as may be prescribed by Ordinance. The members of the Commission must be registered voters in the Town of Palm Beach. The seven regular members serve for terms of three years. Three alternate members of the Zoning Commission may be appointed by the Town Council who serve when called upon by the Chair of the Commission in the absence of any regular member.



RECEIVED

By gayle at 3:40 pm, Jul 15, 2021

TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

PLANNING AND ZONING COMMISSION

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Name: Martin I. Klein Residence Address: 1060 North Ocean Blvd., Palm Beach, FL 33480

Mailing Address: Same Home Telephone: 561 881 8000

E-mail Address: martin@miklein.com Work Telephone: 917 453 9800

I am a registered voter of the Town of Palm Beach MIK (please initial) PGG

Appointment to Planning and Zoning Commission requires the applicant to be a registered voter in the Town of Palm Beach. Please attach a copy of BOTH SIDES of your Voter Registration card with your application. Failure to provide the copy of the required voter registration card shall be grounds for rejection of the application.

1. Why are you interested in serving on the Planning and Zoning Commission? (Please explain and attach additional pages if necessary)

See Attached Addendum

2. How many meetings of the Planning and Zoning Commission have you attended in the last year? All of them.

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 record, etc.

See Attached Addendum

4. Are you willing and available to attend meetings of the Planning and Zoning Commission as described below?

- | | | |
|--|---|-----------------------------|
| A. Meetings which last a full day (9:30 a.m. to 5:00 p.m., or even later)? | Yes ☒ | No ☐ |
| B. Meetings on consecutive dates? | Yes ☒ | No ☐ |
| C. Meetings which might be scheduled for multiple dates within the same month. | Yes ☒ | No ☐ |
| D. Meetings scheduled year-round | Yes ☒ | No ☐ |

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

None

6. Do you have any experience in requesting comprehensive plan amendments or zoning approvals from the Town of Palm Beach or other jurisdictions? (Please explain. Attach additional pages if necessary)

Yes-Please See Attached Addendum

7. 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 | ☐ Other _____ |

8. Present occupation. Attorney No. of years. 45

Employer.

Martin I. Klein, PLLC

9. Past occupation(s). _____ No. of years. _____

Employer(s). _____

10. Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable)

- | | | |
|--|---|------------------------------------|
| ☐ Architecture | ☐ Social Sciences | ☐ Geography |
| ☐ Landscape Architecture/Design | ☐ Urban and Regional Planning | |
| ☒ Law | ☐ Building Construction and/or Development | |

11. Please provide details regarding your educational background:

Please See Attached Addendum

12. Why do you feel that you are qualified to serve on the Town's Planning and Zoning Commission? (Attach additional page if necessary)

Please See Attached Addendum

13. To enable 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.

Family Member Name	Relationship	Address	Occupation	Employer
Diane Klein	Spouse	Same	Fashion Consultant	Self
Michele Rayden	Daughter	Same	Buyer	Saks Off 5th

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

15. 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 Code Enforcement Board if I am appointed to the position I am seeking in this application.
board/committee/commission

16. In the event you are applying to be a Regular Member of Planning and Zoning Commission and you are not successful, will you accept appointment as an Alternate Member of the Commission should the Town Council wish to appoint you as an Alternate Member? ☐ Yes ☒ No

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

RACE

- ☐ African American ☐ Native American
☐ Asian American ☒ Caucasian
☐ Hispanic American ☐ 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: March 30, 2021

Please provide a copy of BOTH SIDES of your Palm Beach County Voter Registration card, which shows your Town of Palm Beach address, with your application.

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

PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission acts in an advisory capacity to the Town Council in all matters relating to municipal planning and development. The Commission is required to follow the concepts and contents of the Town's comprehensive land use plan in all planning, zoning and development related deliberations and decisions. The Commission shall also have such powers and duties as may be prescribed by Ordinance. The members of the Commission must be registered voters in the Town of Palm Beach. The seven regular members serve for terms of three years. Three alternate members of the Zoning Commission may be appointed by the Town Council who serve when called upon by the Chair of the Commission in the absence of any regular member.

Addendum to Application for Reappointment
as a Regular Member on the Town of Palm
Beach's Planning and Zoning Commission
Submitted by Martin I. Klein and
Dated March 30, 2021

Question No. 1: Why are you interested in serving on the Planning and Zoning Commission?

Answer: I am interested in working with the Town Council and others to preserve the quality of our life in Palm Beach and in planning for the next generation of residents. This is not a new interest; Palm Beach has been part of my life for over 50 years since I first spent time here as a child with my grandmother. Over time, I've seen change-some good and some that I would prefer that didn't take place. I resolved to defend and preserve our "oasis" for my child, and for her children.

I believe the "planning function" of the Commission will be more important than ever and that we must develop a long-term vision for our Town.

Palm Beach is at a critical juncture. Many of our residents are concerned with what they perceive as over-development, yet that concern is juxtaposed with the desire of a property owner to utilize his or her own property. How we solve that dilemma will shape our Town for generations to come.

Planning and zoning are the core and background of our Town; without it, our Town as we know it will disappear. Planning and zoning are far more delicate and experience demanding than other aspects of local government because it deals with our future-without pictures or submitted plans. It is the guardian of our future.

Our residents want and need a strong, competent planning and zoning commission with members who are knowledgeable in the intricacies of our zoning code, in Town affairs, cognizant of Town history, and who possess significant experience. I believe I meet that requirement and I look forward to continuing to serve our Town. We are losing many with historical reference.

I also believe that I can contribute to solving the current dilemma facing the planning and zoning commission. The commission is vital to the future of the town, but it has deviated from its core mission and its historical function. This has caused the town council to question the future of the commission. I believe I can be a part of the solution and I am anxious to contribute my time, history and talent.

Question No. 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 record, etc.

Answer: I have served a total of almost eighteen years on the Town of Palm Beach's Planning and Zoning Commission, including two years as its Secretary and five years at its Chairman. During that period of time, I attended all of the meetings of the Commission and many meetings of the Town Council, including those on zoning and planning issues.

I served on the Town of Palm Beach's Code Enforcement Board for over two years until I resigned to accept appointment to the Planning and Zoning Commission. I particularly enjoyed my service on the Code Board. My fellow commissioners were a delight to work with; I am proud to call them my friends; the Town staff, particularly the Code Enforcement staff, originally with the Building Department and then with the Police Department, were a source of great personal and professional satisfaction, and finally serving on the Board gave me insight into enforcing some of the issues facing the Planning and Zoning Commission. I am pleased to have been re-appointed to the Code Enforcement Board and I continue to enjoy my service, but I realize that my talent and experience can best be utilized on Planning and Zoning.

I also completed nine years of service on the Palm Beach County Land Development Regulation Advisory Board. This gave me a countywide perspective on land use regulation that I hope adds to my ability to serve on our Town's Planning and Zoning Commission.

Question No. 6: Do you have any experience in requesting comprehensive plan amendments or zoning approvals from the Town of Palm Beach or other jurisdictions?

Answer: From my extensive service on the Town's Planning and Zoning Commission and my service on the County's Land Development Regulation Advisory Board, I am familiar with both our comprehensive plan, the County's ULDC and various planning and zoning processes. From a Commission and Board Member's perspective, I have seen and have reviewed many such submissions and accordingly have considerable experience in such matters.

Question No. 11: Please provide details concerning your educational background.

Answer: I graduated Lehigh University in 1969, graduated American University School of Law in 1972 while also working for the U.S. Senate where I was privileged to work for Senators Kennedy and Javits in areas of labor, education and public welfare. I have written numerous articles for law publications, have chaired legal conferences, and appeared as a guest columnist in many other publications. I have also been president of one of New York's largest religious institutions and chaired the board of an airline (Global Aviation) among other things. My resume is attached.

Question No. 12. Why do you feel that you are qualified to serve on the Town's Planning and Zoning Commission?

Answer: I believe that my answers above more than completely describe why I am qualified to serve on the Town's Planning and Zoning Commission. I have a lifetime of training and experience in the law. I have had more than fifteen years of service on the Commission. At a time when history is so important, I possess history of our Town and our planning and zoning processes that I don't think many others have. I am familiar with our zoning code. Finally, I have followed land use issues not only in Palm Beach but also in our larger community and have utilized my experience on a countywide level as well.

Additionally, having spent so many years in Palm Beach, I believe I understand its history, its ever-changing demographics, and the needs of our residents. Planning and zoning are a specialized commitment with which I am very familiar and the results of which are of utmost concern to me.

MARTIN I. KLEIN

1060 North Ocean Blvd., Palm Beach, Florida 33480 / (561) 881-8000 / martin@miklein.com

Senior legal counsel and corporate advisor for global clients, including luxury brands, financial institutions and real estate developers. Provides strategic guidance for a broad range of commercial and civil matters. Expertise in corporate restructuring/reorganization, bankruptcy, real estate development, finance, litigation, employment, discrimination and international law. Widely published and cited globally on bankruptcy matters and creditor's rights. Notable board appointments at public companies, non-profit organizations and municipalities.

EXPERIENCE

Martin I. Klein, PC, New York, NY and Palm Beach, FL

Founder/Managing Partner (1995 to present)

- Advise clients, provide proactive strategic legal guidance and manage cases for commercial matters including corporate restructuring/reorganization, bankruptcy, real estate development, finance, litigation, employment, discrimination and international law.
- Work with a broad range of clients, including global real estate developers, leading financial institutions, media and apparel companies and large corporations; collaborate with investment bankers, finance teams and specialized legal counsel.
- Serve as general counsel for the North American business of a leading global luxury apparel company and regularly advise a leading shopping center developer; former general counsel for a global real estate development firm and a NYSE-listed consumer products company; former personal counsel to a leading global financial innovator.
- Represent secured and unsecured creditors, debtors, creditors committees and reorganization trustees in Chapter 7 and 11 cases (and in Chapter X, XI and XII cases under the former Bankruptcy Act); negotiate/draft reorganization and liquidation plans, financings and asset purchases/sales and lead clients through all aspects of bankruptcy court proceedings.
- Regularly contacted and cited by major domestic and international print and broadcast media as noted legal source on bankruptcy matters and creditor's rights.

Shea & Gould, New York, NY

Partner (1993 to 1995)

- Handpicked to lead the bankruptcy department of a former leading global full-service law firm.
- Advised and represented public and private high-profile real estate and financial services clients in a wide range of corporate matters, including bankruptcy, restructuring, debt and equity reorganization and other financial and strategic transactions, governance and shareholder issues.

Dreyer & Traub, New York, NY

Partner (1980 to 1993)

- Established, led and grew the bankruptcy and commercial litigation departments of a leading real estate law firm, significantly increasing revenue.
- Advised high-profile financial, business and real estate clients and served on firm's Management Committee.
- Represented US and European banks in major restructurings (\$100 million+) and notable corporate clients in confidential industry-related investigations, criminal and civil proceedings.

BOARD/APPOINTED POSITIONS

Global Aviation Holdings, Peachtree City, GA

Chairman of the Board (January 2014 to present)

Director (2013 to present)

- Recruited to lead an organizational restructuring/recovery initiative and CEO search (on behalf of shareholders), at the largest commercial provider of air transportation for the US Military and a leading provider of commercial passenger charter and air cargo transportation.
- Oversee liquidation of \$75 million in assets and company wind-down (1,000 employees); serve as Chairman of the Compensation Committee and Member of the Audit and Governance Committees.

City of New York, New York, NY*Administrative Law Judge, Environmental Control Board (2007 to 2010)*

- Conducted hearings and adjudicated violations of city and state statutes and ordinances.
- Reviewed and adjudicated appeals of ECB decisions for the Appeal Section.

Central Synagogue, New York, NY*Honorary President and Trustee (1999 to present)**President (1995 to 1999)*

- Led a major non-profit organization, overseeing business strategy, operations/administration, finance and fundraising for a 7,000-member congregation (one of the largest/oldest in the US); previously served as Vice President and Treasurer.
- Significantly increased congregation membership and enrollment in the early childhood and religious schools; led organization through a \$50 million reconstruction and organizational recovery project following a fire disaster.
- Led monthly Board of Trustee meetings and various weekly committee meetings.

Planning and Zoning Commission of The Town of Palm Beach, Palm Beach, FL*Vice Chairman (2014)**Member (1994 to 2002, 2009 to 2014)**Chairman (1998 to 2000)*

- Reviewed plans for town residential and commercial projects.
- Analyzed population density, determined short/long-term town planning goals and identified community needs and zoning/development priorities.

Palm Beach County Land Development Regulation Advisory Board, Palm Beach, FL*Member (2004 to 2013)*

- Conducted periodic review and updates to the County's Unified Land Development Code and Comprehensive Plan.
- Advised the Board of County Commissioners on land use regulations to protect the health, safety and welfare of the county residents.

Chock Full O'Nuts Corporation (NYSE), New York, NY*Director and Chairman of Audit Committee (1987 to 1994)***Regency Equities Corporation (OTC), Beverly Hills, CA***Director (1978 to 1979)***PUBLICATIONS**

- *Author, The New York State Bar Journal, Philadelphia Law Journal, Florida Bar Journal, Los Angeles Law Journal and Commercial Law Journal (1977 to present)* Widely published in leading law journals on financial, real estate, bankruptcy and commercial law.
- *Member of the Board of Editors, The Florida Bar Journal (1994 to 2013)*
- *Columnist, New York Law Journal (1995 to 2009)* Wrote monthly column on bankruptcy issues.
- *Member of the Board of Editors, The Bankruptcy Strategist (1995 to 2008)*

SELECTED ACADEMIC/SPEAKING ENGAGEMENTS

- *Adjunct Associate Professor of Law, Benjamin Cardozo School of Law of Yeshiva University.*
- *Lecturer, Columbia University School of Law, American Law Institute-American Bar Association Committee on Continuing Education (ALI-ABA), The Practising Law Institute (PLI) and Mathematica.*
- *Presenter, Joint Conference of INSOL International and The European Insolvency Practitioners Association, Florence, Italy (1995).*

SELECTED PROFESSIONAL MEMBERSHIPS

- **American Bar Association**
Chairman, Subcommittee on Bankruptcy Court Litigation
Business Bankruptcy Committee
- **The Florida Bar**
Judicial Evaluation Committee

- Board of Editors, Florida Bar Journal
- **The Association of the Bar of New York**
Committee on State Legislation
- **United States District Court, Eastern District of New York**
Panel of Mediators
Panel of Arbitrators
- **United States Bankruptcy Court, Southern District of New York**
Panel of Mediators
- **Civil Court, City of New York**
Small Claims Arbitrator
- **American Arbitration Association**
Panel of Commercial Arbitrators
- **The English Law Society**
- **The Society of Practitioners of Insolvency (United Kingdom)**

LICENSURE

- Bar admission in New York, Florida, District of Columbia and California.
- Solicitor of the Senior Courts of London and Wales (United Kingdom).

ADDITIONAL INFORMATION

- Early legal experience in bankruptcy, real estate, intellectual property and litigation at mid-sized New York law firms.
- *Former Legislative Aide, Senator Jacob K. Javits and the US Senate Committee on Labor and Public Welfare* (91st and 92nd Congresses); primary staff responsibility for proposed revisions to the Fair Labor Standards Act (Minimum Wage Law Amendments enacted in 1974); instrumental in drafting the Occupational Safety and Health Act (OSHA), the Employment Retirement Income Security Act and various health, education and anti-poverty legislation.
- Conversational French and Italian.

EDUCATION

American University Law School, Washington, DC

Juris Doctor (1972), Awards for excellence in Constitutional Law and Criminal Law

Lehigh University, Bethlehem, PA

Bachelor of Arts, International Relations (1969)



TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

PLANNING AND ZONING COMMISSION

RECEIVED

SEP 01 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. (Please be advised that members of the Planning and Zoning Commission must file an annual financial disclosure form per State law.)

Name: Nicki McDONALD Residence Address: 234 Merrain RD, PB.
Mailing Address: 234 Merrain Rd. cell
Palm Beach, FL. 33480 Home Telephone: 917-880-4030
E-mail Address: NickiMcDemsn.com Work Telephone: "

I am a registered voter of the Town of Palm Beach AA (please initial)

Appointment to Planning and Zoning Commission requires the applicant to be a registered voter in the Town of Palm Beach. Please attach a copy of BOTH SIDES of your Voter Registration card with your application. Failure to provide the copy of the required voter registration card shall be grounds for rejection of the application.

1. Why are you interested in serving on the Planning and Zoning Commission? (Please explain and attach additional pages if necessary)

see attached.

2. How many meetings of the Planning and Zoning Commission 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 record, etc.

PLANNING and Zoning Commissioner (alternate) March '21 - present
Underground Utility Task Force - 2 terms - ended March '21
PB Civic Association Director - Health and Community Committees (3 yrs)
President of The Board - LAKE TOWERS CONDOMINIUM (5 yrs)

4. Are you willing and available to attend meetings of the Planning and Zoning Commission as described below?

- A. Meetings which last a full day (9:30 a.m. to 5:00 p.m., or even later)?
- B. Meetings on consecutive dates?
- C. Meetings which might be scheduled for multiple dates within the same month
- D. Meetings scheduled year-round

Yes	☒	No	☐
Yes	☒	No	☐
Yes	☒	No	☐
Yes	☒	No	☐

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

6. Do you have any experience in requesting comprehensive plan amendments or zoning approvals from the Town of Palm Beach or other jurisdictions? (Please explain. Attach additional pages if necessary)

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

☒ Palm Beach Chamber of Commerce

☒ Palm Beach Civic Association

☐ Citizens' Association of Palm Beach

☒ Preservation Foundation of Palm Beach

☐ North End Property Owners Association

☐ Other _____

8. Present occupation. _____ No. of years. _____

Employer. _____

9. Past occupation(s). *Interior Design - Nicki McDonald Interiors - 25 yrs*
Director of Admissions - St. Thomas More Nursery School - 6 yrs
Employer(s). *Director of Mens Merchandising - Ralph Lauren - 6 yrs*
Gold Trading Operations - J.P. Morgan - 1 yr.

10. Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable)

☐ Architecture

☐ Landscape Architecture/Design

☐ Law

☐ Social Sciences

☒ Urban and Regional Planning

☐ Building Construction and/or Development

☐ Geography

11. Please provide details regarding your educational background:

PARSONS School of Design - A.I.D. '87

CORNELL UNIVERSITY - B.S. Urban Planning and Economics '82

HARVARD UNIVERSITY - Summer Program in Urban Planning '80

London School of Economics - Fall '80

12. Why do you feel that you are qualified to serve on the Town's Planning and Zoning Commission? (Attach additional page if necessary)

See attached.

13. To enable 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.

Family Member Name	Relationship	Address	Occupation	Employer
DAVID McDonald	husband	234 McMain RD		
		on Investment Advisory Committee		

14. Have you ever been convicted of a crime or pled guilty or nolo contendere to a crime other than minor traffic violations?

15. 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 PR2 (alternate) if I am appointed to the position I am seeking in this application.
board/committee/commission

16. In the event you are applying to be a Regular Member of Planning and Zoning Commission and you are not successful, will you accept appointment as an Alternate Member of the Commission should the Town Council wish to appoint you as an Alternate Member? ☒ Yes ☐ No

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

RACE

- ☐ African American ☐ Native American
☐ Asian American ☒ Caucasian
☐ Hispanic American ☐ 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:

Nicki McDonald

DATE:

8/31/21

Please provide a copy of BOTH SIDES of your Palm Beach County Voter Registration card, which shows your Town of Palm Beach address, with your application.

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

PLANNING AND ZONING COMMISSION

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Initial Application - March 2021 - Elected as Alternate Commissioner

Why are you interested in serving on Planning and Zoning?

I find many of the current issues being discussed, such as the implementation of conservation districts to try and preserve some of the single story houses, the ground elevation issues that arise with new builds and FEMA requirements, sea level rise, outdoor seating during and post Covid, and the upcoming retail study, all fascinating and important to the town.

If the Retail Study gets underway, it sounds like it would be hugely beneficial to have much more community input pre-study. I enjoy being “boots on the ground” and if needed, talking to community members/retailers.....or whatever else is helpful in gathering/sharing our community’s long term vision.

I know the Planning and Zoning Codes need updating, with less technical language, and the the end goal of streamlining the process for contractors etc. Having renovated a house ourselves, and hearing our contractor joyously say that things that took months, were now taking a week, (when Josh Martin had joined) made me understand the roadblocks and time delays that could be more efficient.

Why do you feel you are qualified to serve on the Town's Planning and Zoning Commission?

As President of Lake Towers Condominium for four years, I helped implement the first private underground utilities project in Palm Beach for our building. I then went on to serve on the town’s Underground Utilities Task Force (UUTF) for the past four years, with my term limit now coming to an end.

When I became President of Lake Towers, I inherited an already initiated underground utilities project, but one that was only on paper. I had to do a deep and quick dive to understand all that was related to the project. I became very interested in the process, had worked with town staff and Burkhardt Construction, and applied for an open seat on the UUTF, which I was elected to. Upon joining the UUTF, there was much more to learn. It was certainly a listen, learn, and ask a million questions at first, but then I feel that I became a valuable member of the Task Force. I was the only member that was consistently working in the field (on the North end) with Town Staff on problem areas for easement acquisition (pre-Covid). Working together, Steve Stern and I were able to secure the easements and eliminate all the the chicanes we set out to. I also attended almost all of the Coffee with the Crew meetings, and felt very much “on the ground” working with town staff and Burkhardt Construction. I like being “hands on” and hope their might be an opportunity for this as part of Planning and Zoning Commission.

While I have listened to many of the past “audio” meetings, and am up to date on the current issues, if elected, I will go back further in time on the audio meetings for more history. I know I have a lot to learn, but will put in the time and effort to do so.

Interestingly, my major at Cornell University was Urban Planning, with a minor in Economics. Although I went to work for JP Morgan, and then my career took many paths that were not Urban Planning related, it has always been interesting to me and I would love the opportunity to put it to use and serve as an alternate, (and then hopefully as a full voting member) on Planning and Zoning.

Application for “Regular Member” Planning and Zoning Commission 9/1/21

I was appointed in March 2021 as an alternate commissioner on the Planning and Zoning Commission. I am applying now for the regular member commissioner’s seat. Unfortunately I can not be on Zoom, or at council in person if the opportunity arises, as I will be in NYC for some long scheduled Dr’s appts.

Over the last five months I have taken a deep dive into researching the current issues that P&Z is looking at. Although I still have a learning curve ahead of me, I know the questions to ask, have good perspective, and add important feedback to issues at hand.

I had been content with my alternate seat, able to discuss issues, and in agreement with recent votes (for the most part unanimous). Recently however, there was a 4-3 vote in favor of delaying the Retail Study. It was at this point that I wanted to step up and have my vote count.

The Retail Study is so much more than a “Retail” Study. After listening to the Retail Study Audio presentation again, there is an emphasis on a “refresh” for the town. How are we looking ahead and identifying a range of retail mixes and alternate uses, while considering the impact of parking, traffic and mobility?

We have a few very large empty spaces like Neiman’s with a 200 car garage. How might those be reimagined while keeping our town’s Comprehensive Plan at the forefront ? We have West Palm growing rapidly, and internet shopping booming....what do we look like going forward? We are not necessarily looking to add more volume, or retail per se, but possibly reimagine with less.

I think the study which is being referred to as the “Retail Study” is misleading, and it is really a town commercial and retail district planning tool that is vital now. We could change the Yard & Co RFP to reflect this, rather than focus on recruitment and retention. When voted to be deferred by the P&Z Commission, I believe it was viewed more from a Retail perspective than a planning tool by experts in the field.

Our Comprehensive Plan highlights “town serving” and Yard’s proposal includes a working committee of townspeople as well as town staff. This is important, and might not be something a company that strictly does code reform would engage in.

We are moving ahead with overall code reform, of which the commercial/retail areas are part of. At this point more discussion is required as to whom the company hired will be, and will “reimagining” and planning of Retail/Commercial districts be a specialty or part of a broader offering? Forward thinking and learning what we don’t know is vital. I would hate to have the new code reform company start to change code, and we later hire Yard & Co, who may bring new concepts to the table. While we want to avoid duplication of staff hours, and would have to carefully reword and reposition our RFP for Yard, both companies might be able to learn about the town, needs, codes

etc if working on the project at the same time. Much of the debate about hiring Yard & Co depends on who the company is that we hire for overall reform. Yard proposes to start in November, so before we push them off, it would seem beneficial to investigate some of these questions. It might also be interesting to learn more about Yard's Beverly Hills/Rodeo Drive study if they are able to share it at this point.

I would very much like the regular member commissioner's seat and to be a voting voice as this and other issues move forward.

Thank you.

Nicki McDonald



RECEIVED

By gayle at 11:24 am, Aug 31, 2021

TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

PLANNING AND ZONING COMMISSION

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. (Please be advised that members of the Planning and Zoning Commission must file an annual financial disclosure form per State law.)

Name: Mario Nievera Residence Address: 2270 South Ocean Boulevard, Palm Beach, 33480

Mailing Address: 2270 South Ocean Boulevard, Palm Beach 33480 Home Telephone: 917-558-0206

E-mail Address: Mario@Nieverawilliams.com Work Telephone: 561-659-2820

I am a registered voter of the Town of Palm Beach MN (please initial) **PGG**

Appointment to Planning and Zoning Commission requires the applicant to be a registered voter in the Town of Palm Beach. Please attach a copy of BOTH SIDES of your Voter Registration card with your application. Failure to provide the copy of the required voter registration card shall be grounds for rejection of the application.

1. Why are you interested in serving on the Planning and Zoning Commission? (Please explain and attach additional pages if necessary)

I have been a resident of the Town of Palm Beach (2255 Ibis Isle Road from 2000-2008 & 2270 S. Ocean Blvd from 2017 to current) as well as maintaining an office at 223 Sunset Avenue Palm Beach

as well as maintaining an office at 223 Sunset Avenue Palm Beach since 2006. I have been a part of the community, as well as an active Landscape Architect in the town

And I would like to be able to contribute to the town growth, especially for the constant changes in zoning. I am interested in maintaining the beauty of the town.

2. How many meetings of the Planning and Zoning Commission 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 record, etc.

I have been a Town of Palm Beach Landmarks commissioner (2004). I'm on the board of The cultural landscape foundation (TCLF.org) and The Horticultural Society of NY (HORT.org)

4. Are you willing and available to attend meetings of the Planning and Zoning Commission as described below?

- | | | |
|---|---|--|
| A. Meetings which last a full day (9:30 a.m. to 5:00 p.m., or even later)? | Yes ☒ | No ☐ |
| B. Meetings on consecutive dates? | Yes ☐ | No ☒ |
| C. Meetings which might be scheduled for multiple dates within the same month | Yes ☒ | No ☐ |
| D. Meetings scheduled year-round | Yes ☒ | No ☐ |

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

I present regularly to the Architectural Commission (ARCOM) and the Landmarks Commission.

6. Do you have any experience in requesting comprehensive plan amendments or zoning approvals from the Town of Palm Beach or other jurisdictions? (Please explain. Attach additional pages if necessary)

No

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

☐ Palm Beach Chamber of Commerce

☐ Palm Beach Civic Association

☐ Citizens' Association of Palm Beach



Preservation Foundation of Palm Beach



North End Property Owners Association



Other

8. Present occupation. Landscape Architect

No. of years. 25 years

Employer.

Nievera Williams Design, 223 Sunset Avenue, Palm Beach FL 33480

9. Past occupation(s). _____

No. of years. _____

Employer(s). _____

10. Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable)

☐ Architecture

☒ Landscape Architecture/Design

☐ Law



Social Sciences



Urban and Regional Planning



Building Construction and/or Development



Geography

11. Please provide details regarding your educational background:

Purdue University, Bachelor of Science Landscape Architecture 1989

Fellow, American Society of Landscape Architects.

Licensed Landscape Architect in State of Florida, State of New York, State of New Jersey

12. Why do you feel that you are qualified to serve on the Town's Planning and Zoning Commission? (Attach additional page if necessary)

My professional experience in the Town of Palm Beach as a landscape architect, has placed me in a unique position to understand all of the,

various zoning districts, including what is required in each district as well as the opportunities & constraints within each zoning district.

My expertise in landscape will contribute to the growth of the town, especially with regards to development of properties.

13. To enable 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.

Family Member Name	Relationship	Address	Occupation	Employer
Travis Howe	Husband	2270 S Ocean	VP	Facebook

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

15. 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 seeking in this application.
 board/committee/commission

16. In the event you are applying to be a Regular Member of Planning and Zoning Commission and you are not successful, will you accept appointment as an Alternate Member of the Commission should the Town Council wish to appoint you as an Alternate Member? ☒ Yes ☐ No

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

RACE

- ☐ African American ☐ Native American
☒ Asian American ☐ Caucasian
☐ Hispanic American ☐ 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: _____ *Mona Rivera* DATE: 29 August 2021

Please provide a copy of BOTH SIDES of your Palm Beach County Voter Registration card, which shows your Town of Palm Beach address, with your application.

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

PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission acts in an advisory capacity to the Town Council in all matters relating to municipal planning and development. The Commission is required to follow the concepts and contents of the Town's comprehensive land use plan in all planning, zoning and development related deliberations and decisions. The Commission shall also have such powers and duties as may be prescribed by Ordinance. The members of the Commission must be registered voters in the Town of Palm Beach. The seven regular members serve for terms of three years. Three alternate members of the Zoning Commission may be appointed by the Town Council who serve when called upon by the Chair of the Commission in the absence of any regular member.



TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

PLANNING AND ZONING COMMISSION

TOWN OF PALM BEACH

AUG 25 2021

Town Manager'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. (Please be advised that members of the Planning and Zoning Commission must file an annual financial disclosure form per State law.)

Name: MARY ELIZABETH SPEER

Residence Address: 270 SEMINOLE AVE #1

Mailing Address: PO BOX 881, PB 33480

Home Telephone: 561-699-3933

E-mail Address: MARYSPEER@ICLOUD.COM

Work Telephone: _____

I am a registered voter of the Town of Palm Beach MS (please initial) MS

Appointment to Planning and Zoning Commission requires the applicant to be a registered voter in the Town of Palm Beach. Please attach a copy of BOTH SIDES of your Voter Registration card with your application. Failure to provide the copy of the required voter registration card shall be grounds for rejection of the application.

1. Why are you interested in serving on the Planning and Zoning Commission? (Please explain and attach additional pages if necessary)

I FEEL IT IS NECESSARY TO SERVE THE COMMUNITY I CALL HOME. I AM THE TREASURER OF THE PALM BEACH ROTARY INTERNATIONAL

I SERVE ON THE BETHESDA BY THE SEA STEWARDSHIP COMMITTEE

ON A LIGHTER NOTE I VOLUNTEER AT THE CHURCH MOUSE ON SATURDAY AFTERNOON EVERY WEEK

2. How many meetings of the Planning and Zoning Commission have you attended in the last year? NONE

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 record, etc.

AS A NEW RESIDENT THIS IS THE FIRST YEAR I AM ELIGIBLE TO SERVE.

4. Are you willing and available to attend meetings of the Planning and Zoning Commission as described below?

- | | | |
|---|---|-----------------------------|
| A. Meetings which last a full day (9:30 a.m. to 5:00 p.m., or even later)? | Yes ☒ | No ☐ |
| B. Meetings on consecutive dates? | Yes ☒ | No ☐ |
| C. Meetings which might be scheduled for multiple dates within the same month | Yes ☒ | No ☐ |
| D. Meetings scheduled year-round | Yes ☒ | No ☐ |

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

ON SUNDAY I GO TO CHURCH IN THE MORNING

6. Do you have any experience in requesting comprehensive plan amendments or zoning approvals from the Town of Palm Beach or other jurisdictions? (Please explain. Attach additional pages if necessary)

NO

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

- ☐ Palm Beach Chamber of Commerce
☐ Palm Beach Civic Association
☐ Citizens' Association of Palm Beach

- ☐ Preservation Foundation of Palm Beach
☐ North End Property Owners Association
☐ Other PALM BEACH ROTARY INTERNATIONAL

8. Present occupation. REALTOR

No. of years. 2

Employer.

AFFILIATED WITH COLDWELL BANKER REALTY

9. Past occupation(s). CHIEF FINANCIAL OFFICER

No. of years. 20

Employer(s).

SAN FRANCISCO CHAMBER OF COMMERCE, PLANNED PARENTHOOD,

10. Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable)

- ☐ Architecture
☐ Landscape Architecture/Design
☐ Law

- ☐ Social Sciences
☐ Urban and Regional Planning
☐ Building Construction and/or Development

☐ Geography

11. Please provide details regarding your educational background:

BA IN LIBERAL ARTS AND MBA IN BUSINESS FROM PEPPERDINE UNIVERSITY, MALIBU CALIFORNIA

12. Why do you feel that you are qualified to serve on the Town's Planning and Zoning Commission? (Attach additional page if necessary)

I AM A RESIDENT WITHOUT ANY CONFLICTS OF INTEREST. AS A REASONABLE LEVEL HEADED INDIVIDUAL WITH

LONG CAREER IN FINANCE I CAN BE A VALUABLE CONTRIBUTING MEMBER OF THE PLANNING AND ZONING COMMISSION.

13. To enable 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.

Family Member Name	Relationship	Address	Occupation	Employer
VICTORIA VAN PELT	PARTNER	270 SEMINOLE	RETIRED	
NONE				
NONE				

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

15. 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 seeking in this application.
 board/committee/commission

16. In the event you are applying to be a Regular Member of Planning and Zoning Commission and you are not successful, will you accept appointment as an Alternate Member of the Commission should the Town Council wish to appoint you as an Alternate Member? ☒ Yes ☐ No

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

RACE

- ☐ African American ☐ Native American
☐ Asian American ☒ Caucasian
☐ Hispanic American ☐ 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: Wendy Klingenberg Speer DATE: Aug 23 2021

Please provide a copy of BOTH SIDES of your Palm Beach County Voter Registration card, which shows your Town of Palm Beach address, with your application.

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

PLANNING AND ZONING COMMISSION

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TOWN OF PALM BEACH

APPLICATION FOR SERVICE ON

PLANNING AND ZONING COMMISSION

TOWN OF PALM BEACH

AUG 2 2021

Town Manager'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. (Please be advised that members of the Planning and Zoning Commission must file an annual financial disclosure form per State law.)

Name: John J. Tatooles

Residence Address: 122 Ocean View Road

Mailing Address: _____

Home Telephone: 561-629-5279

E-mail Address: jtt5959@gmail.com

Work Telephone: cell 312 48 5525 2

I am a registered voter of the Town of Palm Beach AMF (please initial) AMF

Appointment to Planning and Zoning Commission requires the applicant to be a registered voter in the Town of Palm Beach. Please attach a copy of BOTH SIDES of your Voter Registration card with your application. Failure to provide the copy of the required voter registration card shall be grounds for rejection of the application.

1. Why are you interested in serving on the Planning and Zoning Commission? (Please explain and attach additional pages if necessary)

See attached page

2. How many meetings of the Planning and Zoning Commission have you attended in the last year? 4

have not missed any as a alternate

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 record, etc.

See attached page

4. Are you willing and available to attend meetings of the Planning and Zoning Commission as described below?

- A. Meetings which last a full day (9:30 a.m. to 5:00 p.m., or even later)?
- B. Meetings on consecutive dates?
- C. Meetings which might be scheduled for multiple dates within the same month
- D. Meetings scheduled year-round

Yes ☒	No ☐
Yes ☒	No ☐
Yes ☒	No ☐
Yes ☒	No ☐

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

none. I am a full time resident of the Town of Palm Beach.

6. Do you have any experience in requesting comprehensive plan amendments or zoning approvals from the Town of Palm Beach or other jurisdictions? (Please explain. Attach additional pages if necessary)

See attached page

7. 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 | ☒ Other <u>Palm Beach Historical Society</u> |

8. Present occupation. attorney No. of years. 35

Employer.

Hogan, Marren, Babbo & Rose, Ltd., Chicago, Illinois (I have worked remotely for the past 6 years)

9. Past occupation(s). _____ No. of years. _____

Employer(s).

10. Do you have a degree in, or have you taken courses in, any of the following fields of study: (Check as many as are applicable)

- | | | |
|--|--|---|
| ☐ Architecture | ☒ Social Sciences | ☒ Geography |
| ☐ Landscape Architecture/Design | ☐ Urban and Regional Planning | |
| ☒ Law | ☒ Building Construction and/or Development | |

11. Please provide details regarding your educational background:

DePauw University, Greencastle, IN, BA 1981; Washington and Lee University, Lexington, VA, JD, 1984;

New York University, New York, New York, LLM 1985; University of Chicago, Chicago, Illinois Basic Program (non-degreed certificate

classical studies program). I also hold a Florida Real Estate Brokers license and have taken all applicable educational requirements

12. Why do you feel that you are qualified to serve on the Town's Planning and Zoning Commission? (Attach additional page if necessary)

See attached page

13. To enable 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.

Family Member Name	Relationship	Address	Occupation	Employer
Victor Moore	spouse	122 Ocean View Road	retired	

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

15. 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 alternate to become voting if I am appointed to the position I am seeking in this application.
board/committee/commission

16. In the event you are applying to be a Regular Member of Planning and Zoning Commission and you are not successful, will you accept appointment as an Alternate Member of the Commission should the Town Council wish to appoint you as an Alternate Member? ☒ Yes ☐ No

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

RACE

- ☐ African American ☐ Native American
☐ Asian American ☒ Caucasian
☐ Hispanic American ☐ 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: _____

Please provide a copy of BOTH SIDES of your Palm Beach County Voter Registration card, which shows your Town of Palm Beach address, with your application.

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Attachment to Town of Palm Beach
Planning and Zoning Commission Application

John J. Tatooles

Dated August 1, 2021

Section 1

I have been a resident of the Town of Palm Beach for over 16 years, and a full-time resident for almost 6 years. I have a stake in the community and its future direction. To be part of the community requires participation in the community.

I have had the honor of serving as an alternate to the Planning and Zoning Commission, since my first meeting in March 2021. Serving as an alternate has only reinforced my belief that the Commission is vital in providing guidance to the Town Council on the future of the Town of Palm Beach. The lessons learned from Covid-19 have brought and are bringing so much change so fast, that the future direction of our Town is at hand. Much of the decision making related to it starts with the Planning and Zoning Commission.

While, I am happy to continue to serve as an alternate on the Commission, I am requesting an "upgrade" to a voting member of the Commission to better serve as a participant in the future direction of the Town.

Section 3

(i) I am currently:

- a. an alternate on the Town of Palm Beach Planning and Zoning Commission (first year);
- b. Palm Beach Island Hospice Foundation board member (going into 3rd year)
- c. Town of Palm Beach United Way allocation committee member (for health care going into 3rd year)
- d. together with my spouse, Victor Moore, am co-chair of this year's Children's Home Society Ultimate Dinner Party
- e. I have attended all meetings of all boards and committees

(ii) I was a 6 year board member and chair of the board recruitment committee of Vital Bridges, Chicago, Illinois and attended almost all meetings

Section 6

I have had experience in working on comprehensive plans and zoning approvals as an attorney for clients. Typically, my work would involve explaining the impact of such rules on property owners or those interested acquiring property and compliance obligations.

As an attorney, I most recently worked on the assemblage of almost 300 acres of farm land located in an evolving semi-rural location and worked with the team on rezoning the parcels into a world class museum campus.

On a personal level, I have worked on a family project in the rezoning and redevelopment of commercial/farm land into a successful 66 unit town home development.

Section 12

I am now serving as an alternate on the Commission. I have read the current zoning codes, and in conjunction with the meeting materials and information provided have a strong understanding of the issues that are presented. By living in Town for the past 16 years, the material matters to be addressed by the Commission and Town Council are readily observably every day in driving through Town.

Having served as an alternate, I have had the opportunity to ask questions and raise issues at meetings in the quest to provide guidance to the Town Council. I believe that my training has taught me the skill sets to listen, learn and provide valuable guidance.

I am requesting a conversion of my role to that of a voting member to be able to add further value to the Commission, but am happy to remain an alternate.

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda Minutes

Agenda Title
Town Council Meeting Minutes
Queenester Nieves, CMC, Town Clerk

July 13, 2021, Town Council Meeting
July 15, 2021, Special Town Council Meeting - Proposed FY22 Budget
July 27, 2021, Special Town Council Meeting - COVID-19
August 10, 2021, Town Council Meeting
August 11, 2021, Local Planning Agency Meeting
August 11, 2021, Town Council Development Review Meeting

Presenter

ATTACHMENTS:

- ▣ **July 13, 2021, Town Council Meeting Minutes**
- ▣ **July 15, 2021, Special Town Council Meeting Minutes - Proposed FY22 Budget**
- ▣ **July 27, 2021, Special Town Council Meeting Minutes - COVID-19**
- ▣ **August 10, 2021, Town Council Meeting Minutes**
- ▣ **August 11, 2021, Local Planning Agency Meeting Minutes**
- ▣ **August 11, 2021, Town Council Development Review Meeting Minutes**



MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, JULY 13, 2021

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order at 9:30 a.m. in the Town Council Chambers. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Nieves gave the Invocation and President Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

The following Time Certains were noted in the Agenda:

- X.A. Annual Report of the Retirement Board of Trustees
TIME CERTAIN: 9:45 AM
- V.A. Presentation of Marina Brand Initiatives
TIME CERTAIN: 10:30 AM
- V.B. Update from the City of West Palm Beach on the Water Supply
TIME CERTAIN: 11:00 AM

The following addition was made to the Agenda:

- XIII.B.4. COVID-19 Update – COVID-19 Report

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. PRESENTATIONS

A. Presentation of Marina Brand Initiatives

TIME CERTAIN: 10:30 AM

Carolyn Stone, Assistant Town Manager

Assistant Town Manager Carolyn Stone introduced Paul Jacober, Creative Director, Jacober Creative, to discuss the reveal of the brand initiative.

Mr. Jacober discussed research and branding, logo, advertising campaign, website design and layout, and design initiatives. He presented two videos encompassing *Anchored in the Heart of Palm Beach* branding and the website. They had also developed custom illustrations to help tell the new marina's story. Media placement was now underway, targeting high end luxury lifestyle and boating print publications, as well as online, radio, and broadcast markets to attract the right audience.

Council Member Crampton asked about the focus on the town. Ms. Stone responded. Council Member Crampton thought the presentation was very slick.

Council President Zeidman thought this was stunning, and asked about the creation of the logo, which Mr. Jacober described.

Council Member Araskog really liked the logo and the direction. She suggested a beach shot without seaweed.

B. Update from the City of West Palm Beach on the Water Supply

TIME CERTAIN: 11:00 AM

Poonam K. Kalkat, Ph.D., Director of Public Utilities (WPB)

Director of Public Works H. Paul Brazil gave an update regarding the water supply, as no representative from the City of West Palm Beach was in attendance.

He reported Town staff and West Palm Beach staff had met and they had been very transparent about what had happened, the water source and treatment, and expressed willingness to make their plant available for a tour and to make any sampling and testing available. They had set up a panel consisting of very well-known experts to identify what had happened and what to do moving forward. John Potts had been hired by the Town to be the Town's representative on the panel, and would attend the meetings and report back. The Town also had another resource in Dr. Duran, a professor at UCF, who could be used when needed. He reported the panel was now assembling their data to begin their work, and he would provide an informational packet on the panel for Council, staff, and the public.

Council President Zeidman wanted the Council to be assured they would be notified when testing was done, receive the results timely, and have the Town's expert interpret the results, in order to protect the health of the residents.

Director Brazil commented the testing had never been questioned, which was why he asked only for the results, and the timing of those results, with interpretation by the Town's expert.

Council Member Cooney asked how frequently testing was done and the results known. Response was it was now daily, and they expected the algae problem to continue. Regarding when the panel would get to future plans, Director Brazil commented that was not yet known. Town Manager Blouin commented he was encouraged that both staffs could work together and felt positive about having an expert on the panel who represented the Town. Council Member Cooney asked if the Town was protected by Florida's public record laws in order to obtain water testing records, etc., should the need arise. Town Manager Blouin responded the records were readily available, but might need expert interpretation. Director Brazil commented having a good working relationship with staff, as well as having access, which had already been offered, was the best way to get timely information.

Council Member Crampton found Director Brazil's report comforting, and commented that the glitch had been failure to communicate with users of the water system and the Town of Palm Beach. He agreed with the actions now being taken and felt the focus now should be on moving forward.

Council President Pro Tem Lindsay asked if Mr. Potts would sit on the panel or observe. Director Brazil responded, to observe, and it was not the Town's place to drive the outcome. Town Manager Blouin commented the panel members were experts made up of scientists, engineers and doctors, and would meet behind closed doors, but the Town would consult with Mr. Potts to provide his expert opinion of the technical information. That would be independent of public information.

Mayor Moore advised that Mayor James had reached out to her and stated that the lack of communication which occurred several weeks ago would not happen again. She felt they were being very open, and she felt things were moving forward appropriately.

Council Member Araskog also was encouraged to have an expert present. Director Brazil commented the expert, Mr. Potts, just started Friday and he would go there with staff to review the tests. This was just the beginning, and Director Brazil thought the process should proceed to see how it went.

Council President Zeidman felt communication had definitely improved but it was frustrating because it took six weeks to get this going. She clarified with Director Brazil that Mr. Potts would report to Council at their next meeting. The Town

Manager reported staff had told West Palm Beach the level of communication expected of them.

C. Review of Lake Okeechobee System Operating Manual (LOSOM) and Discussion of Options Available

RESOLUTION NO. 079-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Urging the United States Army Corp of Engineers to Accelerate the Completion of the Re-Evaluation of Lake Okeechobee Operations for the Lake Okeechobee System Operating Manual to Improve Water Quality, Preserve the Natural Environment, and Protect Our Water Supply.

Lisa Interlandi, Executive Director, Everglades Law Center

Council President Pro Tem Lindsay introduced Lisa Interlandi, Executive Director, Everglades Law Center. Ms. Interlandi introduced Dr. Tom Van Lendt, a hydrologist for the Everglades Foundation, who joined the meeting on zoom. They presented and discussed the final 6 options/alternatives for LOSOM the (Lake Okeechobee System Operating Manual.) Ms. Interlandi mentioned Governor DeSantis' statement for improving water quality,, South Florida Water Management District's mission statement, and explained the preferred plan selection process. The process will identify the preferred alternative next Monday, July 19th, and continue tweaking and optimizing that plan throughout the summer and fall by listening to stakeholders in order to finalize the plan by early next year.

She pointed out that the SFWMD and other stakeholders have been working on the LOSOM update for at least the last two years. She went through each of the 6 finalist options, explaining the pluses and minuses to our Lake Worth Lagoon and other stakeholders. Interestingly, both she and Dr. Van Lendt mentioned that what is good and bad for our Lagoon, is also good and bad for the St. Lucie estuary, although this is not true for all of the affected stakeholders. Optimization will require balancing the preferred alternative so that it benefits.

Both presenters stated that while none of these alternatives are perfect for the entire system, we're looking to select the best one to achieve the optimal balance for all stakeholders. For example the CC alternative is best for us and the St. Lucie system, but not as good for the Caloosahatchee system.

She also pointed out that to keep a marsh in the lake supportive of shore birds, the lake has to be kept at a particular level so as to allow shore birds to thrive.

Dr. Van Lent commented on some of the benefits of the CC alternative to our Lake Worth lagoon and estuary which would prevent 95% of discharges to our lagoon. This prevents harmful algae blooms in Lake Okeechobee from being transferred to our water supply, the Lake Worth Lagoon or to the St. Lucie Estuary. He confirmed Lisa's comments that improvements would be made to reach the best alternative for all stakeholders. CC can be improved to send more water south to the

Everglades and less to the Calloosahatchee. Lisa asked him to explain Zone F in the lake which reserved water only for agriculture during dry periods. By eliminating that zone, all users can ask for that water from the lake during periods of drought.

Council Member Cooney asked if more water going south to the Everglades was a problem. Dr. Van Lent responded they would make sure that water quality was not compromised, and if a drought was declared no water would go to the Everglades. Pollution problems would be shifted with water going south and would need to be cleaned first in the treatment marshes before transfer to the Everglades.

Council Member Crampton was concerned about affecting the County's agricultural needs, but said BB should be rejected. He asked will CC seriously affect the agricultural communities' water supply? Ms. Interlandi explained all water quality would be improved with all of these alternatives including for agriculture, and other than BB alternative CC performed best for agriculture needs. Historical data showed there is enough water in the system to handle agricultural demands in the drought years.

Council Member Araskog was concerned about negative impacts to other communities. Ms. Interlandi explained they chose the best alternative for our community and mentioned other agencies like the US Fish & Wildlife Service, Audubon of Florida, National Wildlife Refuges, Everglades Foundation, Friends of the Everglades, Florida Fish and Wildlife Conservation Commission, Florida Congressmen Brian Mast, City of Stuart, Lee County, to name a few, who supported the CC alternative or a modified version of CC. Everyone wanted removal of Zone F, so that all stakeholders are on equal footing. All of these alternatives are improvements over existing conditions. She also commented regarding removal of alternative BB from our resolution. Council President Pro Tem Lindsay also commented that everyone was moving in a different direction and therefore rejecting BB was not needed and removed from the resolution.

Town Attorney Randolph read aloud Resolution No. 079-2021.

There was no public comment.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve Resolution No. 079-2021. On roll call, the Motion passed unanimously.

Council President Pro Tem Lindsay asked that a senior staff person attend the South Florida Water Management meeting on Thursday, during the Council Budget meeting and read this resolution into the record, and that a copy be sent to the Governor. Council Member Araskog confirmed there was Council consensus on these two requests.

VI. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore announced the following employee milestones: Recreation Department – Antonio Andrea – 5 years of service; Fire Rescue Department - Anthony Curtis – 5 years of service, and Danny Rojas, Warehouse Coordinator, Finance and Purchasing dropped after 19-1/2 years of service. She reported she had sent a letter to the Mayor of the Town of Surfside and spoke to him on the phone, offering prayers and any assistance. Mayor Moore expressed deep disappointment that there was no representative of West Palm Beach present today to discuss the water issue, and assured the community that staff would continue to monitor the situation.

VII. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman mentioned if anyone felt uncomfortable because of the Delta variant not to be embarrassed to put on a mask. She expressed thanks to Mayor Moore for offering assistance to the Mayor of Surfside. She thanked ARCOM for sitting through two days of meetings because of their increased workload, and described improvements in processing applications being put into place to help them.

Council President Pro Tem Lindsay thanked Mayor Moore for her quick action and appropriate response in late May when the water crisis occurred. She felt it had been unconscionable that the City of West Palm Beach did not notify the Town for 8 days when the water was unsafe to drink. She announced that later in the meeting she would introduce Lisa Interlandi, Director of the Everglades Law Center, who will join us again in a discussion to consider a potential resolution that we might pass to let the US Army Corps of Engineers know which option for managing the Lake Okeechobee water system we think best improves local water quality, preserves wildlife, and protects our drinking water . Known as LOSOM, the Lake Okeechobee System Operation Manuel, is revised approximately every ten years and serves to manage the water supply to communities and agricultural areas in south, east and west of the Lake. Lisa and an Everglades Foundation scientist on Zoom will explain the option and proposed resolution and answer our questions.

Council Member Araskog thanked the Mayor for her response to the Surfside disaster. She expressed disappointment no representative from West Palm Beach had attended today.

VIII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Diane Buhler, Founder, Friends of Palm Beach, 214 Alhambra Place, West Palm Beach, provided her update on the beach, particularly sea turtle hatchlings and the increased amount of trash removed. They were now removing trash twice a week. A fundraiser had produced more donations, but more were needed to keep the program running past 2022. She asked that the word be spread about their work.

Renee Silvin, Chair, Landmarks Preservation Commission, spoke regarding the 3-minute rule at Landmarks Preservation Commission meetings as it related to the Preservation Foundation, which was inadequate, so that the presenters all provided lengthier

presentations. He considered these presentations extremely important since they framed the issues for the Commissioners. As Chair, he was uncomfortable at not complying with the 3-minute limit as it might open the Town Council to criticism. He asked for an exception for these presentations by changing the time or giving him discretion to use his judgement for time allowed for Preservation Foundation presentations. Town Attorney Randolph responded it was totally at the discretion of Chair Silvin to control the time allowed. Council President Zeidman stated her support for Mr. Silvin as Chair to make those decisions. Mayor Moore also felt it was within Chair Silvin's discretion, but suggested he set a length of time in order to keep the meetings moving. Council Member Cooney supported Chair Silvin to make decisions as he saw fit. Council Member Araskog commented the Landmarks Preservation Commission often had history others could not provide, and she fully supported Chair Silvin allowing them the time they needed. Chair Silvin expressed his thanks.

Tom Parker, 215 Jamaica Lane, spoke about the problem of feral cats. He reported a loophole in Section 10 of the Code which contained a safe harbor for the feral cat program. He stated residents who willingly fed cats on their property facilitated breeding by other stray cats, which Palm Beach Island Cats must then struggle to control. He felt the problem would soon be uncontrolled. Council President Pro Tem Lindsay asked that staff meet with Palm Beach Island Cats to reach a solution and put out an alert to residents. Council President Zeidman announced this would be on the agenda in August and the phone number for Palm Beach Island Cats would be posted on the Town's website.

IX. APPROVAL OF CONSENT AGENDA

The following items were pulled and heard under item no. XIII.B. as follows:

1. Item No. IX.A.1.b. June 9, 2021, Town Council Development Review Meeting Minutes heard as Item No. XIII.B.1
2. Item No. IX.B.4. RESOLUTION NO. 072-2021 heard as Item No. XIII.B.2
3. Item No. IX.C.2. Potential Sale and Request for an Appraisal of Boyd Park heard as Item No. XIII.B.3.

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

A. MINUTES

1. Town Council Meeting Minutes
Queenester Nieves, CMC, Town Clerk
 - a. June 8, 2021, Town Council Meeting Minutes
 - b. June 9, 2021, Town Council Development Review Meeting Minutes –
Pulled and Heard as Item No. XIII.B.1.

2. Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of June 23, 2021.
Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 069-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of ITB No. 2021-15 To Greentech Group Solutions, LLC for Royal Poinciana Way Irrigation Improvements in the Amount of \$98,532 and Establishing a Project Budget of \$112,000.
Dean Mealy, Purchasing Manager
2. RESOLUTION NO. 070-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFI No. 2021-13 for Annual Physical Exams for Fire and Police Departments to the Primary Vendor Life Scan Wellness Center and Secondary Vendor Sitedmed North America in the Annual Amount of \$62,000 and Establishing a Five Year Award Contingent on Satisfactory Performance and Budget Authorization in the Amount of \$310,000.
Dean Mealy, Purchasing Manager
3. RESOLUTION NO. 071-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of ITB No. 2021-03 for Street Light and Decorative Post Painting by Lot to a Primary, Secondary and Tertiary Vendor in the Annual Amount of \$43,000 and a Proposed Five Year Award of \$215,000 Contingent on Satisfactory Performance and Budget Authorization.
Dean Mealy, Purchasing Manager
4. RESOLUTION NO. 072-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for the Designation of Historic/Specimen Trees at Lake Drive Park, Providing An Effective Date.
*H. Paul Brazil, P.E., Director of Public Works – **Pulled and Heard as Item No. XIII.B.2.***
5. RESOLUTION NO. 073-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to the Worth Avenue Improvement Project; Establishing the Estimated Assessed Cost Against the Properties that will be Benefitted Thereby; Directing the Town Manager to Prepare Updated Assessment Rolls; Establishing a Public Hearing to Consider Approval of the Assessment Rolls and Reimposition of the Maintenance Assessments and their Collection Pursuant to the Uniform Assessment Collection Act; Directing the Provision of Notice; and Providing for an Effective Date.

Jane Le Clainche, Director of Finance

6. RESOLUTION NO. 074-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to the Peruvian Avenue Improvement Project; Establishing the Estimated Assessed Cost Against the Properties that will be Benefitted Thereby; Directing the Town Manager to Prepare Updated Assessment Rolls; Establishing a Public Hearing to Consider Approval of the Assessment Rolls and Reimposition of the Maintenance Assessments and their Collection Pursuant to the Uniform Assessment Collection Act; Directing the Provision of Notice; and Providing for an Effective Date.

Jane Le Clainche, Director of Finance

7. RESOLUTION NO. 075-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Relating to the Collection and Disposal of Commercial Solid Waste; Establishing the Estimated Assessed Cost Against the Properties that will Be Benefitted Thereby; Directing the Town Manager to Prepare an Updated Solid Waste Assessment Roll; Establishing a Public Hearing to Consider Approval of the Assessment Roll and Reimposition of the Service Assessments and their Collection Pursuant to the Uniform Assessment Collection Act; Directing the Provision of Notice; and Providing for an Effective Date.

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

C. OTHER

1. Request to Consider Ordinance Nos. 16-2021 and 17-2021 at a Public Hearing on Wednesday, July 14, 2021 Prior to 5:00 p.m.

Wayne Bergman, Director of Planning, Zoning and Building

2. Potential Sale & Request for an Appraisal of Boyd Park

*H. Paul Brazil, P.E., Director of Public Works – **Pulled and Heard as Item No. XIII.B.3***

3. Request to Hold Preservation Foundation 2022 Dinner Dance in Bradley Park

Jay Boodheshwar, Deputy Town Manager

X. BOARD/COMMISSION ANNUAL REPORT

- A. Annual Report of the Retirement Board of Trustees

TIME CERTAIN: 9:45 AM

Ed Carter, Vice Chair

Ed Carter, Vice Chair of the Town's Retirement Board, provided a presentation of the annual results of the pension plan. He reported the plan had been turned around

to a more positive situation by modifications and changes over the past few years. He presented the annual report for the fiscal year ending September 30, 2020. GRS, the actuarial accountant, had performed their review. This plan was the largest liability of the Town, and was constantly changing, making its management very challenging. Funded ratio was 72.7% as of 9/30/2020, and unfunded actuarial accrued liability was \$94M, down from \$100M the prior year, which meant \$6M worth of progress had been made in the last year. Based on these results, the Board had felt comfortable dropping the expected rate of return for this fiscal year ending 9/30/2021 to 6.8% with a planned reduction each year until 2024 when it would reach 6%. He explained why the Board had made this decision, which was considered prudent for the next 15+ years, and the cost of doing so. He reported changes the Board had made and that proposed future projections could lead to the Plan being funded at a rate of 92.7% in 10 years, which would be fantastic for the retired employees, the Town, and the taxpayers.

Mayor Moore asked if the Board had considered lowering the rate of return to 30 basis points. Mr. Carter responded they would like to get to 6% over the next four years, before making changes, but changes could be made at any time.

Council Member Crampton thanked Mr. Carter for the report and spoke about the partnership between the Council and the Board. He felt 85% funded was a safe space. Mr. Carter expressed appreciation for Council's support.

Council Member Araskog thanked the Board for being aggressive and for being an incredible team with Town Council. At her request, Mr. Carter further explained the UAAL calculation for the last year. She asked how the Town's contribution could be protected, and Mr. Carter responded, by diversification and reducing exposure, but there was no guarantee.

Council President Pro Tem Lindsay expressed her opinion this was probably the most professional highly qualified Board in the Town's history, and asked if Mr. Carter felt the Council should add to the stated contribution while their financial situation allowed. Mr. Carter felt this was already a very large liability and it would be prudent to wait until the situation was known at the end of this fiscal year and the actuary's opinion was received.

Council President Zeidman recalled it was a lot of work to educate the Council, and she thanked the Board, Mr. Stanton, and Mr. Carter. She noted the changes that Mr. Carter had mentioned, but also commented the Board had changed their asset allocation and had made 18% return on the investments. Mr. Carter further explained the changes, now based on a goal to make money, not just not to lose money.

Mr. Carter reported the market valuation. As of May 31, 2021, the fund was valued at \$286M, up from \$230M on May 31, 2020, adding \$56M to the fund over the past year and 16.8% returns to this point in this fiscal year. He discussed the new

allocation, called alternatives, which in the beginning would be invested in disruptive technologies.

Council Member Araskog asked the sweet spot for rate of return. Mr. Carter was comfortable with today's 6.8%. The legacy plan was discussed. Council Member Araskog thanked Mr. Carter and the Board for putting their heart and soul into this job.

Council Member Crampton commented on how tough the Board was on their portfolio managers, and added thanks to the Town Manager and the Deputy Town Manager for their support.

Council President Zeidman thanked Mr. Carter and the Board.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to accept the Annual Report of the Retirement Board of Trustees. On roll call, the Motion passed unanimously.

XI. COMMITTEE REPORTS

- A. Report of the Business and Administrative Committee Meeting Held on May 28, 2021
Lew Crampton, Chair

Council Member Crampton reported that the Council had passed the Committee's suggestion for utilizing private underground parking lots to get cars off the street and was poised to do the same thing with respect to above ground parking lots that would be utilized only during business hours. They had also reviewed proposals to broaden the placard system and revised inconsistencies in the way paid parking was handled.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to accept the report of the Business and Administrative Committee Meeting held on May 28, 2021. On roll call, the Motion passed unanimously.

1. Recommendations from the Business and Administrative Committee
Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar presented two items for Council consideration. The first was to expand the placard program in the 400 block of Peruvian Avenue, currently all residential parking.

Council Member Araskog asked if residents in that area had been notified, and expressed concern that the study had only been for one week. Deputy Town Manager Boodheshwar responded the study had been to confirm long-term observations, and this could be limited to six months. Council

Member Araskog asked what would prevent beachgoers from parking there. Town Attorney Randolph stated this was a public street.

Council Member Cooney expressed support for the placard program in this block.

Council Member Crampton stated the goal was to get employee cars off Worth Avenue, and the proposal was for six months.

Council President Pro Tem Lindsay pointed out this was 25 placards for six months, inclusive of the elimination of 40 placards that used to be handed out, and expressed her support.

Mayor Moore felt this was a good baby step, and pointed out a resident could bring a complaint to the Council at any time, and if this did not work the Council could try something else.

Council President Zeidman also expressed support.

Council Member Araskog wanted to monitor moving traffic into residential areas.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to direct staff to reopen the Employee Placard Program for six (6) months. During discussion of the motion there was public comment by John David Corey, 426 Australian Avenue, who opposed this change and felt it was anti-residential. **On roll call, the Motion passed 4-1 with Council Member Araskog dissenting.**

Deputy Town Manager Boodheshwar presented the second item for Council consideration, related to the 100 block adjacent to Midtown beach where Council had given approval in April to convert a number of the hourly time limited free spaces along the eastern ends of the ocean blocks to paid parking. It had been verified that the East end of Worth Avenue continued to be used by beachgoers. The request was to offset that by establishing three to four free 15-minute spaces to create some consistency along the eastern edges of these ocean blocks to encourage beachgoers to first use the spaces along South ocean and not on the 100 block of Worth Avenue. He stated there would be no physical changes, only changes in the wording on the signs.

Council Member Cooney asked if a parking enforcement vehicle would be circulating every 15 minutes. Response was the time would turn into 30 minutes, but most people would not push it.

Council President Pro Tem Lindsay commented this timing had been discussed, and if there were complaints, changes could be made.

Council Member Araskog felt the time should be 30 minutes, and to limit the program to six months.

Mayor Moore asked for clarification of which spaces would be 15 minutes, which were pointed out on a graphic. She was not sure how this would be helpful.

Council Member Zeidman asked if it was possible the 15- or 30-minute parking should be more centrally located on Worth Avenue. Discussion ensued on the timing and location. Three spaces were recommended.

Town Manager Blouin suggested 20 minutes because on the 21st minute there was a good chance of getting a ticket. Deputy Town Manager Boodheshwar recommended 30 minutes for consistency.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to institute paid parking on the 100 block of Worth Avenue with inclusion of three locations as identified, at thirty minutes within the 100 block, for a six-month testing period, and to return to either the Committee or the Town Council for review of the results. On roll call the Motion passed unanimously.

Council President Zeidman confirmed with everyone that they had read the backup listing of items the Committee intended to address moving forward, and obtained consensus to allow the Committee to proceed.

A 30-minute lunch break was taken. The meeting resumed at 1:30 p.m.

XII. PUBLIC HEARINGS

- A. RESOLUTION NO. 076-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Vacating and Abandoning Existing Public Utility Easements within Phase 3 North Utility Undergrounding Project Limits, in the Town of Palm Beach, Florida.
Patricia Strayer, P.E., Town Engineer

Town Engineer Strayer presented Resolution No. 076-2021 and reported Phase Three North utility underground easements located on properties where parties had donated easements could now be abandoned.

Town Engineer Strayer reported no objections had been received. She read Resolution No. 076-2021 by title.

Council President Pro Tem Lindsay commented on the cost in time and money to abandon an easement and urged residents who were trying to decide whether they should do this on their own or accept the Town's offer that it was a benefit for the Town to take care of everything.

Council Member Cooney expressed gratitude for those who offered easements.

There was no public comment.

Motion was made by Council Member Cooney and seconded by Council Member Araskog to approve Resolution No. 076-2021. On roll call, the Motion passed unanimously.

XIII. REGULAR AGENDA

A. Matters Pulled From Consent Agenda: If needed

1. June 9, 2021, Town Council Development Review Meeting Minutes

Council Member Araskog wished to add to a motion “to go back to the drawing board”.

Mayor Moore indicated she did not see the difference. Council Member Araskog stated she would not have voted for the motion without that wording. Council President Zeidman also did not see the difference, and was trying to understand her role in the motions. Town Attorney Randolph advised she had no role, but if a Council Member brought something up and it was accurate, it was appropriate to vote approval of the minutes as amended. Council Member Araskog pointed out another error, that Paul Castro had said he did not believe the parking study was incomplete, but he actually said he believed the parking study was incomplete.

Deputy Town Manager Boodheshwar presented the procedure to be followed: Kelly and Queenester would work with the Council President to put together the minutes with Council approval, then they would be in the backup. It was possible, and actually highly probable that from time to time there would be errors, or something might not be properly phrased, because a lot of paraphrasing was done, and the time to bring that up would be at this meeting. What staff would like to avoid was after the backup and the minutes were published, was the back and forth between individual Council members and staff to make changes on the go because it became confusing what was in a purple folder or what was not. Therefore, staff would like to follow the process described, for the sake of consistency and to make sure everyone was on the same page. Town Attorney Randolph advised that Council should not be making typographical changes. He stated Council members should not be making typographical changes and passing them on. Those changes, if staff agreed with them, those should be brought to the Council in the new minutes, otherwise, the minutes Council approved might not be accurate because the changes were not approved by Council.

Council Member Araskog commented President Zeidman had stopped members from coming to Council with changes—they used to be discussed

at Council, and then approved. The procedure was changed so that members were to send notes to Kelly, Queenester, and/or Antonette. She liked the previous process better. President Zeidman asked if she was talking about commas and things like that. Council Member Araskog responded they used to pull them, and let the President know. Town Attorney Randolph commented if there was a mistake, typographical changes, he wouldn't change grammar, and the clerk was doing the best she could to record what was actually taking place. What he often saw happening was somebody would say "that is not what I meant to say", but the clerk recorded what was said, not what was meant to be said. If members brought to the attention of the clerk some typographical errors, they could do that prior to the minutes coming to Council, so that the minutes they were approving had those typographical errors in them. Council President Zeidman responded what Council Member Araskog was talking about was that she made more changes than President Zeidman, in terms of grammar or commas. Council Member Araskog stated she stopped doing grammar. Town Attorney Randolph stated what Deputy Town Manager Boodheshwar was saying, was we don't want every Council member contacting the clerk in regard to changes they think should be made, but do that at the Council meeting. Council Member Araskog commented she only contacted them when it was important, substantive, incomplete versus complete. They would have to listen and not take her word for it, and if she listened to the motion, which was what happened here, and the motion was not written as stated, and she felt it did not portray the same thing, she did need to send it ahead of time because it could be brought up but it couldn't be changed until the next meeting. Deputy Town Manager Boodheshwar responded, you would defer the minutes. Council Member Araskog clarified that he was saying he would rather she brought it up here, which used to be done, and which she preferred, but it had been decided it took too much time at meetings. President Zeidman commented on the way it used to be done, that there had been so many changes, and took a very long time; now when she thought if it contained the meat of the conversation and seemed accurate, then she approved it. So, changes needed to be in ahead of time, and if not, then Council would do exactly what was done today and pull it. Council Member Araskog asked if it would help if members received the minutes earlier. Town Manager Blouin stated he did not believe that was possible with staff stretched so thin, that the process was very time consuming, took several weeks, and priorities must be set to utilize existing resources to get the job done efficiently. Council President Zeidman commented it took her about three hours to go through the minutes. Deputy Town Manager Boodheshwar commented each Council President had a different tolerance level relative to grammar, paraphrasing, etc. To work individually with each member, there would be

very different writing styles, and staff would rather work with the President, publish the backup, and if there was something substantive or incorrect, that change would be made, and staff would bring back the corrected minutes to Council for approval at a subsequent meeting. Town Manager Blouin noted there could be wrong interpretations of discussions, and an accurate recording was available on the website that was posted almost immediately following meetings. Council President Zeidman explained how the process worked after she received the minutes, she had her meeting with the Town Manager, and they made additions to the agenda. The last time there had been a lot of additions was last Friday they were still doing additions to the agenda. She was explaining this because unless one had been President they did not realize, and asked if members had something to add that they try to get it in before Friday before the meeting.

Council President Pro Tem Lindsay recalled a time when almost court reporting style minutes were done and today they had recordings that captured everything. She asked Town Attorney Randolph for any applicant or anyone speaking if the legal record was what was said at the time of the motion, not necessarily how it was paraphrased in the minutes, because she understood the minutes were supplementary. Could the Council take a legal position that the legal record was what they actually did, not the paraphrase, and if that could be done it would take care of Council Member Araskog's issue. Town Attorney Randolph responded minutes were not necessarily supplementary, because they were required under the Florida statute to have a Sunshine Law meeting, to have minutes recorded. However, Council could advise anyone who had a question regarding what actually took place to listen to the recording. Minutes were a rendition or a summary of what took place. If the summary was accurate, they were fine, but if that summary had a conflicting statement from what was recorded, you needed to make sure that was changed in the minutes. You did not need to be worried about syntax, grammar or spelling, but about the accuracy of a substantive issue. You could direct people to the recording but the minutes were not necessarily supplemental, as they were required by law. A disclaimer could be published each month stating that they were a summary. If it went to a court of law, he believed a judge would listen to the recording to determine what actually took place. He had not seen anyone else put a disclaimer on their minutes. Be concerned when approving minutes that they were an accurate summary of what substantively took place. He commented what Council Member Araskog had brought up today was okay, but not a substantive change that he would have worried about if the minutes were passed without having that change included. If the minutes were approved rather than disapproved, then the Council should be concerned about it, and the change should be made at a public meeting as was done today.

Council Member Araskog asked about the other change where Paul Castro said it was a complete parking study rather than incomplete, could she let that go? Town Attorney Randolph responded no, that was totally opposite what was said, and was the kind of thing that should be fixed, and if she found things like that all the time, she should bring them up to be corrected at a Council meeting.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to approve the Minutes of the Development Review Meeting Held on June 9, 2021, as amended with changing “complete” to “incomplete”, and changing the motion to verbatim as shown in the purple folder.

Town Manager Blouin commented by law only action minutes were required, and he believed most cities had moved to that. The level of detail provided by the Town was unusual, and he asked Queenester or Mr. Boodheshwar to clarify that for him. Mr. Boodheshwar responded he had seen action only minutes all the way to full transcription, and it really was up to Council and what they thought was the most efficient way to pull together minutes. Ideally, the less time focused on minutes and the more time focused on the motion being approved—that was the most critical. All the paraphrasing and summaries that preceded the motion were only to give the reader a flavor of the conversation, and what the emphasis was. This had been discussed in the past, and Council decided they liked the summary, which was paraphrased. Sometimes quotes were done if something was very important. Town Manager Blouin commented the ability was available to go back later on and transcribe a particular section, when needed. He commented Council would tell staff how to proceed, and staff would much prefer an action-only type of minutes. Council President Zeidman commented that would be without everyone’s opinions. Council Member Araskog commented, and without the public comment. Council President Zeidman stated Council was not prepared to make any changes today, but could think about it. She knew it was very time consuming for staff. She asked how Jupiter Island did their minutes. Town Attorney Randolph responded they did minutes very similar to Palm Beach, with a summary of actions taken—really more than a summary since comments made by Council and the public were included, but it was a summary of the discussion as opposed to a lengthy transcription. Actions would simply be: item 2 of the agenda, you would publish the topic, say discussion ensued, and motion was made by and seconded by, etc., and what the vote was. Those were action minutes which could be done if Council wished, but wouldn’t give the public much indication of what was done.

Public Comment:

Anita Seltzer, Coconut Row, commented minutes had been taken since the Town was established and if something was left out of the written record it

was a problem since the audio tapes no longer existed. It was not required to keep those records but why not keep them since people were interested in who they were and how they got here. Very often people representing applicants were identified as licensed architects in the minutes but doing that gave them credibility which they did not have, if they had no license. With Zoom, perhaps a better recording transcription service could be had so that it did not make mincemeat of names, and of what was said. She felt this needed more discussion.

On roll call, the Motion passed unanimously.

2. RESOLUTION NO. 072-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for the Designation of Historic/Specimen Trees at Lake Drive Park, Providing An Effective Date.

Council President Pro Tem Lindsay stated she pulled this item on behalf of the Garden Club, who asked her, as a member, to make a statement on the record regarding historic designation of one set of trees, the beloved six Ficus altissima trees in South Lake Drive Park. These trees were hosts to the exotic whitefly pest, and while the garden club supported this recommendation to designate the trees as historic, they wanted to make sure that the town gave on the record assurances that should something happen to the trees, such as that they died because of their susceptibility to whitefly, that the town would replace them with a sustainable canopy species that did not require toxic chemical treatment in order to stay green. Director Brazil confirmed the statement. Council President Pro Tem Lindsay commented the Garden Club of America had taken a very strong stand about invasive species and growing natives.

Council Member Cooney commented he asked to pull this item because he wanted to support designation of all the trees, but felt 108 wasn't enough and supported further investigation of adding more. There were probably more specimen trees on public property, but that could be discussed another day. His other issue was the language in the resolution referring to another location, and he had thought the ten trees were all in Lake Drive Park. Director Brazil apologized that any reference to other streets was in error. Mayor Moore suggested that Director Brazil review the language and bring it back tomorrow for approval. Director Brazil indicated he would bring it back.

Council Member Cooney commented he supported a green community and minimizing pesticide use, but there were species brought in by early residents which added to the history of the Town. If these trees died he would want them replaced with same species. In little areas, such as the

Australian pines on Wells Road, and these trees in Lake Drive Park, he felt history should be preserved. Council President Pro Tem Lindsay commented the Garden Club instituted this program here and once the Benjamina was removed there had not been another big issue, but now with Ficus altissima becoming infected, they had asked for a statement to be put on the record. She commented that did not mean they would not support replacing with a designated species if the trees died; also, the Town had the authority to replace the trees with whatever they desired.

This Resolution was deferred to the August 10, 2021, Town Council Meeting.

3. Potential Sale and Request for an Appraisal of Boyd Park

Council Member Araskog stated she had pulled Boyd Park because she went by and saw it was really pretty and green, and she did not think the Town should sell it, and she was against an appraisal. She commented if they own it, they could move the house out farther than the other houses on Bahama Lane, and could make their setback way up there. She did not think that it isn't in keeping with the town, and the Town had so few parks and green spaces. Also, they were now feeding the cats at Boyd Park. She was against selling and was against an appraisal.

Mayor Moore agreed with Council Member Araskog. She had been against selling Town property in West Palm Beach.

Director of Public Works Paul Brazil said thank you for pulling one of his items. He was asking for Council direction.

Mayor Moore asked if Council decided to move forward would it change the amount of green space on the island. Town Attorney Randolph advised you could not get rid of green space without a referendum.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to deny the potential sale and appraisal of Boyd Park. On roll call, the Motion passed unanimously.

B. 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, Public Works, provided an update on the status of each undergrounding project phase that was underway. She listed items she would be bringing to Council in August, and reported of the eleven chicanes

discussed last month, six had been negotiated away, leaving only five remaining.

The previous month she had presented two switch cabinets at Pan's Garden with five options; however, those options had gone away because they had been unable to obtain easements. This month she presented three options, the first of which was the design that had been put out to bid, with the two boxes together on the corner, losing two trees, and no increase in cost. Second option was moving the boxes apart on either end of the block, losing three trees and increasing cost by \$60,000. Third option was placing both boxes in the island at Peruvian and Hibiscus on the south part of that intersection which would cost \$160,000 because sewer and drainage lines would have to be moved.

Mayor Moore disclosed ex parte that she had been in contact with two owners of the Apollo lot. If Council chose to place the two boxes in the island the owners would raise the \$160,000 and pay for it, because the two parking spots that would have to be given up were worth more than that, and they were willing to find the funds to improve the general neighborhood.

Council President Pro Tem Lindsay pointed out with this option the boxes would look like part of the median, and expressed her support.

Mayor Moore commented the drawback would be all the construction work and moving the underground utilities.

Council Member Araskog agreed, and if the promise to pay could be obtained in writing, this was the only option for her.

Council Member Cooney agreed with the third option.

Mayor Moore offered to sign a letter thanking the owners of the Apollo lot and telling them the Town would be happy to take their money.

2. Coastal Update:
H. Paul Brazil, P.E., Director of Public Works

Director Brazil presented the annual funding request to DEP for their budget ending June 2022, to get in line for grants and reimbursements for Town projects. He reported most projects were eligible for 50% of the cost, and inlet-related items were eligible for up to 75% of their cost. Staff recommended approval of the resolution.

a. RESOLUTION NO. 077-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Fiscal

Year 2022-2023 Annual Funding Application to the Florida Department of Environmental Protection Beach Erosion Control Program.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Cooney to approve Resolution No. 077-2021. On roll call, the Motion passed unanimously.

b. Consideration of Land Donation from Audubon Society of the Everglades, Inc. for Parcel on South Ocean Boulevard for Preservation

Director Brazil reported in 1985 the Town donated to Audubon a vacant parcel on South Ocean between 1220 and 1225 South Ocean, consisting of approximately four acres, reaching from the west side of the road to the intracoastal, intended for conservation. The local Audubon chapter had reached out to the Town asking if they would like to take control of the property. Director Brazil commented there were invasives to be removed, but the Town might be able to use the cleanup work as future mitigation. The maintenance cost for the property as conservation land was relatively low. Staff recommended approval.

Council Member Cooney expressed his support.

Mayor Moore also supported the donation.

Mr. Scott Zucker, President of Audubon Everglades, thanked the Town for considering their offer and for holding this meeting. He commented the Audubon Society was unable to maintain the property, and hoped the Town would place a conservation easement on this unique property which had the largest grove of old mangroves remaining in the Town of Palm Beach.

Council President Pro Tem Lindsay asked if a conservation easement could be a requirement in the motion. Town Attorney Randolph advised that was not needed in the motion, but Council could follow up with that at a later time.

Council President Pro Tem Lindsay asked that it be placed on next month's agenda.

There was no other public comment.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Araskog to accept the generous land donation from the Audubon Society of the Everglades, Inc., now Audubon Everglades. Town Attorney Randolph advised this would be followed up with a Resolution of Acceptance. On roll call, the Motion passed unanimously.

c. Shore Protection Board Individual Member Tasks with Town Staff

Director Brazil reported at a recent Shore Board meeting the members had directed staff to make arrangements to work with them individually on certain elements that they felt needed more attention in the program, including communication, coastal resiliency, groins and seawalls, easements for cost sharing public access for state and federal funding, and inlet-related issues. Because in 2018 the Town Council had chosen to limit the number of Shore Board meetings because of staff resources, and this new initiative seemed to be contrary to that and a departure from what was normally done, as well as from the original intent of the Shore Board, staff wanted to make sure Town Council approved this direction.

Mayor Moore asked Town Attorney Randolph if this was stretching the definition of the Sunshine Law. Director Brazil commented staff had the same concerns, and would have to have staff work with each individual separately or it would be a public meeting. Attorney Randolph concurred, and stated the members could not be polled individually. Mayor Moore expressed great anxiety.

Council Member Araskog stated she was completely against this, staff did not have a lot of time, and this became almost like the development meetings and Town Council meetings, and it was not the purpose of the Shore Protection Board. She questioned whether communication was under the realm of the Shore Protection Board and whether the items mentioned were things Council wanted them to study. Staff time was limited, and Council usually dictated what boards were going to talk about so that staff time was not used doing all kinds of things that Council would never approve or discuss. She wanted to figure out how to move forward to decide the things the board would like to do, to charge them with what goes with a 10-year plan or what goes with a new plan.

Council Member Crampton stated he did not have enough information to make a decision. If they were trying for better organization by putting individuals in charge of different items, he did not have a problem, but if it made more work for staff and created inefficiency, he might have a problem with it. Director Brazil responded the board had told him they wanted more participation in the programs, that these were topics they felt were important and had not been addressed well, and they wanted to work individually with staff on these items. Director Brazil stated it would take a substantial amount of staff time to do this, and some of the topics were things the Shore Board typically had not dealt with. Council Member Crampton was concerned with stifling innovation, and suggested Council give the board more direction, but did not see a problem with them trying to organize themselves to deal with multitudinous issues, as Council was

adding the resiliency issues to their mandate. Director Brazil responded that Council had not given them resiliency; Council basically had a charter for the Shore Board of what that they wanted them to work on, and since a lot of these topics went beyond that and staff time would be required, he was asking for Council direction. Council Member Crampton responded that the issue Director Brazil was bringing up was not subject matter, but the process, and he did not see a problem quite yet.

Council President Zeidman stated she had spoken to Melissa Ceriale and also listened to the meeting. In speaking with Ms. Ceriale, she learned the board was looking for direction from Council. She commented many times that Mr. Silvin had stated the advisory boards and commissions needed to tap into the Council meetings, so that they knew what the Council was thinking, and Council needed to do that also but there was no way they had time to listen to all board meetings. The Sunshine law set up a very inefficient communication system. There was a disconnect going on which could only be remedied by Council, the board, and staff. President Zeidman asked if the Shore Protection Board was still needed and stated she believed it was needed. She commented on the issues they had mentioned that were not under their control, and that the suggested process could not be done under the Sunshine Law. She felt four meetings a year was the right number, but they could have more if needed. The Council needed to advise the board what they wanted them to do.

Council President Pro Tem Lindsay recalled a 10-year plan had been instituted for the Shore Protection Board about ten years ago and had been written for that decade rather than the current situation. She asked her colleagues to think about direction for the Shore Protection Board and come back to discuss changing the definition.

Council Member Crampton stated he totally agreed with President Pro Tem Lindsay, and thought the first step was for Director Brazil to think about where the Shore Board could really assist Council, and bring those thoughts to Council to work together to frame a mission; then the board could organize, focused on the tasks Council wanted them to cover.

Town Manager Blouin felt the mission should be updated to work together, and staff would bring their recommendations back to Council.

There was no public comment.

Council Member Araskog suggested staff provide some history so Council could address some of the things the board had brought up. President Zeidman commented if they picked groins then they needed to go back to a memo provided by Town Attorney Randolph several years ago on the limits

on that subject. Liability for the groins was a concern, and she requested that memo be provided to each member of the board.

Council Member Araskog suggested the possibility of appointing a liaison. Town Attorney Randolph stated that was a staff function.

3. Town Marina Project
H. Paul Brazil, P.E. Director of Public Works

Director Brazil provided a broad overview, commenting a lot of work had been assigned to two major projects--the Marina which now included the park, and the underground which included waterline replacement and drainage improvements in the road. Work assigned to one now should be assigned to the other because of where they were physically working.

He described new work, the vast majority of which was replacement of the curb along the east and west side of Lake Drive, which was already funded, and advised there was plenty of money for the other proposed work but it was not in the right accounts, so he had conferred with Finance Director Le Clainche to arrive at the proper accounting procedure.

Staff recommended approval.

Council President Pro Tem Lindsay asked for clarification on costs. Director Brazil responded new work was less than \$100,000, with redistribution work closer to \$50,000. The net at the end of the day for the Town would remain the same, and they were not spending—there was a lot of contingency in the Marina for the park. The overall budget would not increase.

Council Member Cooney stated he was thrilled that new money was not requested and he thought leaving an area with all work completed was admirable.

Council Member Crampton stated he had no problem and was prepared to make a motion.

There was no public comment.

- a. RESOLUTION NO. 078-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to Murray Logan Construction Inc. in the Amount of \$107,445 Associated to Lake Drive Park Improvements and a Change Order to Burkhardt Construction Inc. in the Amount of \$267,205 Associated to Phase 4 South Lake Drive Improvements.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to approve Resolution No. 078-2021. On roll call, the Motion passed unanimously.

Council Member Araskog thanked Town Engineer Strayer for her work on the easements and chicanes.

A 5-minute break was taken. The meeting reconvened at 3:40 p.m.

4. COVID-19 Update
Kirk W. Blouin, Town Manager

Council President Zeidman gave an update, announcing the COVID report would be provided to Council weekly and they could also rely on Dr. Alonzo and the CDC. The county's positivity rate was up, and very high at 8.15% on Friday, because of the highly contagious Delta variant. This was happening because not enough people were vaccinated. If you are not vaccinated you are part of the problem because the longer this goes on the virus will continue to mutate. Vaccinated people could get the Delta variant, but usually experienced mild symptoms and would not require hospitalization. Until enough people were fully vaccinated, variants would keep happening, and the danger was that there would be one that would evade the immune system. The South African variant, now renamed Beta, was one that seemed to be able to partially evade the immune response. She reported what was going on in Africa and in England. She commented decisions made in May to get back together might have to be changed, but she hoped there were enough people in Palm Beach fully vaccinated so that would not happen. She reminded everyone that the virus affects your heart, lungs, and brain. The question of masks would probably come up again. She urged anyone not vaccinated to do so.

a. Clarification of Voting Protocol for ARCOM, LPC, Code Enforcement and Retirement Board of Trustees During Hybrid Meetings

Council President Zeidman commented on how good the boards had done in having members present to vote, which was the law in Florida. She asked if an architect was on Zoom and everyone else was present, whether the architect could vote.

Council Member Araskog commented the Town Attorney had made clear everyone present voted first. She asked for clarification on how to break a tie if 4 were present and 4 on Zoom at ARCOM meetings.

Town Attorney Randolph commented nothing had changed since the direction he gave last time, and this situation had not occurred because so many people were present. But you would need a quorum present, which

would be 4 out of 7, and in case of a tie you would call on the voting members that were online to break the tie. He suggested that at times decisions would need to be made on an individual basis. For example, and this had not been discussed previously, should there be a tie, the person could be chosen to vote based on seniority, which he believed was the best way to do it.

Council Member Araskog commented she thought seniority was great but you would lose all the architects.

Town Attorney Randolph responded that two architects are appointed based on our code, but it was not a requirement that those two architects be involved in a decision.

Council Member Araskog stated she knew that, but was saying she would like one of the architects there too, whether they voted or not, so they could give their opinion. Attorney Randolph responded, yes, but he thought there was confusion.

Council President Zeidman tried to clarify the nature of the question. She said the question was, do you let the architects vote over someone else who was present.

Council Member Araskog stated she thought you had to have a particular excuse in order to vote online, such as hospitalization, and how would they be allowed to vote if they didn't pass muster on the reasonable excuse for not being present.

The Town Attorney responded, because that was the only option. He gave an example: if you had four people online and all might have a reasonable excuse of not wanting to travel here during COVID.

President Zeidman commented every permutation that might happen could not be discussed, and the Town Attorney was present at all those meetings, and Chair could always ask him to provide direction when something came up.

b. Discussion on Virtual Participation in Meetings (Presenters and Members of Public)

President Zeidman commented this was about architects presenting in person or remotely at ARCOM.

Council Member Cooney felt public comment should be allowed remotely, and with residents away, and he thought there should be a function for them to participate remotely in the summer going forward after COVID was over. He was frustrated to see presenters at their offices two blocks away and not

come to present before ARCOM. Occasionally someone had an out-of-state landscape architect as part of a presentation team and that could be dealt with, but there were one or two occasions of someone presenting in their car and he did not think that fit Town standards.

Council Member Araskog confirmed with Mr. Bergman he had sent a letter to ARCOM that presenters were to be there in person, and she agreed with that. She felt the public was different. Also, when a presenter was presenting online, time was taken with helping them get on screen and sharing their screen, etc. She felt strongly that presenters needed to be present and if not, they should defer.

Council President Pro Tem Lindsay agreed and stated she felt the applicants and the applicants' advocates should be present.

Mayor Moore felt the applicants should demand their professionals attend in person.

Council President Zeidman commented Council would like to continue to have the public speak on Zoom, and asked about the downside of continuing that setup.

Deputy Town Manager Boodheshwar responded the only downside was staff resources, because someone must stay in the back room to monitor and flip back and forth between Zoom and the Council chambers. He explained video from the chambers was now clear and could be watched from home.

Council President Zeidman asked how many staff hours were spent on monitoring Zoom meetings. Town Manager Blouin said he did not know, but the administrative staff did not have that many people to take on these additional tasks. The existing work load was heavy, even in summer.

Council Member Araskog thought it would always be important to allow the public to speak from Zoom in the summer, and she hoped that could continue. She commented it was essential for members of boards to be in the room.

Mayor Moore felt it was incumbent on the Town to have enough staff to get the work done and one more person would be an asset. She thought it was important for the public to participate.

Council President Pro Tem Lindsay felt it was important for public to participate at quasi-judicial meetings and Council meetings. She felt ARCOM, LPC, Code Enforcement, and Council meetings should continue to have public participation via Zoom, and hiring even a part-time person might help.

President Zeidman commented all boards were on Zoom now, and a decision would be made in September how to continue.

5. Update on ADA Access Associated with the Proposed Addition of Stairs on the South Side of Memorial Fountain
Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar recalled this was last discussed in May, resulting in delaying any decision on the merits of this project until the October Town Council meeting, and a request from Council to staff to explore ADA requirements. Director Bergman wrote a memo, which was in Council's backup, providing the opinion that the Town would need to provide some sort of platform lift which would be the least impactful to the site. He reported a conversation with the Centennial Commission and they made a commitment to fund the additional cost to the project. He reminded Council of additional actions needed if they decided to move forward after weighing the merits of the project in October, including review by Landmarks and updated renderings and drawings for LPC to consider, full approval process and site plan approval.

Director of Planning, Zoning and Building Wayne Bergman reported he looked at all possible exemptions from the ADA requirement or from the accessibility requirement for the proposed Mizner stairs and could not find one. The only opportunity to receive any type of relief would be from the State, and it was a State agency that told him we probably need accessibility for this project.

Council President Zeidman asked if Mr. Bergman had contacted the State after the May meeting for further clarification about the ADA requirements. Mr. Bergman stated he had not, but there were numerous references in the accessibility code and the Florida Building Code that said you would need to comply, and to be even safer, he had done a peer review with three other Building Officials in Palm Beach County. Two had responded and both said absolutely comply.

Council Member Crampton stated he was prepared to make a motion which would be to defer the question of the new design of the stair lift installation and send it back to the Landmarks Preservation Commission for a full review and decision on the proposed design.

Council Member Araskog opposed making a motion because in May the decision had been to consider at the Council meeting in October whether to move forward or not. Today was just to be an update from Director Bergman.

Council Member Crampton agreed.

President Zeidman also agreed and stated if Council decided to move forward in October, then it would go to Landmarks.

Town Attorney Randolph stated no motion was needed for it to go to Landmarks. If Council decided to move forward, it would automatically go to Landmarks.

Discussion ensued. Council Member Crampton withdrew his motion.

Public Comment:

Bill Bone, 322 Pendleton Lane, speaking as a resident and as the Chairman of the not-for-profit known as the Palm Beach Centennial Commission, thought the motion was right. He reported he had consulted with experts and learned that disabled access could be designed in an attractive, subtle way, completely harmonious with the new stairs. He felt waiting until October to see what it would look like was a mistake and asked Council to authorize staff to work with architects engaged by the Centennial Commission without cost to the Town, and submit a new stair design to the Landmarks Preservation Commission that met ADA requirements. In his opinion, it was wrong to wait until October because those opposed to the stair lift would take the position the ADA requirements would make it look ugly. He indicated the Centennial Commission was committed to a beautiful stair design that everyone could be proud of.

Council President Zeidman thought there were two ways of looking at this—one was from the owner's point of view (the Town), and the other was his point that Landmarks was the arbiter of taste for a landmarked property.

Addison Link, 251 Esplanade Way, suggested the Centennial Commission should beautify the park they had created before they thought about altering Addison Mizner's memorial fountain. He commented looking at original postcards of what was behind the fountain, there were beautiful luscious colorful flowers. Mr. Link stated he had read Wayne Bergman's memo on the importance of complying with ADA. He reported his father had an informal phone call on July 9 with Alyssa Lutein, Deputy Chief of Historic Preservation for the State, working with Dr Timothy Parson. Mr. Link relayed her comments regarding the stair lift. She preferred a ramp that did not require maintenance or an attendant. Mr. Link reported she noted that the fountain was a historic landmark so you did not need to add a new staircase or a ramp. She had suggested that if access was truly the main issue, a Z-shaped ramp up the rear of the fountain could work in lieu of a grand staircase. If the Town chose to add a new staircase to the fountain, she wouldn't want to be the one to write a letter asking for a waiver of non-compliance with the ADA. She recalled several issues of the fountain renovation that her department argued against, and also mentioned the 10-

year restrictive covenant which prevented significant alterations to the historic landmark site.

Anita Seltzer, Coconut Row commented three things came out of the May meeting. President Zeidman had instructed Attorney Randolph to provide legal counsel. The Town was budgeting thousands of dollars to educate residents about the landmarking program, and this approval would take place in a parallel universe if Council abdicated their own stewardship. She mentioned three town-owned fountains were shamefully neglected, including the one in Phipps Plaza. She asked why the Town was risking scorn and loss of credibility in the preservation community and commented there were enough expenditures without shouldering an ongoing liability with vanity stairs requiring an ADA lift. She felt this was the writing on the wall; however, suggested in October it would be wise for Council to thank the Centennial Commission for their service and terminate the delegation.

Bill Metzger, 277 Esplanade Way, an officer of the Centennial Commission, thanked the Council for continuing to consider this completion of their grand idea for the park. He was in favor of the stairs and respected everyone's opinion. He was seeking a sense of fairness. He reported attending the Zoom meeting where Alyssa Lutein commented they understood the new idea, but asked them to look at the ADA issues, which caused him to do some research and learn about ideas and new technology. His position was to do this right, and be fair to everyone's opportunity to discuss it. It seemed fair to him if it was going to be discussed in October that they have drawings of what was going to be discussed. If it was not attractive to people it would not work, and his request was to find a way of doing the renderings and to have something to discuss.

Mayor Moore commented her concern was with the timeline set out last month. Her understanding was Council's intent was not to have a full discussion on the stairs until more residents were available. She thought Council should wait for more resident participation. She thought today was to be a brief update and the full discussion would be in October.

Council President Zeidman agreed today was to be an update.

Council Member Cooney thanked staff for the update.

Council Member Araskog thanked the speakers for coming and clarified the timeline was not for her, it was to allow more public participation about aesthetics, maintenance costs, accidents, safety and things like that. At the last meeting they had promised to wait until October for any decision. She thanked Director Bergman and the Centennial Committee.

Council President Pro Tem Lindsay now recalled the conversation from last month, which she did not remember when she discussed this with the Centennial Committee representatives. ADA issues often affected architecture, and too often had an aesthetic effect. It was correct that Council made the decision to discuss this in October.

Council Member Crampton stated he had no problem discussing this in October, but the question was, would that be before or after a Landmarks review.

Council Member Araskog responded, before, was what everyone was saying.

Council Member Crampton stated after would be better.

Council President Zeidman commented it might appear to the public that Council had jumped the gun, since they promised to wait until October to discuss and make a decision.

Council Member Crampton commented then it would be the same process with Landmarks as if it had been sent to them before the October meeting with a full presentation and a decision on the merits. In his opinion Landmarks was the normal place for that to happen, but normally as an owner you went to Landmarks to ask for a Certificate of Appropriateness.

Town Attorney Randolph asked, and why would you go to Landmarks before you had made a determination as to whether you want to ask for a Certificate of Appropriateness.

Council Member Crampton stated he was just trying to think about the best way to review this.

Mayor Moore, speaking to her colleagues, commented they were going to have to decide if they wanted stairs. If not, this was dead. If so, it would proceed through the proper channels.

Council Member Crampton responded in order to make that decision Council would need to see the same kind of things Landmarks would see.

Mayor Moore believed it should be taken step by step, with the first step in October when Council made a decision whether to move forward with stairs. If the decision was to move forward you then got renderings. You did not spend time and energy before a decision was made.

Council President Pro Tem Lindsay commented the reason Town Attorney Randolph said the process would include first coming to the Town Council because we are the owner. Once the owner makes a decision then this issue will go to the Landmarks Commission. be to come here with the photos was

the Town had to pay to go to Landmarks, so Council would want to see the project first.

Council Member Araskog commented everyone had spoken, and what she heard from at least two other colleagues was to keep their promise and wait until October. She thought Council Member Crampton had a great idea and maybe they would come with all the drawings, then Council might be more comfortable to send it to Landmarks.

Council President Zeidman commented she would like to see drawings, but the first thing was to decide if Council wanted stairs.

Deputy Town Manager Boodheshwar summarized that the issue of ADA changed the design, so for Council to make an informed decision as owners, they needed to look at something, so he suggested to the Town Attorney there were precedents either way where Council had decided on what they wanted and a design was sent to ARCOM and Landmarks. Or they previously deferred to ARCOM and Landmarks with a conceptual idea asking them to make it look good, as an informal way to help with Council consideration to help make the October decision. He thought making a decision today one way or the other in the absence of any new information would not be good.

Council President Zeidman reminded the Council that the item is on the agenda as a follow up, an update, and that no decision was to be made today. She stated if there were drawings they should be included for review at the October meeting. Council Member Crampton clarified there could be a full presentation in October. All agreed.

C. New Business

1. Discussion and Consideration of Creating a Building Safety Inspection Program

Wayne Bergman, Director of Planning, Zoning & Building

Director Bergman reported on a news article updated at 2:01 p.m. that afternoon that spoke about today's County meeting and another released about 4 p.m. Palm Beach County Commission was interested in moving forward with a building recertification program, but were going to take their time and study it. Nothing was decided today other than the fact they were committed to a program like this and they wanted to send a letter to all their commercial and high-rise and mid-rise buildings to put the people on notice. He discussed the programs in place in Miami and Dade County. If the County created a program that the Town of Palm Beach followed, the timing might be more like 25 years for reinspection. Another thing for the Town to decide was the threshold building that would trigger this program. In Miami and Dade County it included square footage as well as height. He had

provided information in today's backup for the Council. His intent was to stay engaged.

Council Member Araskog asked about criteria, and asked if staff would be available to implement a program like this. Director Bergman clarified single family homes, one and two story, and government buildings were excluded.

Town Manager Blouin commented Palm Beach would need to vet the programs in Miami, Dade County, and Palm Beach County in deciding on a program for the Town. The Town would administer the program but building owners and condo associations would need to hire structural engineers, etc. to meet the criteria set by the Town, and the Town would not be liable.

Council President Zeidman congratulated Director Bergman for his incredible job in getting this information out so soon.

Council President Pro Tem Lindsay commented nothing would be done overnight, but condo associations in Palm Beach were active and well-funded and would be working on this very soon. There was no need to have an overreaction. The County had said they would do something. She asked Director Bergman to stay involved and report back.

Council Member Cooney thanked staff for a quick response and being strong communicators. He thought most condo associations were already working on this. He agreed with not rushing into something too soon.

Mayor Moore asked if when a building came in for a balcony permit it was an indication they had used a structural engineer. Director Bergman responded a lot of buildings were now going through concrete restoration for the whole building. She commented some of the people in Miami-Dade believed their building already had a structural engineering report. Mayor Moore asked if anyone had responded to Mr. Bergman's letter by offering to provide that to the Town. Director Bergman said they had not and the Town had not asked for copies. Mayor Moore thought it would be best to wait and see what Palm Beach County did and piggyback on that. She asked that further down the line, he ask for copies of the reports.

Council Member Crampton reported his condo association had been very active since this whole situation occurred. He felt the Town should have an arms-length relationship with this problem at the present time, since the responsibility was with building owners to correct it. He felt keeping eyes and ears open but waiting to see what the County did was most prudent.

Council President Zeidman asked how the 40-year time had been established. Director Bergman responded both of the buildings with problems were 40 years old; he believed 40 years was a standard and may be arbitrary. She felt the Town had done exactly what was needed to be done. She inquired whether holding copies of structural reports was the right way to go for our Town.. Town Manager Blouin advised that the architect who signed off on the report was responsible—the Town would just have a program and that might be a condition of compliance. He commented on the Surfside situation that there were structural problems that were ignored, and Palm Beach did not have that. Also, the programs in Miami-Dade might not have been well supervised, and that would not happen in Palm Beach. The plan was to wait to see what Palm Beach County did.

Council Member Araskog commended Director Bergman for including the list of things that should be looked at, and educating the public. She suggested the associations could do a program that did not involve the Town. Town Manager Blouin reported staff had already contacted all the condo associations and other associations in the Town and workshops were planned for the fall.

2. Reconsideration of Ordinance No. 20-2020, Sec. 74-281, Limited Closure of Access from Wells Road South to Sunset Avenue
Bobbie Lindsay, Council President Pro Tem

Council President Pro Tem Lindsay commented park hours were sunrise to sunset for all parks year round, except from Wells Road South to Sunset Avenue, and asked that the hours be reconsidered to make all have the same hours for consistency.

Discussion ensued about why hours had been changed, because of daylight savings time and for walking dogs.

Council President Pro Tem Lindsay requested reconsideration of Ordinance No. 20-2020 to make hours consistent for all public beaches. Council Consensus was to make the requested change and to bring this change back next month in ordinance form.

XIV. ORDINANCES

A. Second Reading

1. An Ordinance to Amend Chapter 66, Section 66-236 to Regulate the Removal of Landscape Buffers.

ORDINANCE NO. 14-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 66 Natural Resource Protection, Article IV Vegetation, Division 2 Permits, Section 66-236 Application Procedure for Vegetation Removal Permit; 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

Town Attorney Randolph read Ordinance No. 14-2021 by title only on second reading.

Council Member Araskog commented it appeared staff could not approve if a hedge was lowered.

Mr. Bergman suggested he add this to landscaping ordinances he was working on.

Mayor Moore related her situation with the hedge between her property and a neighbor.

There were no public comments.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to adopt Ordinance No. 14-2021. On roll call, the Motion passed unanimously.

2. Residency Requirements for Elected Officials

ORDINANCE NO. 15-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 34, Elections at Article II, Candidates, Division I, Generally to Include a New Section 34.36 to Provide that any Candidate for Mayor or Town Council Shall Have Resided in the Town for a Period of at Least One Year Prior to Qualifying for Election; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

John C. Randolph, Town Attorney

Town Attorney Randolph read Ordinance No. 15-2021 by title only on second reading.

There were no public comments.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to adopt Ordinance No. 15-2021. On roll call, the Motion passed unanimously.

B. First Reading

1. Amendment to the Town Charter Regarding Town Caucus and Qualifying Dates

ORDINANCE NO. 18-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Charter at Section 5.03, Relating to Qualifications, to Modify the Date to Qualify for Election to the First Tuesday of December of Each Year or on a Date at Least Ninety-Five (95) Days Prior to the March Election Date, Whichever Comes First; Further Amending the Town Code of Ordinances at Chapter 34, Elections at Article II, Candidate, Division 2, Caucus, Section 34-56, Calling and Notice of Election to be Consistent with Section 5.03 of the Town Charter, Providing that the Date of the Town Caucus be Held on the First Tuesday of December of Each Year or on a Date at Least Ninety-Five (95) Days Prior to the March Election Date, Whichever Comes First; Providing for Severability; Providing for Codification; Providing for an Effective Date.

Queenester Nieves, CMC, Town Clerk

Town Attorney Randolph read Ordinance No. 18-2021 by title only on first reading.

There were no public comments.

Motion was made by Council Member Crampton and seconded by Council President Zeidman to approve Ordinance No. 18-2021 as amended, on first reading. On roll call, the Motion passed unanimously.

XV. ANY OTHER MATTERS

There were no other matters to come before the Council.

XVI. ADJOURNMENT

The Town Council Meeting of July 13, 2021 was adjourned at 5:50 p.m. without benefit of a motion.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Queenester Nieves, CMC, Town Clerk

Date



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON THURSDAY, JULY 15, 2021

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order on Thursday, July 15, 2021, at 9:30 a.m. On roll call, all elected officials were found to be present.

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 President Pro Tem Lindsay to approve the Agenda. On roll call, the motion carried unanimously.

IV. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT

There were no comments from citizens.

V. TOWN MANAGER'S OVERVIEW OF THE PROPOSED FY22 BUDGET

A. FY 2022 Proposed Budget

Town Manager Kirk Blouin provided brief introductory comments including an historic overview of last year's budget process. He mentioned that the long term financial plan had projected revenue deficits for FY21 primarily due to the loss of revenue because of the closure of the Marina operations and the start of the pandemic. There was a lot of economic uncertainty during that time. Certain events had to be cancelled such as training and holiday events and department directors were requested not to add any projects or initiatives during that period of uncertainty. Due to those measures, a very lean budget regarding expenditures and conservative revenue estimate was produced.

The normal budgeting process continued for FY22 to find savings wherever possible and certain necessary expenses such as training and travel, that were eliminated last year, were returned to the budget. He stated that each department did a great job developing their budget with a reasonable increase in expenditures. There was a large increase of 8.13% in Town property values that led to increased revenue. These factors have led to a budget surplus. If the proposed rates are adopted, it would provide a zero dollar property tax increase for the homesteaded property owners for the fourth consecutive year.

Mr. Blouin stated that overall, the Town's finances are in great shape. There is excess reserves of \$28.2M, with between \$1.5M and \$2M expected to be added back to the general fund this year. As of June, there is a surplus of \$2M in the Building Enterprise Fund and the Town continues to enjoy AAA credit rating. The Retirement Board has reported that the plan to reduce the unfunded liability in the pension plan is working and we should achieve healthy funding levels in the near future.

Policies will be proposed for greater revenues to further strengthen the Town's position. Council direction will be sought regarding the FY22 surplus depending on the millage rate adopted. Overall, the limited budget meets the high level service needs of the community at the lowest possible cost which sets the Town on a path to a very strong financial future.

B. General Fund

1. Review of General Fund Revenues for FY2022.

Jane Le Clainche, Director of Finance

Jane Le Clainche, Director of Finance thanked Amy Wood, Assistant Director of Finance and Melissa Ladd, Budget Analyst for their hard work in producing the budget presentation.

Ms. Le Clainche provided an overview of the FY22 current financial condition. She stated that the budget estimates for FY21 were very conservative due to the uncertainty surrounding the pandemic and revenues were higher than expected in many areas. Grant funding was also received for older FEMA projects and the pandemic costs. The estimated year end surplus will be between \$1.5M and \$2M.

Ms. Clainche stated that property values had increased by 8.13% for a total of over \$21.6B. All revenues are increasing from the calendar year except interest income due to the current interest rate environment. The proposed parking meter increases are also included in the FY22 budget. A transfer of \$511K from the Marina Enterprise Fund to the General Fund has been added for the services provided by the Finance, Human Resources, Information Technology and Town Manager departments. She referred to a chart of the FY21 breakdown of the tax bill per \$1M of value which showed that the Town represents 18.7% of the total tax bill. For FY22, operating expense have increased 2.94% and the total budget expenditures have increased 2.87% with much of the increase related to salary and contractual expenses. She gave an overview of the various expenditures.

Discussion ensued regarding the cost of renovations vs. remediation of the North Fire Station; the various fund reserves.

Paul Brazil, Director of Public Works, reviewed the anticipated expenditures for the North Fire Station. The Council decided to set aside money to undertake the

full renovation rather than to address in piecemeal fashion the structural issues including the ubiquitous presence of mold. It became clear to the Council during the discussion that any remedy that would be undertaken presently to address the immediate problems would need to be redone during the full renovation. The Council thought this would be a waste of tax money and decided to bite the bullet. The renovation had already been delayed for several years with consequences that were now obvious.

After hearing the budget review and robust discussion, the Town Council decided to fund the following projects with the budget surplus:

COLA – additional 1% for a total of \$189K
Renovation of the North Fire Station
Property Tax reduction

2. General Fund Expenditures – Department Review
 - a) Legislative
 - b) General Government
 - c) Town Manager
 - d) Advice and Litigation
 - e) Town Clerk
 - f) Information Technology
 - g) Human Resources
 - h) Finance
 - i) Planning Zoning and Building
 - j) Recreation and Tennis
 - k) Fire-Rescue
 - l) Police
 - m) Public Works
 - n) Transfer and Other

C. Special Revenue Fund

1. Town-wide Underground Utility Fund
H. Paul Brazil, Director of Public Works

D. Debt Service Funds

Jane Le Clainche, Director of Finance

E. Capital Improvement Funds

1. Pay As You Go Capital Improvement Program
2. Accelerated Capital Improvement Program
3. Coastal Protection Program
 - a. Review of 10 year plan
4. Worth Avenue Maintenance Program
H. Paul Brazil, Director of Public Works

F. Enterprise Fund Budgets

1. Marina Enterprise Fund
2. Par 3 Golf Course Enterprise Fund
3. Building Enterprise Fund

Carolyn Stone, Assistant Town Manager/Wayne Bergman, Planning Zoning and Building Director

G. Internal Service Funds

1. Health Insurance
2. Risk Management
3. Equipment Replacement Fund

Jane Le Clainche, Director of Finance

H. Trust and Agency Funds

1. Pension Funds
2. OPEB Trust

Jane Le Clainche, Director of Finance

- VI. **RESOLUTION NO. 063-2021** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County Florida, Approving a Proposed Operating Millage Rate of 2.9962 for the Tentative Fiscal Year 2022 Budget; Approving the Computed Rolled Back Millage Rate of 2.8135 to be Provided to the Property Appraiser in Accordance with F.S. 200.065; Establishing the Date, Time and Place of the First and the Final Budget Hearings to Consider the Proposed Millage Rates and Tentative Fiscal Year 2022 Budget and Directing the Town Manager to Transmit this Information to the Property Appraiser of Palm Beach County in Accordance with the Requirements of F.S. 200.065.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to approve Resolution No. 063-2021. On roll call, the motion carried unanimously.

- VII. **RESOLUTION NO. 064-2021** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Recreation Department Fees for Fiscal Year 2022.

Motion was made by Council Member Araskog and seconded by Council President Zeidman to approve Resolution No. 064-2021. On roll call, the motion carried unanimously.

- VIII. **RESOLUTION NO. 065-2021** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Golf Fees for Fiscal Year 2022 and Granting Authority to the Division Director of Recreation to Utilize Dynamic Pricing to Maximize Revenue, Fill Underused Times and/or to Offer Specials to Attract New Play Depending on Market Conditions.

Motion was made by Council Member Crampton and seconded by Council Member

Cooney to approve Resolution No. 065-2021. On roll call, the motion carried unanimously.

- IX. **RESOLUTION NO. 066-2021** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Establishing Marina Transient Dockage Fees for Fiscal Year 2022.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve Resolution No. 066-2021. On roll call, the motion carried unanimously.

- X. **RESOLUTION NO. 067-2021** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County Florida, Amending the Town of Palm Beach Master Fee Schedule by Increasing the Special Event, Auction, Charitable Solicitation, Closing out/Distressed Sale, Door-to-Door Solicitation, Garage Sale, Newsrack Administration, and Parade Permit Fees; and Providing an Effective Date.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to approve Resolution No. 067-2021. On roll call, the motion carried unanimously.

XI. **ANY OTHER MATTERS**

There were none.

XII. **ADJOURNMENT**

There being no further business to discuss, the Special Town Council Meeting of July 15, 2021 was adjourned at 12:25 p.m.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Queenester Nieves, CMC, Town Clerk

Date

TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON JULY 27, 2021 AT 5:00 P.M.

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order at 5:00 p.m. via Zoom. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Council President Zeidman led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion was made by Council Member Cooney and seconded by Council Member Araskog to approve the agenda as presented. On roll call, the Motion passed unanimously.

IV. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were no communications from citizens at this time.

V. COVID-19 UPDATE

Kirk Blouin, Town Manager

a. RESOLUTION NO. 080-2021 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 Until September 14, 2021, 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.

Kirk Blouin, Town Manager explained that the Chief of Police on Monday issued a Declaration of Emergency, in order to continue beyond the initial 72 hours, as

declared by State law. The governing body being the Mayor and Town Council must approve an extension beyond the 72 hours. This extension would bring the Emergency Order to September 14, 2021, which would be reconsidered at the regular town council meeting. Mr. Blouin explained the Declaration of Emergency provides for flexibility of the council.

Council President Zeidman commented that while this emergency meeting is being held virtually, there is a quorum physically present in Town Hall which meets the requirement as defined by law in the state of Florida. Questions were then asked about the Boards and Commissions. Council President Zeidman responded since this item was on the agenda. Regarding Boards and Commissions, Council President Zeidman stated if you are a commissioner on a quasi-Judicial Board which includes ARCOM, LPC and Code Enforcement or the Retirement Board you are expected to be physically present. It is understood that there may be situations where a commissioner might not be able to be physically present but may be present virtually. A quorum must be physically present to have a meeting. President Zeidman said she hoped this would provide clarity.

Council Member Araskog asked if the council could be in separate rooms. Town Attorney Randolph indicated this was acceptable. Member Araskog noted there has been some confusion regarding the mask mandate.

President Zeidman responded that the Town does not have the authority to mandate or impose any restriction on any private enterprise in the Town of Palm Beach. The Governor's executive order in May made this clear. This meeting does not have any bearings on private businesses. President Zeidman stated the CDC has recommended in areas of high prevalence, whether vaccinated or not, a mask should be worn. She further stated that the Town can require, and does require, that masks are mandatory in Town owned buildings.

Mr. Blouin, indicated this is the policy for the Town's government facilities and government owned property only. This policy is for visitors who are conducting business or otherwise inside the Town's government buildings. He noted it is in the best interests of everyone's safety that staff or visitors wear a mask.

Council Member Araskog inquired if presenters are required to wear masks for the entire presentation. President Zeidman responded yes.

Council Member Araskog asked if there would be any type of guidance for the upcoming meeting. Mr. Blouin stated masks should be worn inside governmental buildings.

President Zeidman thanked the Town Manager and Deputy Town Manager for the letter which went out to staff prior to the CDC decision to begin wearing masks

again.

Council Member Crampton stated he does not support open ended resolutions, or any resolution which does not have an end date.

Town Manger Blouin responded the resolution has an end date and would be voted on at each council meeting to continue or terminate.

Council Member Cooney asked about a maximum duration of a State of Emergency and the difference between emergency orders and this resolution declaring a state of emergency. Mr. Blouin explained the difference between Emergency Orders and Declaration of State of Emergency. These are separate and distinct.

Council Member Cooney stated the town was not recommending we declare or make any emergency orders. Mr. Blouin stated this was correct.

Council Member Cooney asked what constitutes an emergency order. Mr. Blouin indicated most of the past orders would be prohibited now, because of the new Florida State law which was enacted by the governor several months ago, the town is limited, and the main purpose of this resolution is to heighten the awareness and importance to our community that the Town of Palm Beach believes there is a state of emergency. Further, the resolution provides the flexibility to allow some of the boards and commission to participate in a virtual or hybrid fashion. Council President Zeidman stated a quorum would still be needed to be present, to be in compliance with State Law.

Council President Zeidman read Resolution No. 080-2021 into the record. Council President Zeidman indicated that if there needs to be a change the Mayor and Council will be called back to discuss. Council President Zeidman stated the declaration of emergency covers us to make certain decisions going forward since it acknowledges that the Mayor and Council recognize that we are in a very serious situation locally because of the enormous increase in in COVID due to the delta variant. We are now in a surge and we must respond accordingly. This resolution sends a message, and explained the hybrid meetings and participation. She stated whoever is present in chambers will vote, if there are not enough members in chambers then it goes by seniority on the board via zoom. President Zeidman reminded the council that all the quasi-judicial board members are clear that they needed to have an in-person quorum and explained all the advisory boards will remain on zoom.

Town Attorney Randolph stated subject to whatever is done with the remainder of the agenda, by passing this resolution the council is not changing anything, it is just preparing itself for whatever may need to be done in the future in regards to the meetings. As of today the meetings are as usual, they are not virtual, members are

expected to come to the meetings, unless they have an excuse. The resolution does not do anything except accentuate the severity of the situation and will allow the council at the next meeting if they wish to declare virtual meetings.

Council President Zeidman addressed the State of Emergency. Noted when there is a State of Emergency this means the Town of Palm Beach has a problem. The Council recognizes there is a problem and the council want to make sure the public understands the gravity of the situation. It allows the council in the future to be able to make adjustments. It does not imply any restrictions on private businesses.

Mayor Moore stated this resolution sends the message. It gives the flexibility to move forward. Mayor Moore stated the council is making the best move for the community.

Member Araskog stated she believes the council should wait for the August regular council meeting. Noted Florida is being called the epicenter for COVID-19. Commented the Governor took the municipalities' powers away.

There was some discussion that the resolution has no teeth and is just "optics." President Zeidman stated we are still in the pandemic and must learn to live with it. Society cannot shut down because of the pandemic. Adjustments must be made. President Zeidman said viewing this resolution as pure optics makes it sound like it is unimportant, but in fact the message is extremely important. The council is sending the message that there is a lot of infection in the county.

Member Araskog asked why we need this emergency, also why can this not be done at a regular council meeting. Mr. Blouin responded to provide flexibility to the council. Mr. Blouin commented if council feels uncomfortable this item can be placed on the agenda for August 10, 2021

Jay Boodheshwar, Deputy Town Manger explained this is a procedural and a timing issue. This resolution does not put into place any type of order. He continued if the council does not take any action today because of state laws the Chief's Declaration will expire in 72 hours. He noted the council could perhaps modify the resolution to expire on August 10, 2021 at the next scheduled Town Council meeting, so that the resolution could be considered for an extension.

Mr. Blouin, stated if the council feel uncomfortable the chief will rescind the declaration of emergency and this item will be placed on the August 10 regular meeting.

Member Araskog indicated she was confused regarding the order of voting.

Council President Zeidman explained how voting would be conducted, and stated

many of the issues which the council had to address this past year were confusing. The Chief of Police possibly through discussion with the Town Manager has put forth a Declaration of a State of Emergency, the declaration covers the council to be able address any issues which may arise.

Member Araskog indicated the Town Manager does not seem to think waiting until the August 10, 2021 Town Council meeting would make a difference. Member Araskog asked why the Chief of Police requested a Declaration of Emergency.

Kirk Blouin, Town Manager clarified it makes a difference. If the council does not change the policy which was adopted at the July town council meeting then the members would need to adhere to those rules that were adopted, but if you are looking to have flexibility between now and the August 10th town council meeting then the council can adopt this resolution. Mr. Blouin responded that he directed the chief to declare the declaration of emergency.

Town Council President Pro Tem Lindsay, stated the Town Manager as well as the President Zeidman explained the reason behind the Declaration of Emergency. This Declaration of Emergency informs the public on how much the situation has changed in Palm Beach County. Since the beginning of this pandemic the Town Council has shown good leadership, she stated the council need to continue on this path.

President Zeidman passed the gavel.

Motion was made by Council President Zeidman and seconded by Council President Pro Tem Lindsay to modify Resolution No. 080-2021 to be heard at the August 10, 2021 Town Council Meeting. On roll call, the Motion passed, 4-1 with Council Member Cooney dissenting.

Mr. Blouin wanted to reassure those that may feel a little discomfort with this item, and noted this item will be placed on the agenda every month beginning August 10th for council consideration.

President Zeidman informed the council that they would receive the weekly COVID report which provides data on the current COVID situation including local positivity rate, state positivity rate, vaccination rate by age groups.

Mr. Boodheshwar announced that the Town will be issuing updates received from the State of Florida every Friday. He also noted if the report is received in the afternoon the report would be posted on Saturday.

Mr. Blouin, explained the town no longer receives data for a specific zip code.

President Zeidman said she had an opportunity to speak with Sean Baker, Assistant Fire Chief and was informed that Broward County is really getting slammed and hospitals are filled. In Palm Beach County the hospitals are getting filled as well. Noted she does not have actual statistics.

b. Review of Current Requirements for Participation in Board, Commission, and Committee Meetings

President Zeidman indicated the current requirements for participation for board commission meetings will remain the same unless the infection rate level increased. Much of the discussion on meetings had already taken place. She noted that the current requirement may need to change because of the local infection rate.

President Pro Term Lindsay noted that all ARCOM members intend to be present therefore she did not believe there would be any issue with the forthcoming ARCOM meeting.

c. Review of Temporary Restaurant Outdoor Seating Program

Town Council President Zeidman suggested this item be removed from the August 10th council meeting agenda due to the rise of local infections. Considering the situation with the COVID infection rate, the Mayor and Council agreed.

d. Review of Mask Wearing and Social Distancing Requirements in all local Government Buildings

President Zeidman stated a letter went out to staff requiring anyone coming into town hall or any town property, whether vaccinated or not, are required to wear a mask. Noted the CDC made a recommendation for masks to be worn indoors in areas of high prevalence whether vaccinated or not.

Public Comment

Richard Kleid, 2660 South Ocean Boulevard, applauded the council for passing the resolution. He believes this is worthwhile resolution. This resolution sends a message to the community that this is a serious matter.

Michael Small, 156 East Inlet Drive, Chairman of ARCOM requested clarification regarding the voting and masks.

President Zeidman stated members in council chambers would vote. Members who are online may weigh in, but those physically present would vote.

Ellen Rampell 1186 North Ocean Way, resident for 35 years. Asked why there are two different rules for the council and commission.

President Zeidman responded this special meeting was called at the last minute and there was insufficient time to have all council members physically present since some were in different states. President Zeidman also stated that the Mayor and Council may only meet in a public meeting in accordance with the Sunshine Law and that this meeting was called in order that the Mayor and Council could address the recent serious rise in COVID infections and decide what actions need be taken to protect the health of our community. Members of the Council cannot speak to one another unless it is in a publicly noticed meeting.

VI. ANY OTHER MATTERS

There were no other matters to discuss.

VII. ADJOURNMENT

The Town Council Meeting of July 27, 2021 was adjourned at 6:15 p.m. without benefit of a Motion.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Queenester Nieves, CMC, Town Clerk

Date



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE TOWN COUNCIL MEETING HELD ON AUGUST 10, 2021

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting was called to order at 9:35 a.m. via Zoom. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Gayle-Gordon gave the Invocation and President Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

The following modifications were made to the agenda:

Item Nos. X.A, X.A.a and X.A.c were deferred to the September 14, 2021 Town Council Meeting.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve the modifications to the agenda. On roll call, the Motion passed unanimously.

IV. APPROVAL OF AGENDA

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

V. PRESENTATIONS

- A.** Legislative Update
TIME CERTAIN 9:45 A.M.
Bobby Powell, Jr., Florida State Senator

Senator Powell, representing District 30 in northern Palm Beach County, provided a legislative review of the most recent session, including his committee assignments. He described the major session issues, the bills that were passed, particularly those affecting local municipalities, and his legislation. He reviewed the 2021 budget highlights.

Council Member Crampton commented the Science Center was planning a major expansion, and asked about the monies received under the American Rescue Plan. Senator Powell responded the Governor was holding some of the funds for direct allocation.

Mayor Moore thanked Senator Powell for his presentation and commented the Town was focused on home rule. She commented the Town already had an ARCOM process.

Council President Zeidman thanked Senator Powell for a complete presentation. She commented on the matter of home rule, and that the Council had to take things into their own hands to protect the residents during the past year.

Council President Pro Tem Lindsay asked Senator Powell about the continued assault on home rule, and asked what could be done to stop it. Senator Powell responded it was the power of the people talking to the legislature.

Council Member Araskog thanked Senator Powell for coming and his fight for home rule.

- B.** Scholarship Awards provided by the Rotary Club of Palm Beach Foundation
Danielle H. Moore, Mayor

Mayor Moore congratulated the following scholarship awardees:

Endrit Basha, Miranda Boodheshwar, Casey Castro, Desiree Lovell, Kelly Martin, Nicholas Pataca, Sofia Rivero and Luke Stone.

- C.** Scholarship Awards provided by the Palm Beach Country Club Foundation
Danielle H. Moore, Mayor

Mayor Moore congratulated the following scholarship awardees:

Joshua Alber, Tyler Alber, Bianca Badolati, Nicholas Badolati, Christopher Barber, Joseph Barber, Miranda Boodheshwar, Christina Caristo, Michael Caristo, Casey Castro, Leroy Blum, Frank Guelli, Joseph Guelli, Maxwell Guelli, Kevin Lebraun, Amanda Marx, Dakota Minot, Armanda Nieves, Nicholas Pataca, Kaitlyn Pinto, Sofia Rivero, Emily Rojas, Lewis Rosado, Jack Stone, Luke Stone, Zachary Tedesco and Christopher Wilson.

D. Scholarship Award Provided by the Palm Beach Civic Association and Citizens' Association of Palm Beach

Allison Tardonia, Vice President of Membership and Sponsorship, Palm Beach Civic Association and Fred Aldridge III, Co-Chair/Treasurer, Citizens' Association of Palm Beach

Allison Tardonia and Skip Aldridge congratulated Endrit Basha, son of Duke Basha, Assistant Purchasing Manager, who received the Civic and Citizens' Associations scholarship award. He will be studying computer technology. Endrit Basha expressed his gratitude.

Mayor Moore expressed her congratulations to the recipients.

VI. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore expressed her condolences to Council Member Araskog and her family on the loss of her father. She expressed disappointment this meeting could not be in person because of the surge of the COVID-19 variant. She commented on the outstanding work of Mr. Potts on the water issue.

VII. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Pro Tem Lindsay expressed her condolences to the Araskog family. She thanked Jay Boodheshwar for his part in the Town's participation in the updated water manual for Lake Okeechobee. An optimized version would be adopted in 2022.

Council Member Araskog thanked everyone for their support, indicated she would be present as much as possible today, thanked Council President Pro Tem Lindsay for her important comments on the water manual, and hoped lawn and maintenance could be sent to ORS.

VIII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were no communications from citizens at this time.

IX. APPROVAL OF CONSENT AGENDA

The following items were pulled and heard under Item No. XI.A. as follows:

1. Item No. IX.B.3. RESOLUTION NO. 082-2021 heard as Item No. XI.A.1
2. Item No. IX.B.5. RESOLUTION NO. 084-2021 heard as Item No. XI.A.2
3. Item No. IX.C.2. Children's Home Society, Relative to the Charitable Solicitation Ordinance heard as Item No. XI.A.3

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

A. MINUTES

1. Town Council Meeting Minutes

Queenester Nieves, CMC, Town Clerk

July 14, 2021, Local Planning Agency Meeting Minutes

July 14, 2021, Town Council Development Review Meeting Minutes

The following meeting minutes are being deferred to the September 14, 2021, Town Council meeting.

July 13, 2021, Town Council Regular Business Meeting

July 15, 2021, Town Council Special Meeting, Proposed FY22 Budget

July 27, 2021, Town Council Special Meeting, Covid-19

2. Approval of Major Matters Considered by the Architectural Review Commission at its Meetings of July 28-29, 2021.

Wayne Bergman, Director of Planning, Zoning and Building

B. RESOLUTIONS

1. RESOLUTION NO. 072-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Providing for the Designation of Ten (10) Additional Trees as Historic and Specimen Trees in Lake Drive Park, Providing an Effective Date.
H. Paul Brazil, P.E., Director of Public Works
2. RESOLUTION NO. 081-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Flowbird North America in the Amount of \$97,740 for Parking Kiosk Upgrades to Thirty-Six (36) Parking Kiosks Previously Purchased from Cale America, Inc.
Jay Boodheshwar, Deputy Town Manager
3. RESOLUTION NO. 082-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFP No. 2021-16, Permitting Software for the Building Enterprise Fund to

Tyler Technologies, Inc., in the Amount of \$249,785 for Implementation and Training, \$74,030 for One-Time License Fees and Five-Year Annual Maintenance Contract of \$351,000 for a Total Five-year Contract Award of \$674,815, Pending Successful Vendor Performance and Budget Authorization.

*Dean Mealy, Purchasing Manager – **Pulled and Heard as Item No. XI.A.1***

4. RESOLUTION NO. 083-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of Invitation to Bid No. 2021-14, Tree Trimming to a Primary, Secondary, and Tertiary vendor in the Annual Amount of \$166,850 and a Proposed Five-Year Award in the Amount of \$855,250 Contingent upon Satisfactory Vendor Performance and Budget Authorization.

Dean Mealy, Purchasing Manager

5. RESOLUTION NO. 084-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of a Purchase Order to Aegion/Insituform Technologies, LLC for Lining of Sewer Pipes Within the A5 and A6 Basins From the National Cooperative Buyboard in the Amount of \$442,974.50 and Establish a Project Budget of \$487,271.

*Dean Mealy, Purchasing Manager - **Pulled and Heard as Item No. XI.A.2***

C. OTHER

1. Request to Consider Ordinance Nos. 19-2021 and 20-2021 at a Public Hearing Prior to 5:00 p.m.

Wayne Bergman, Director of Planning, Zoning and Building

2. Request from the Children's Home Society, Relative to the Charitable Solicitation Ordinance

*Jay Boodheshwar, Deputy Town Manager - **Pulled and Heard as Item No. XI.A.3***

X. COMMITTEE REPORTS

- A. Report of the Ordinances, Rules and Standards Committee Meeting Held on Thursday, July 1, 2021

Julie Araskog, Committee Chair

This item was deferred to the September 14, 2021, Town Council Meeting

- a. Recommendations Regarding Modifications to Construction Hours

Jay Boodheshwar, Deputy Town Manager

This item was deferred to the September 14, 2021, Town Council Meeting

- b. Recommendations Regarding the Addition of Synthetic Turf Regulations

in the Town Code

Wayne Bergman, Director of Planning, Zoning and Building

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to defer this matter to the ORS Committee. On roll call, the Motion passed unanimously.

C. Discussion Regarding Application of Existing Regulations Pertaining to Native Plants

Wayne Bergman, Director of Planning, Zoning and Building

This item was deferred to the September 14, 2021, Town Council Meeting

B. Report of the Business and Administrative Committee Meeting Held on Thursday, July 8, 2021

Lew Crampton, Committee Chair

Chair Crampton reported the committee had continued their discussion about parking, mainly looking at commercial parking issues, and solutions that included rates, placards, hours of enforcement, and getting employee parking off the streets. Private underground lots had already been approved to take the overflow, which would help in the marina district. The current Resolution 059-2021 when passed would allow off-site private lots to be used during daylight hours. Discussion would continue at the next meeting.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to accept the report of the Business and Administrative Committee Meeting held on July 8, 2021. On roll call, the Motion passed unanimously.

a. RESOLUTION NO. 059-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town of Palm Beach Master Fee Schedule by Modifying Parking Placard and Metered Parking Fees, and Providing an Effective Date.

Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar explained the history of the data regarding fees, which would be established by passage of Resolution 059-2021.

Council President Pro Tem Lindsay commented on the under-utilized Phipps beach parking where the fee was being reduced from \$6 to \$4 to encourage more parking at that location.

Council President Zeidman commended the work of the Business and Administrative Committee on parking. She reminded everyone that with increased use of beach parking there were increased services, necessitating higher fees.

Council Member Araskog stated she was fine with the increase.

Mayor Moore asked about the construction at Phipps Ocean Park. Deputy Town Manager Boodheshwar commented there was a way to provide some access during construction. Town Manager Blouin noted that construction was several years away and parking would be modified at that time.

Council Member Crampton commented the Committee was not only focused on raising revenue for the Town, but also serving residents and commercial interests by making traffic flow more smoothly.

Council President Zeidman agreed with the previous comment.

Motion was made by Council Member Crampton and seconded by Council Member Araskog to approve Resolution No. 059-2021. On roll call, the Motion passed unanimously.

XI. REGULAR AGENDA

A. Matters Pulled From Consent Agenda: If needed

1. RESOLUTION NO. 082-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of RFP No. 2021-16, Permitting Software for the Building Enterprise Fund to Tyler Technologies, Inc., in the Amount of \$249,785 for Implementation and Training, \$74,030 for One-Time License Fees and Five-Year Annual Maintenance Contract of \$351,000 for a Total Five-year Contract Award of \$674,815, Pending Successful Vendor Performance and Budget Authorization.

Dean Mealy, Purchasing Manager

Council Member Crampton explained this was the software to make operations within Planning, Zoning and Building move more efficiently and would help with code reform in the future, as well as the process of permit management.

Town Manager Blouin confirmed this would make permit processing more efficient and help with communications to builders, architects, and developers, and he was excited about the improvements this would make.

Director of Planning Zoning and Building Wayne Bergman explained this was a totally online process which would allow applications to be submitted from residents' homes and they would not have to come into Town Hall.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Resolution No. 082-2021. On roll call, the Motion passed unanimously.

2. RESOLUTION NO. 084-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of a Purchase Order to Aegion/Insituform Technologies, LLC for Lining of Sewer Pipes Within the A5 and A6 Basins From the National Cooperative Buyboard in the Amount of \$442,974.50 and Establish a Project Budget of \$487,271.

Dean Mealy, Purchasing Manager

Mayor Moore commented she wanted to be sure residents realized there would be a significant cost savings to the Town.

Director of Public Works Brazil explained at the beginning of the collection system there were old clay pipes, which allowed groundwater into the system, which then required maintenance. He explained that this Resolution would allow forcing a liner into the pipes which would then harden, making them the equivalent of new pipes without the disruption replacement of pipes would cause. This would result in a huge savings to the residents. He recommended approval of the Resolution.

Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Resolution No. 084-2021. On roll call, the Motion passed unanimously.

3. Request from the Children's Home Society, Relative to the Charitable Solicitation Ordinance.

Jay Boodheshwar, Deputy Town Manager

Council President Zeidman explained this request was for a one-time waiver which would allow the Children's Home Society to get back on schedule. She asked if staff would be involved at the time of an event. Town Manager Blouin responded not unless they requested Police Officers at the event.

Council Member Araskog expressed concern if COVID was rampant at the time of events.

Council President Zeidman noted this was a private event on private property and she hoped the organizers would make a decision closer to the time of the event taking into consideration community spread of the coronavirus. The Town Manager also expressed concern over the timing of the event.

Motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to grant the waiver of the two-event limit to the Children's Home Society. On roll call, the Motion passed unanimously.

B. Old Business

1. COVID-19 Update

Kirk W. Blouin, Town Manager

a. COVID-19 Monthly Report

Darrel Donatto, Fire Rescue Chief

Chief Donatto summarized his report which had been submitted in writing. He reported that in June the positivity rate was 2.28% and is now 17%. The number of new COVID cases in Palm Beach County per week was doubling every 28 days, and hospitals were 90% or greater in capacity. This was due to the Delta variant, which was very transmissible. For every person who got it, between 5 and 9 other people would get it. Other more dangerous variants would continue to develop here and in other countries. The Delta variant started with one person in India, and was now the dominant strain in the United States. Right now, the only thing out there to provide the best protection was the vaccine. 15 residents of Palm Beach had died. He encouraged people to get vaccinated, and also to practice social distancing and wear a mask. He felt we were still in the early stages of COVID because of the large number of unvaccinated people all over the world.

Council President Zeidman commented the Delta variant was increasingly being seen in children as young as 5. She expressed her personal concern that not enough persons were vaccinated and that even the vaccinated can be infected and can transmit the virus to children who are not yet eligible to be vaccinated. Chief Donatto responded pediatricians and hospitals were seeing more cases of younger patients with the Delta variant.

Council Member Crampton asked what the Town was considering about requiring employees to be vaccinated. Town Manager Blouin reported employees had been encouraged to get vaccinated. He described an incentive program which was offered to everyone that showed proof of vaccination. A disincentive was that if an unvaccinated employee was sick, they had to tap into their personal sick leave bank. In a couple of weeks Dr. Alonzo would be speaking to all Town employees to answer vaccine questions to address their fears, and education would be ongoing. He thanked President Zeidman for arranging the presentation by Dr. Alonzo. Additionally, he stated that once FDA granted full authorization on the vaccine, the Town would consider requiring vaccinations, testing and enhanced participation in the insurance program.

Chief Donatto added that the Delta variant, in addition to being much more transmissible than the original virus, was also much more severe. When testing with nasal swabs there was about 1,000 times more viral particles than with the original COVID-19, and the variant spread around the body, producing a much more severe illness. Because of that, some vaccinated people were also getting sick because the variant overwhelmed their system. Although very few ended up hospitalized, they had to be quarantined and stay home from work. He reported several Fire Rescue employees had just decided to get vaccinated after seeing the effects of the variant on unvaccinated co-workers.

Council Member Crampton asked if the Town was giving any thought to introducing a booster shot program for residents when it became available. Chief Donatto responded he felt booster shots would be available only in the commercial market. Council President Zeidman commented that mRNA boosters could be fashioned to protect from variants.

Council President Pro Tem Lindsay reported getting phone calls regarding how long the vaccines last, and asked for that to be addressed at the next meeting. Also, younger people were getting the virus and then did not believe they needed to be vaccinated. Chief Donatto responded those who had the virus had some immunity, but studies had shown the natural immunity wasn't to the same level as vaccinated immunity and wasn't as durable or did not last as long. Therefore, it was strongly recommended if a person had COVID, they still become vaccinated to have a greater degree of immunity and longer lasting immunity. The duration of present vaccines was still unknown. This was a global issue, and variants would continue.

Council Member Araskog commented she personally knew more people who had break-through cases. There was a great amount of misinformation, so education was needed. She was wondering about booster shots for auto-immune compromised people, and if the Fire Department could give those. Chief Donatto commented Delray was giving shots mandated for their employees. He commented the Fire Department would certainly step in if needed. It was clarified Delray was giving the vaccine to their employees and not booster shots.

Mayor Moore asked if the Firefighters Union was encouraging their members to be vaccinated. Chief Donatto responded they were strongly recommending vaccinations.

b. Discussion Regarding Board, Commission, and Committee Meeting Format and Participation

Council President Zeidman reported she had communicated in writing,

in May, to the Chairs of Town Boards with the decisions made by Town Council at their May 2021 meeting, that all decision making Boards were required to be physically present for their meetings. These Boards include the following: ARCOM, LPC, Code Enforcement and the Retirement Board. She provided background, including the Governor's order, and the State statute. She stated that she was of the opinion that the Boards and Commissions should not meet in person because of new information from the CDC that even those who are vaccinated can become infected and can transmit the virus. She expressed concern that Board members would need to fly back and forth and could become infected and then transmit the virus to grandchildren. She felt that until we have more information it is best to have all Boards and Commissions meet virtually. After consulting with Town Attorney Randolph, she recommended for the remainder of August that members of ARCOM, LPC, Code Enforcement, and Retirement Board be kept on Zoom so as not to have to fly back and forth, and the quorum and the voting would be handled the same as if in person.

Council Member Cooney expressed his full support and asked about physically present quorums. He recommended staying on Zoom.

Town Attorney Randolph responded if council members agreed with President Zeidman they should vote in favor of her recommendations. He also advised if going back to full Zoom meetings without a quorum present his advice was the same as before, that they were doing it in the face of a Governor's order that said that "all government bodies" are required to be "physically present." If someone challenged a decision made at a virtual meeting, hopefully that could be dealt with on a case-by-case basis. From a legal standpoint, he was much more comfortable with a quorum present, and to the extent that a quorum could be present with people in town that should be done.

Council Member Pro Tem Lindsay expressed her support for the proposed action and asked for clarification from Town Attorney Randolph. He advised if the quorum consisted of an alternate who was present, they would be able to vote first, even if regular members were on the phone. That would not preclude those on the phone from voting according to seniority. People on the phone would be able to vote if absent for a good reason and certainly a good reason would constitute fear of flying during this pandemic.

Mayor Moore was thankful the Council had passed an emergency resolution a couple of weeks ago and encouraged President Zeidman to move this forward.

Council Member Crampton commented the Council was more effective when they were together, but public health trumped efficiency and he felt the proposed action was appropriate.

Council Member Araskog recommended Council ask Town Attorney Randolph to draw up the same document he did last March, allowing

applications to be heard up to 90 days in case a meeting had to be cancelled, because the rule now was 30 days. She also proposed postponing the next ARCOM meeting, probably for four weeks. If there were not enough for a quorum, the meeting could not go forward, and postponing could allow time to work things out but also to discuss the number of applications, which had dramatically increased. This could give staff time to work out what needed to be done. She had spoken with Town Attorney Randolph and trusted Council to make the right decision, but had to leave the meeting at this point. She highly recommended postponing the upcoming meeting.

Council President Zeidman stated at virtual meetings she would prefer voting to be as if they were present in chambers. Alternates would fill in when someone was absent, according to the ordinance. She asked if there was a way that could be done rather than having those present vote regardless of their status. The Town Attorney responded that could be done if today the Council declared they were going back to all virtual meetings; however, if a quorum of four commissioners including alternates could be present in Town Hall even if in different rooms, those constituting a physical quorum would vote first. If not possible to get a quorum present, it would be totally virtual, with everyone equal and voting members would vote, and alternates would fill in if not enough voting members present.

Mayor Moore felt either the meeting should be postponed or hold the meetings virtual.

President Zeidman polled the Council whether to hold all meetings virtually for the remainder of August.

Council Member Cooney was in favor of virtual meetings for the next month.

Council President Pro Tem Lindsay agreed.

Council Member Crampton agreed.

Mayor Moore agreed, and commented for the Commission meetings all the professionals also had to attend. She felt those who might think about a lawsuit would think long and hard about doing so under pandemic circumstances. She felt safety and security came first, and did not believe a quorum would be possible.

Council President Pro Tem Lindsay suggested moving ahead but also sending a letter to the Governor explaining the position he had placed a vulnerable population in, and asking for relief.

Council Member Crampton expressed his opinion someone bringing a lawsuit under these circumstances would suffer consequences, and Council should move forward to protect the public health of residents.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the decision that all Town Boards, Commissions and Committees will meet virtually for the month of August, this decision will be re-visited at the September Council Meeting. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

Public Comment:

Michael Small, 156 East Inlet Drive, Chair of ARCOM, expressed 100% support for the Council's decision and asked if he could state before each application, "Do you voluntarily consent to and waive any objection that you might have to our conducting this hearing and consideration?"

Town Attorney Randolph advised that was acceptable but would not apply to others who might speak.

Council Member Crampton commented that was a good idea.

Rene Silvin, Chair of LPC, expressed gratitude for Council's willingness to be alert to health concerns.

For the next meeting, Council President Zeidman asked, if COVID stayed as it was now or became worse, whether the members agreed that she, as Council President, should make the decision whether to be on Zoom. The members agreed. She commented if that was the case, the Commission meetings would also be on Zoom. If the rate of virus was coming down, the meeting could be in person. Council President Pro Tem Lindsay asked the drop-dead date to make that decision. Discussion ensued.

Consensus of Council was Council President Zeidman would make the decision for holding September public meetings in person or on Zoom on or before September 10, 2021. Council members would be notified by letter from President Zeidman sent out by the Town Manager.

c. RESOLUTION NO. 093-2021 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 September 14, 2021, 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.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve Resolution No. 093-202 relating to the emergency declaration by the Chief of Police and consideration at an appropriate point in

September. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

A lunch break was taken at this point. The meeting reconvened at 1:45 p.m.

2. Town-wide Undergrounding Project:

TIME CERTAIN 1:30P.M.

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

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

Town Engineer Patricia Strayer reviewed the location and status of each current project phase. She presented a chart showing the different construction cost proposals, the master plan opinion of costs, the difference, and the percentage difference. There was a total overage of 5.2%. She reported today's construction industry had a cost increase of 12.8% over a year ago. This project was going at a much faster pace than any other undergrounding project in the State.

Council Member Crampton commented this was well managed. He felt the increase of 5.2%, which included chicanes, was a reasonable number when total construction costs overall had increased 12.8% in the past year.

Council President Pro Tem Lindsay asked if the 12.8% increase was a blip or if costs were expected to rise each year. Town Engineer Strayer commented two phases did not have increases, and she did not anticipate a 12.8% increase. Public Works Director Brazil commented there had been unusual single time increases in the past due to other work around the project. He felt 12.8% increases every year would not be sustainable; people would stop building.

Council Member Crampton felt costs were still within reasonable parameters. Town Engineer Strayer clarified some years were expected to be high and some low.

Council President Zeidman requested clarification of the Four South overage. Town Engineer Strayer detailed the major reasons, which included falling 18 months behind because of difficulties getting easements, and delay due to difficulty locating equipment on properties, along with inflation.

b. RESOLUTION NO. 086-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of Phase 4 South GMP, Town-Wide Overhead Utility Undergrounding Project to Burkhardt Construction, Inc. in the Amount of \$10,873,182

and Establishing a Project Budget of \$11,960,500.

Town Engineer Strayer presented and read by title Resolution No. 086-2021.

Motion was made by Council Member Crampton and seconded by Council President Zeidman to approve Resolution No. 086-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

c. RESOLUTION NO. 087-2021 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. for the Town-Wide Overhead Utility Undergrounding Project, Phase 4 South Construction Phase Services in the Amount of \$333,659 and Establishing a Project Budget of \$383,659.

Town Engineer Strayer presented and read by title Resolution No. 087-2021.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 087-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

d. RESOLUTION NO. 088-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of ITB No. 2021-05, Town-Wide Overhead Utility Undergrounding Project Phase 5 South to Wilco Electric, LLC in the Amount of \$6,629,360.64 and Establishing a Project Budget of \$7,623,764 and Award Phase 5 North to C. R. Dunn, Inc. in the Amount of \$6,416,941.56 and Establishing a Project Budget of \$7,379,502.

Town Engineer Strayer presented and read by title Resolution No. 088-2021.

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Cooney to approve Resolution No. 088-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

e. RESOLUTION NO. 089-2021 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. for Town-Wide Overhead Utility Undergrounding Project, Phase 5 South Construction Phase Services in the Amount of \$334,159 and Establishing a Project Budget of \$384,159.

Town Engineer Strayer presented and read by title Resolution No. 089-2021.

Motion was made by Council Member Crampton and seconded by Council Member Cooney to approve Resolution No. 089-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

f. RESOLUTION NO. 090-2021 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. for the Town- Wide Overhead Utility Undergrounding Project, Phase 5 North Construction Phase Services in the Amount of \$334,157 and Establishing a Project Budget of \$384,157.

Town Engineer Strayer presented and read by title Resolution No. 090-2021.

Motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution No. 090-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

g. RESOLUTION NO. 091-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Award of a Purchase Order to Burkhardt Construction, Inc. for Construction Management Services for Phase 5 North and South in the Amount of \$1,919,800 and Establishing a Project Budget of \$2,158,800.

Town Engineer Strayer presented Resolution No. 091-2021. She commented there was a 50% chance the entire amount could be reimbursed. She read Resolution No. 091-2021

Motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve Resolution No. 091-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

3. Request for Direction Regarding Completion of Retail Study
Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar advised this was on the agenda to give the Council an opportunity to change direction from what had been decided earlier this year, which was approval for Yard & Company to start this study in the fall. He added that was still on track, but wanted to let Council know staff was about to issue an RFP for the scope of code reform they had approved previously, and was suggesting it might make sense to possibly fold in this retail scope into this other initiative and have one contract, one project that would yield similar results. If interested, staff would need to come back next month to rescind Resolution 25 to delete that contract with Yard & Company. In the meantime, they could go ahead with the RFP.

Council President Zeidman commented Planning and Zoning had recommended the retail study.

Council Member Crampton was not comfortable changing direction until Michael Ainslie, Chair of Planning and Zoning Commission, had been consulted. He suggested a full discussion at the next meeting.

Council President Zeidman commented she had contacted Michael Ainsley and he felt this was a good way to handle it.

Deputy Town Manager Boodheshwar had also spoken with Mr. Ainsley and reported he had remained neutral, deferring to staff and Council, and he felt the Town needed to move forward with code reform, and if this was a piece of it, he would be happy.

Council President Pro Tem Lindsay recalled the circumstances at the time this was approved, and the changes that had taken place, and commented now this probably made sense. She was glad President Zeidman had spoken to Mr. Ainsley. She had voted for Yard & Company, and did not know if they could work under a full code reform person or re-apply, and would like to look into giving them some favored status. She wanted code reform to get started and finished and if this was the most cost-efficient way to do it, she would support it.

Council Member Crampton felt no decision should be made today, and would like to hear a presentation next month, with background and with a representative from Planning and Zoning present.

Council President Zeidman wanted to see how this fit into the entire code reform process in order to make a decision.

Deputy Town Manager Boodheshwar asked Purchasing Agent Dean Mealy if the code reform RFP could go forward and do an amendment next month, or include the pending contract with Yard & Company in the retail component. Purchasing Agent Mealy preferred to issue the RFP and cancel the award to Yard & Company. Discussion ensued. Town Manager Blouin noted Council had approved to add to the project of code reform a retail and marketing and business aspect, so he wondered if the RFP for code reform could go ahead, if Council approved, and at a later time to still examine the retail community and those business aspects, and push out another scope focusing just on that aspect, and separate out the code reform from the previously approved RFP from Yard & Company. Purchasing Agent Mealy explained the process, which was complicated. Deputy Town Manager asked Director Bergman if one month delay would hurt the RFP.

Director Bergman did not think waiting 30 days would hurt the code reform project. He felt the Yard & Company RFP got into more of a marketing aspect of how the town code could be changed to promote more

retail. Whether or not that component was retained going forward, since it was not a planner function, was a question, but he felt the majority of the information that Yard & Company would provide could be handled through the code reform process.

Council Member Crampton stated he did not think the two were mutually exclusive. He thought they could approve the code reform proposal today if asked to do so. He suggested waiting a month, allowing the code reform RFP to go out, and when it came time for Yard & Company to do their work to fold that in. He felt Director Bergman had the skills to put all the data together and emerge with the kind of project that would make the most sense for the Town.

Mayor Moore wanted to make sure Yard & Company was comfortable with Council Member Crampton's suggestion.

Council President Pro Tem Lindsay felt there was consensus to come back next month to get more information and asked that Yard & Company be contacted for their position.

Council President Zeidman thought the retail dovetailed with the larger code reform, and no decision was necessary today. She agreed with waiting until next month and asked if the Deputy Town Manager and Director Bergman had been given enough direction.

Deputy Town Manager Boodheshwar responded there was a Planning and Zoning Commission meeting before the next Council meeting, so they would make a presentation to Planning and Zoning Commission, come back to Council next month, and hold off issuing the broader RFP until that time.

This item was deferred to the September 14, 2021, Council meeting.

4. FY22 Proposed Budget Update

a. RESOLUTION NO. 092-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting the Town Marina and Building Enterprise Fund Reserve Policies; Providing an Effective Date.

Jane Le Clainche, Director of Finance

Finance Director Le Clainche reviewed changes made at the last Council meeting and others made since then to the proposed budget. She reviewed changes to the General Fund, Building Enterprise Fund, and Capital Improvement Fund. Director Le Clainche noted another option to consider for payment of the Fire Rescue Station was financing, with bank

interest rates now between 2.25% and 2.5%.

Council Member Crampton asked if she had compared bank funding or financing with reserves. Director Le Clainche felt it would be a good idea to finance unless the construction cost went up much higher, so suggested waiting until that number was determined, then checking rates, and bringing it back to Council at that time. Council Member Crampton agreed.

Consensus of Council was to wait until bids were in.

Director Le Clainche reviewed Enterprise Funds - Reserve Policies which would be adopted with passage of Resolution No. 092-2021.

Council Member Crampton congratulated Director Le Clainche on the policies, which he considered wise and prudent.

Motion was made by Council Member Crampton and seconded by Council President Zeidman to approve Resolution No. 092-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

Director Le Clainche announced the Budget Public Hearing dates for Monday, September 13, 2021 and Thursday, September 23, 2021. Both hearings will begin at 5:01 PM.

5. Request to Amend the Long-term Ground Lease of 5976 Okeechobee Boulevard, West Palm Beach, Florida, to AHS Residential
TIME CERTAIN 11:00 A.M.
Janis Cheezem, Akerman LLP

Town Manager Blouin provided a brief overview, reporting the ground lease had been revisited to provide language to establish firm milestones and timelines for testing, remediation of contaminated soil, and making the property suitable for development. Remediation costs had been agreed upon.

Attorney Janis Cheezem provided a more extensive overview, including the brokerage commission, and suggested the Council might want to approve the amended and reinstated ground lease subject to an agreement of the broker to defer 50% of the commission until the final termination right had passed. She clarified that the tenant would be required to post a bond so that once remediation of the soil had begun, that work could not be stopped until completion. Town Manager Blouin noted they were also requesting another amendment to give him authority to delay payment until after all termination rights had passed and then the Town would be obligated to make half the payment to the broker on his commission at 4%.

Council Member Crampton congratulated the Town Manager and staff on their help with this issue. He asked about the brownfield designation and amount of time to do the remediation action plan. Attorney Cheezem explained the timeline which would need approval by the Florida Department of Environmental Protection. She explained the brownfield designation was a funding mechanism.

Town Manager Blouin acknowledged all the help from members of staff. Attorney Cheezem reported the Town staff had been wonderful to work with. Council President Pro Tem Lindsay also commended staff, and felt they could go forward with this on other town-owned lands. Attorney Cheezem thought the brownfield designation would go forward.

a. RESOLUTION NO. 094-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Amended and Restated Ground Lease Agreement Between the Town of Palm Beach, Florida (Town) and CRE Fund at Okeechobee Boulevard, LLC (Tenant), Subject to Certain Guaranties by AHS Residential, LLC (Guarantor) for Property Consisting of Approximately 29.38 Acres Located Outside of the Town's Boundaries at 5976 Okeechobee Boulevard, West Palm Beach, Florida (Property).

Kirk Blouin, Town Manager

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Resolution No. 094-2021, subject to the Town Manager's re-negotiations of the due date for payment of the first 50% of the brokerage commission. On roll call, the Motion passed unanimously.

6. Overview and Update Regarding the City of West Palm Beach Expert Panel Review of City's Management of Cyanotoxins in Raw Water Supply
TIME CERTAIN 10:30 A.M.

John Potts, Senior Consultant, Kimley-Horn and Associates

Director of Public Works Paul Brazil introduced John Potts, and explained his role would be attending the meetings of the City of West Palm Beach Expert Panel to review the city's management of cyanotoxins in the raw water supply as an observer for the Town of Palm Beach, and report back monthly to the Town. He provided his professional qualifications. Mr. Potts reported there had been three meetings to date regarding drinking water quality. The panel had been reviewing data, and at the last meeting had introduced the preliminary findings and recommendations element. They had determined that chlorinating the water as it left the plant was not possible since it would violate other water treatment standards. The panel was working on improving and making it possible for the existing plant to

perform as expected, including their ability to predict algae blooms. He announced the next meetings.

Council Member Crampton commented the City had made a major improvement in their ability to treat the water approximately 3 years ago, and asked if he was confident they were using the highest and best technology, and if he believed it was possible to determine a point to predict a problem in the future. Mr. Potts reported the plant could operate at the level required, but that would depend on other factors, and there were so many sources that it might not be possible to pinpoint where future problems would arise.

Council President Zeidman expressed how concerned the Council had been about what had happened, and how glad she was that Mr. Potts was working with the Town. She asked about regulatory bodies that limited the ability of the local agency to react. Mr. Potts gave an example of whether bottom muds in Clear Lake and Lake Mangonia could cause algae when the lake dropped to a certain level, and the regulation that did not allow more water into the lake until after it dropped, which needed to be revisited. Mr. Potts reported that issue had been re-adjusted after the panel discovered this, and the City was being very proactive as discoveries were made from the data. He was pleased with the experts on the panel. His goal was not to intervene.

Council President Pro Tem Lindsay asked whether using surface water versus underground water affected the possibility of algae problems. Mr. Potts responded the toxins did not exist underground, but the City of West Palm had no choice, so needed to address the contaminants in surface water. Upon expiration of their contract, the Town of Palm Beach would have the option to go with another water supplier who used an underground supply.

Council Member Crampton believed the City of West Palm Beach had a very sustainable water supply, and would ask his technical questions of Kimley-Horn next month.

Council Member Cooney asked what the Town could do to assure residents about water quality while this process was in place. Mr. Potts felt the treatment processes for capturing this containment were now very thorough.

A 5-minute break was taken at this time. The meeting reconvened at 11:00 a.m.

C. New Business

1. Discussion Regarding the Maximum Number of Residential Permit Parking Decals/Visitor Passes Permitted

Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar presented this item for discussion and direction. Concern had been expressed regarding a code change made in 2019 that increased the number of decals and visitor passes that could be purchased in RPP areas. Prior to that change in 2019, the code allowed property owners within an RPP area to purchase up to two decals for their vehicles, and up to 2 visitor passes, which were transferrable to guests or service workers. When the code changed in 2019 it was changed from 4 to 8, but also changed that 2 and 2 ratio to no required ratio, to give flexibility. There was no limitation on each so long as one did not exceed 8 spaces. The Town had received complaints that some neighbors were taking advantage on a specific street with 8 vehicles in the street—people basically using the street as a parking lot. He asked if Council would like a modification to the code to address this, such as possibly reducing the number of decals one can purchase and leave the flexibility, or set a specific ratio. He asked for Council's direction.

Mayor Moore stated she liked to see as much flexibility as possible, and asked if this had been discussed with the people who were doing it to reach a resolution. She did not want what was happening on one street to cause a wholesale change.

Deputy Town Manager Boodheshwar responded he did not know if the neighbor had reached out, but his neighbors were following the letter of the law.

Mayor Moore did not want to overreact, but felt it unfortunate people did not talk to each other to reach solutions. She would support whatever decision Council made.

Council President Pro Tem Lindsay agreed with Mayor Moore and she felt the Town should try to get the neighbor to talk to his neighbor. She wanted to see if it could be fixed and left as is.

Council Member Cooney asked how many maxed out their allowance. Mr. Boodheshwar responded only about 30 properties town-wide had purchased 8, and another 10 purchased 7. The vast majority purchased under 4.

Town Manager Blouin commented this had not been intended for daily use, and when two people on one street were using 8 per day it became a problem. He suggested modifying the ordinance in a way to allow the police to speak with the offender when there was a complaint, and to do an

investigation, running tags to see who owned the cars, and possibly limiting the number of passes.

Council Member Crampton thought that was a good idea but favored just limiting to 4, but he was willing to go along with whatever Council decided.

President Zeidman read aloud from the ordinance that the parking was temporary, and suggested changing the language to clarify the intent and to require they use their on-site parking first.

Town Attorney Randolph commented he thought there was consensus to see if this could be worked out by the neighbor, and if Council wanted to go beyond that to use the Town Manager's suggestion instead of limiting it to 4. President Zeidman stated she did not want to change it to 4 passes. Town Attorney Randolph advised he and the Town Manager could easily come up with some appropriate language. Council President Zeidman asked to have the neighbor who was causing the problem spoken to because this was supposed to be temporary, as the ordinance stated, and code enforcement could talk to the neighbor.

Town Manager Blouin said staff would speak to the neighbors to see if they would do the neighborly thing but as far as a longer-term solution either the number of passes might have to be reduced or the wording in the ordinance changed to allow the police department to make modifications or enforcement.

Council President Zeidman commented it was only one instance at this point.

Council President Pro Tem Lindsay felt it was only one instance and wanted to try to work it out.

Town Manager Blouin said they would contact the neighbor and get back to Council.

2. Request to Have the Ordinances, Rules and Standards Committee Study Sec. 42-230 - Lawn Maintenance, Relative to Hours, Equipment and Noise
Jay Boodheshwar, Deputy Town Manager

Council President Pro Tem Lindsay spoke about the number of landscaping complaints she received regarding noise, and that she had asked that this be referred to ORS for study since the complaints she received all seemed to be Peruvian Avenue and north. She wanted this area of Town looked at separately from the rest of the Town. Also, to ask them whether there should be different regulations for more populated areas of Town, and secondly, whether leaf blowers that were fossil fuel

based should be banned to reduce noise and fumes.

Council Member Cooney commented ORS was still looking at certain construction hours and days like Saturday, and had looked at doing certain rules in certain areas, with different sizes of estates and had moved away from that because of challenges of enforcement and geographical areas. So, they were trying to give staff, the public and contractors one set of rules, just for ease of understanding, both on the user end and ease of enforcement for the Town. He thought Council President Pro Tem Lindsay's idea made sense, but people on smaller lots and closer together were going to have these problems more than those on large estates. He asked the direction she was looking for to have some kind of uniformity, because noise was noise whether created by construction or landscape work. He asked for insight before the Committee began discussions, whether to create periods of quiet time for residents and periods of noise regardless of the source.

Council President Pro Tem Lindsay responded there was an increase in construction and multiple projects being done at the same time. More and more people were asking for quiet enjoyment of their homes on weekends. She asked Council Member Cooney to look at the issue to see if he could come up with anything that would satisfy the residents more than they were currently satisfied, because there was a significant level of dissatisfaction.

Council Member Crampton commented in the south end the situation was handled by building management and there were very few single-family homes. He felt the Town should be very responsive to the complaints and residents wanting quiet enjoyment of their homes. He believed this issue should be folded in with the other issues related to this, including Saturday work hours, and all the other things the Committee was considering, to get a comprehensive package that benefitted the residents and their quiet enjoyment of their property. It might mean some inconvenience for builders, but the residents took priority.

Council President Zeidman expressed her opinion that leaf blowers and the like were noisy and people had the right to enjoy their property.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to refer Sec. 42-230 – Lawn Maintenance, Relative to Hours, Equipment and Noise, to the Ordinances, Rules and Standards Committee for study. On roll call the Motion passed 4-0 with Council Member Araskog absent.

XII. ORDINANCES

A. Second Reading

1. Amendment to the Town Charter Regarding Town Caucus and Qualifying Dates

ORDINANCE NO. 018-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Charter at Section 5.03, Relating to Qualifications, to Modify the Date to Qualify for Election to the First Tuesday of December of Each Year or on a Date at Least Ninety-Five (95) Days Prior to the March Election Date, Whichever Comes First; Further Amending the Town Code of Ordinances at Chapter 34, Elections at Article II, Candidate, Division 2, Caucus, Section 34-56, Calling and Notice of Election to be Consistent with Section 5.03 of the Town Charter, Providing that the Date of the Town Caucus be Held on the First Tuesday of December of Each Year or on a Date at Least Ninety-Five (95) Days Prior to the March Election Date, Whichever Comes First; Providing for Severability; Providing for Codification; Providing for an Effective Date.

Queenester Nieves, CMC, Town Clerk

Town Attorney Randolph read Ordinance No. 018-2021 on second reading by title only.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to adopt on second reading Ordinance No. 018-2021. On roll call, the Motion passed 4-0 with Council Member Araskog absent.

XIII. ANY OTHER MATTERS

There were no other matters to discuss.

XIV. ADJOURNMENT

The Town Council Meeting of August 10, 2021 was adjourned at 3:28 p.m. without benefit of a Motion.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Queenester Nieves, CMC, Town Clerk

Date



TOWN OF PALM BEACH

Minutes of the Local Planning

Agency Meeting

Held on August 11, 2021

I. CALL TO ORDER AND ROLL CALL

The Local Planning Agency was called to order August 11, 2021 at 9:31 a.m. in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Administrative Specialist Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. ORDINANCES

A. **First Reading**

1. **ORDINANCE 19-2021** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Modifying The Definitions For Building, Height Of (Applicable Only In The R-B Districts), Building Height Of (Applicable To All Districts Except The R-B Districts, Building, Height Of, (Applicable To Lots Or Portions Of Lots East Of The State Of Florida Coastal Construction Control Line (CCCL), Building, Height Of, (Applicable To R-B Lots Abutting Lake Trail) To Eliminate The References To Raising The Grade Of A Property And Eliminating Redundant Language; At Article VI, District Regulations, At Sections 134-795, 134-845 And 134-895, Same-Exceptions To Yard Regulations, By Allowing First Floor Entry Ramps, Landings, Associated Steps And Ramps Within Required Setbacks In The R- AA, R-A And R-B Residential Zoning Districts; Sections 134-950, 134-1006 And 134-1062 Same-Exceptions, By Allowing First Floor Entry Ramps, Landings, Open Terraces And/Or Steps Within Required Setbacks In The R-C, R-D(1) And R-D(2) Residential Zoning Districts; Sections 134-797, 134-848, 134-898, 134-953, 134- 1009 And 134-1065, Lot Grade Topography And Drainage, By Providing That The Grade Of A Property Cannot Be Raised To Meet Base Flood Elevation Requirements Except As Provided For In A New Section 134-1600 Of The Code And Elimination The

Requirement That The Habitable Finished Floor Of A Building Shall Not Exceed Eight Inches Above The Permitted Grade On A Property In The R-AA, R-A, R-B, R-C, R-D(1) And R-D(2) Residential Zoning Districts; Creating Sections 134-1121, 134-1171, 134-1221, 134-1269, 134-1316 And 134-1402, Lot Grade Topography And Grading In The C-TS, C-WA, C-OPI, C-PC, And C-B Commercial Zoning Districts And The PUD District To Provide That The Grade Of A Property In Those Districts Cannot Be Raised To Meet Base Flood Elevation Requirements Except As Provided For In A New Section 134-1600 Of The Code; Section 134-1309, Same-Exceptions, To Allow First Floor Entry Ramps, Landings And Associated Steps To Extend Into A Required Setback In The C-B Commercial District; At Article VIII, Supplementary District Regulations, Section 134-1548, Yard Regulations, To Allow First Floor Entry Ramps, Landings, Open Terraces, Porches And Associated Steps As Ordinary Projections Into A Required Yard And Cross Referencing The Specific Sections Of The Code That Apply; Creating A New Subdivision III Within Article VIII, Supplementary District Regulations, Section 134-1600, Lot Fill, Providing For A Calculation For The Maximum Amount Of Fill That Can Be Placed On A Lot; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Zoning Manager Castro provided an explanation on the proposed Ordinance No. 19-2021, regarding the limitation of fill for commercial and residential building lots. The ordinance also provided exceptions for minimal entry ramps, landings, and steps in the setbacks. Mr. Castro reviewed the provisions of the ordinance, and stated the intent was to limit fill while working with Public Works and Woods Hole to establish regulations that would not be contradictory with their studies related to sea level rise as well as raising buildings above minimum flood elevation.

Council President Zeidman asked Mr. Castro to remind the Council of the recommendation of the Woods Hole study.

Mr. Castro stated that Woods Hole recommended adding more freeboard than currently allowed above the minimum flood elevation. They requested cross referencing Chapter 18 within the definitions of the ordinance relating to minimum flood elevation, which had been done. They felt the maximum of 3 feet of fill should be eliminated so that it could be 3-1/2 or 4 feet in very limited cases, when needed. Also, they requested to eliminate the requirement to get a variance if more than 3 feet of fill was needed to get the average between the lowest crown of the road and the lowest habitable finished floor. Zoning Manager Castro assured Council President Zeidman the intent was not to have to make additional changes to this ordinance.

Paul Brazil, Director of Public Works, commented this ordinance was written so that it should not be inconsistent with the final Woods Hole report. He explained when looking at an individual site, the new FEMA flood plain maps would be the point of reference for the base flood elevation. For zoning, crown of road would be utilized, and from Woods Hole's perspective, the anticipated life expectancy, and how far above the base flood elevation Woods Hole would recommend. These numbers would be recommendations but ultimately, the Town Council would have

the final say.

Council Member Crampton confirmed with Director Brazil that the purpose of the intersection with Woods Hole was to place enough flexibility into the system to handle properties in both higher and lower elevations on a fair and equitable basis.

Council President Pro Tem Lindsay confirmed with Zoning Manager Castro that this ordinance would mean the proper elevation could be accomplished not solely with fill. Mr. Castro responded it would encourage terracing properties and using creative architecture, to create a more uniform look from one property to the next.

Council Member Cooney thanked Zoning Manager Castro, Director Brazil, and Director Bergman for their hard work on this Ordinance, which had been a great concern in the community. Mr. Castro responded this would encourage applicants to show the visual relationship to neighboring properties. Staff would work with applicants regarding ramps for handicapped individuals. Council Member Cooney expressed confidence that design professionals could create better visual aesthetics using this ordinance.

Council Member Araskog thanked staff for their hard work. She expressed concern about homeowners entering and exiting their homes as well as having stairs placed in setbacks. She recalled a very good presentation by Jorge Sanchez, which showed different designs that could improve aesthetics. She indicated she would support the ordinance, but added it would change the look of neighborhoods.

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

Motion made by Council Member Crampton and seconded by Council President Zeidman, to recommend approval of Ordinance 19-2021 to the Town Council. Motion carried unanimously, 5-0.

2. **ORDINANCE 20-2021** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Amending The Definition Of Supplemental Parking To Provide That Supplemental Off-Site Parking In An Underground Garage Or Surface, Enclosed, Partially Enclosed Or Rooftop Parking Facility Shall Not Be Required To Be In Addition To The Required Parking; Sunsetting The Definition On March 13, 2024, Unless Extended Or Modified By The Town Council; At Article VI, District Regulations, Sections 134-1107, 134-1157 And 134-1207, Permitted Uses, In The C-TS, C-WA And C-OPI Commercial Zoning Districts To Allow Supplemental Off-Site Shared Parking In A Surface, Enclosed, Partially Enclosed Or Rooftop Parking Facility As A Permitted Use; Cross Referencing The Requirement For Said Parking In Sections

134-2177 And 134-2182; And Providing A Sunsetting Provision For Said Parking Facilities In Those Districts On March 13, 2024, Unless Extended Or Modified By The Town Council; Section 134-2177 Location Of Parking Spaces, And Section 134- 2182, Location Of Parking Spaces, By Allowing Supplemental Off- Site Shared Parking In A Surface, Enclosed, Partially Enclosed Or Rooftop Parking Facility As A Permitted Use In The C-TS, C-WA And C-OPI Zoning Districts Provided That Said Parking Does Not Exceed 50 Percent Of The Parking Inventory Of The Parking Facility And Providing That If Said Parking Facility Abuts A Residential Use That Said Parking Shall Only Be Allowed Between The Hours Of 8:00 A.M. And 6:00 P.M.; At Section 134-2182 By Relocating The Existing Sunsetting Provision Into A New Subsection (E) And Including Surface, Enclosed, Partially Enclosed And Rooftop Off-Site Supplemental Shared Parking As Part Of The Existing Sunsetting Provision; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Zoning Manager Castro reported that last month the Business and Administration Committee had reconsidered the shared parking provisions in the code. He provided background of the provisions adopted earlier this year regarding underground parking. The Committee felt in order to be more effective, more commercial parking lots could be opened for use by other commercial or residential properties to help with the parking pressure of on-street parking. It would also allow parking as a permitted use within other commercial parking lots, surface parking lots, and partially enclosed and rooftop parking lots, unless abutting other residential streets; then parking hours would be limited. The new ordinance would sunset at the same time as the old ordinance, and this would be reassessed annually with Council to see if any changes were needed.

Council Member Crampton commented this would address a major quality of life issue within the Town as well as help commerce to succeed. He reported there were safeguards including hours of operation, not allowing a more intensive use of the property, an annual review and the ability to review individual situations that came up. He felt this measure would have a positive effect and reported it had been reviewed extensively with no objections. He recommended approval.

Mayor Moore commented about the careful crafting of this ordinance, its extensive review, and complimented everyone on their work. She recommended approval.

Council Member Cooney commented on the parking issues and wanted to do anything to encourage off-street parking. He felt this had been well done.

Council Araskog requested if any issues arise, a mechanism be put in place so that someone could deal with the issue immediately rather than waiting until Council could hear the concerns. She was concerned that this would not remove employee parking on Worth Avenue and that more

parking would increase flow in the Town. If parking was to be sold month to month, she wanted to be sure people did not lose their money if changes were made. She stated she was really hesitant about the ordinance.

Mayor Moore pointed out these were private lots and she was not sure the Town would have any jurisdiction if someone was leasing a private spot in a private lot. She thought a valid complaint could be handled. She understood Council Member Araskog's concern.

Council Member Crampton wanted to go forward with something positive and felt there was sufficient oversight, issues could be resolved, and employee parking would be placed on private lots. He assured Council Member Araskog if there was a complaint, it would be handled in a timely manner. If there were a lot of complaints, the ordinance could be rescinded. He felt this was a sensible, positive solution.

Council Pro Tem Lindsay expressed 100% support since she had seen the availability of the underutilized inventory of off-street parking. The biggest number of complaints she received were employees parking on Worth Avenue, beachgoers, and all kinds of things obstructing business. She believed this was an opportunity to take those cars off the streets. She thought this would be watched very closely by the Town, and wanted to contact the Chamber, plus the three different zones, the Worth Avenue Association and the others, to encourage them to work on getting their employees' cars off the streets.

Zoning Manager Castro reminded Council there would be an annual review and a required business tax license.

Council Member Cooney asked about intensification of use, to which Mr. Castro stated it was covered in the ordinance.

Public Comment:

John David Corey, 426 Australian Ave., thought that monetizing these lots could not easily be reversed if there were problems. He argued that parking should be reviewed in a cohesive, comprehensive review. He thought this was intensification of use, and that maybe this should be reviewed in the future Code Reform process.

Council President Pro Tem Lindsay indicated that Council controlled details, such as the size of stores, the number of seats in a restaurant, and felt free parking would diminish due to the valet program. She noted protections were in place and thought this should be tried.

Council President Zeidman added this proposal would remove cars from residential streets.

Council Member Crampton thought that removing cars, especially employees' cars, off the streets into existing vacant spaces, would clear up traffic on Worth Avenue and other streets. He commented on several

things that were coming together slowly that would be positive for the Town.

Council President Zeidman felt a move must be made.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay, to recommend approval of Ordinance 19-2021 to the Town Council. Motion carried 4-1, with Council Member Araskog opposed.

IV. ADJOURNMENT

The meeting was adjourned at 10:20 a.m. without benefit of motion or roll call.

APPROVED:

Margaret Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on August 11, 2021

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order August 11, 2021, 2021 at 10:33 a.m. On roll call, all of the 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 stated she did not have any comments.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Araskog expressed concern about the legality of allowing all of the Commissions meeting via Zoom while not having a quorum present in Town Hall. She recommended either postponing or delaying the meetings for one month. Council Member Araskog implored residents to make sure their contractors follow the allowable working hours, as she personally witnessed work between 4 and 6 a.m. She commented Council had been doing a good job on variances.

Council President Zeidman responded to Council Member Araskog's comments regarding their decision to hold the Commission meetings virtually. She inquired if any members wanted to reconsider their decision. There were no responses.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were no comments heard at this time.

VI. APPROVAL OF AGENDA

Council Member Araskog asked to defer the discussion on the number of

ARCOM projects.

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

Deferral of Item VIII. A.1 to the September 13, 2021 meeting.

Deferral of Item VIII. B. 1.a to the September 13, 2021 meeting

Deferral of Item VIII. B. 1.b to the September 13, 2021 meeting

Deferral of Item VIII. B.1.c to the September 13, 2021 meeting

Deferral of Item VIII. B.1.d to the September 13, 2021 meeting

Deferral of Item VIII. B.1.e to the September 13, 2021 meeting

Deferral of Item VIII. B. 1.f to the October 13, 2021 meeting

Deferral of Item VIII. B. 1.h to the September 13, 2021 meeting

Deferral of a portion of Item VIII. B. 1.i to the September 13, 2021 meeting

Withdrawal of Item VIII. B.1.j

Deferral of Item VIII. B.1.k to the September 13, 2021 meeting

Deferral of Item VIII. B. 2.a to the September 13, 2021 meeting

Deferral of Item VIII. B. 2.d to the October 13, 2021 meeting

Deferral of Item VIII. B. 2.k. to the September 13, 2021 meeting

Addition of Item IX. B. 3

Motion made by Council Member Crampton and seconded by Council Member Cooney to approve the agenda as amended. Motion carried unanimously, 4-0.

Please note: Council Member Araskog left the meeting at 10:45 a.m.

VII. DISCUSSION ITEMS

A. 280 Sunset Avenue - White Elephant Historic Tax Exemption

Ex parte communications disclosed by Council President Zeidman, Council President Pro Tem Lindsay and Council Member Cooney.

Deputy Town Attorney Churney swore in all intending to speak and continued to do so as needed, throughout the meeting as necessary.

Jamie Crowley, Attorney for the White Elephant, discussed the approvals and work in the alley. He reported work in the alley was problematic due to the easement. They were committed to beautifying the alley, and agreed to post cash for the work in the alley. He requested approval to authorize staff to execute the historic tax credit covenant so that they would get the benefits of the tax abatement.

Director of Planning, Zoning and Building Wayne Bergman had no objections.

Council Member Cooney indicated that the owners had spent a good deal of money restoring a historic building, and believed that posting cash should be a satisfactory condition for the Town. He expressed his support.

Council Member Crampton agreed with Council Member Cooney.

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

Motion made by Council Member Cooney and seconded by Council President Lindsay, to authorize staff to execute the historic tax exemption for 280 Sunset Avenue conditioned on the posting of the cash bond in the amount of 1.35 times the value of the cost for the beautification of the alley as outlined by Mr. Crowley. Motion carried unanimously, 4-0.

B. Recognition and Discussion of Increased ARCOM Workload and Applications

This item was deferred at approval of the agenda to the September 13, 2021 meeting.

VIII. 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 September 13, 2021 meeting.

2. ARCOM Appeal of A-051-2021, 2 S. County Rd

Ex parte communications disclosed by Council President Zeidman, Mayor Moore and Council Members Crampton and Cooney.

Director Bergman summarized the situation, which he had submitted in a memorandum sent to the Town Council members. He stated the project should never have gone to ARCOM, and should have been staff approved. By Council supporting this today, staff could proceed with their approval.

Jamie Crowley, attorney for The Breakers Palm Beach, indicated the legal basis of the appeal was there was no jurisdiction for Architectural Review Commission to review the project and issue a denial for this project.

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

Motion made by Council Member Cooney and seconded by Council Member Crampton, to grant the appeal in favor of The Breakers, 2

South County Road. Motion carried unanimously, 4-0.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **Z-21-00349 SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of STEPHEN LIVADITIS (CONTRACT PURCHASER), applicant, relative to property located at **200 BAHAMA LN**, legal description on file, is described below. Section 134-893(b): Site Plan Review to allow the construction of a 5,856 square foot two story, single family residence on a non-conforming platted lot that is 90.17 feet in depth in lieu of the 100-foot minimum required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to their August 25, 2021 meeting. Carried 7-0.] Staff Recommends Deferral to the September 13, 2021 Meeting.

This item was deferred at the approval of the agenda to the September 13, 2021 meeting.

- b. **Z-21-00359 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-A Estate Residential / B-A Beach Area The application of 870 S OCEAN LLC (TODD GLASER, MANAGER), Owner, relative to property located at 870 S OCEAN BLVD, legal description on file, is described below. Section 134-840: Request for a Special Exception with Site Plan Review to allow construction of a 435 square foot beach cabana (20' x 25') with a 250 square foot pool and a new seawall in the R-A/B-A Zoning District. Section 134- 1474(a): Request for a variance to construct a 435 square foot beach cabana that is on a lot with frontage of 101.53 feet in lieu of the 125 feet required for lot width in the B A Zoning District for beach area property adjacent to R-A Zoning District. Section 134-1701 and 62 37: Request for a variance to construct a new 100.5' seawall three feet east of the existing seawall which is east of the Town of Palm Beach bulkhead line 6'2" at the south end and 6'0" at the north end, in lieu of the seawall being placed directly on the bulkhead line. The proposed new seawall will align with the recently constructed seawall at 880 South Ocean Boulevard. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variances will cause negative architectural impacts to the subject property. Carried 6-1.] [The Architectural Review Commission denied the project at their May 26, 2021 meeting. Carried 6-1.] Staff Recommends Deferral to the September 13, 2021 Meeting

This item was deferred at the approval of the agenda to the September 13, 2021 meeting.

- c. **Z-20-00289 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** 160 ROYAL PALM WAY
Consideration of the Construction Management Agreement
Staff Recommends Deferral to the September 13, 2021 Meeting

This item was deferred at the approval of the agenda to the September 13, 2021 meeting.

- d. **Z-20-00311 SPECIAL EXCEPTION WITH VARIANCE(S)**
Zoning District: C-TS Town Serving Commercial The application of Bricktop's Palm Beach, applicant, relative to property located at **375 S COUNTY RD**, legal description on file, is described below. Section 134 1109 (14): Modification to previously approved Special Exception with Site Plan Review is being requested for Bricktop's restaurant to add 40 outdoor seats for lunch and dinner in the north courtyard adjacent to the existing restaurant. The additional seating will increase the seating from 150 indoor and patio seats to 190 seats. The current approval allows 52 seats of the 150 seats to be outside on the south patio. Section 134 2176: a variance is being requested to provide zero (0) on-site parking spaces in lieu of the 13 parking spaces that are required for the additional 40 outdoor seats. [Applicant's Representative: Maura Ziska Esq]

This item was deferred at the approval of the agenda to the September 13, 2021 meeting.

- e. **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] [The Architectural Review Commission deferred the project to their August 25, 2021 meeting. Carried 7-0.] Staff Recommends Deferral to the September 13, 2021

This item was deferred at the approval of the agenda to the September 13, 2021 meeting.

- f. **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 deferred this project to the September 29, 2021 meeting. Carried 7-0.] Staff Recommends a Deferral to the October 13, 2021 Meeting

This item was deferred at the approval of the agenda to the October 13, 2021 meeting.

- g. **Z-21-00345 VARIANCE(S)** Zoning District: R-A Estate Residential The application of PAUL A. KRASKER, AS TRUSTEE OF THE 720 SOUTH OCEAN BOULEVARD LAND TRUST DATED SEPTEMBER 20, 2020, applicant, relative to property located at **720 S OCEAN BLVD**, legal description on file, is described below. The applicant is requesting approval to renovate and construct additions to the north side of the landmarked residence known as "El Salono" to include a new 486 square foot pool cabana and a 1,159 square foot second and third story addition. The following variances are being requested: 134 843(8): a north side yard setback ranging from 2.6 feet to 5.9 feet for the 2nd and 3rd story additions in lieu of the 15 foot minimum required in the R-A Zoning District. 134-843(8): a north side yard setback of 4.9 feet for the pool cabana in lieu of the 15 foot minimum required in the R-A Zoning District. 134-843(10): a building height of 26.33 for the proposed 3rd story addition in lieu of the 25 foot maximum allowed in the R-A Zoning District. Section 134-844: A request for variance to construct a 3rd story addition where only two stories is the maximum allowed in the R-A Zoning District under the existing zoning code. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Landmarks Preservation Commission approved this project with conditions to the architecture at their June 16, 2021 meeting. Carried 7-0.]

Ex parte communications disclosed by Council President Zeidman, Council President Pro Tem Lindsay, Mayor

Moore and Council Members Crampton and Cooney.

Maura Ziska, attorney for the owners, explained the zoning requests.

Michael Perry, MP Design & Architecture, reviewed the architectural modifications proposed for the existing, landmarked home.

Zoning Manager Castro provided staff comments and requested in the future that revised plans with changes made by Landmarks Preservation Commission be submitted to the Town.

Council Member Cooney felt this was a good example of neighbors working out a problem together, and he thought it was a great plan.

Mayor Moore agreed.

Council Zeidman called for public comment.

Rene Silvin, Chairman of the Landmarks Preservation Commission, discussed the history of the home and the reason for the bridge, which connected the two properties. He commented the Pattersons own the bridge and a tiny piece of the adjoining property.

Sue Patterson, 710 S. Ocean Blvd., commented on the bridge that went to their guest house. She thanked Ms. Ziska, Mr. Perry, and Preservation Foundation for all their work and compromise.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay, that Variance Z-21-00345 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 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, 4-0.

- h. **Z-21-00353 SITE PLAN REVIEW** Zoning District: R-A Estate Residential The application of TODD GLASER, applicant, relative to property located at **1080 S OCEAN BLVD**, legal description on file, is described below. Section 134-843(b): Request for Site Plan Review to allow the construction of a 9,485 square foot two story, single family residence on a non-conforming platted lot that is 17,567 square feet in area

in lieu of the 20,000 square foot minimum required in the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to the August 25, 2021 meeting. Carried 7-0.] Staff Recommends a Deferral to the September 13, 2021 Meeting

This item was deferred at the approval of the agenda to the September 13, 2021 meeting.

- i. **Z-21-00356 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: C-TS Town Serving Commercial The application of BUCCAN (SAM SLATTERY), relative to property located at **350 S COUNTY RD SUITE: 100**, legal description on file, is described below. Section 134-1109 and Section 134-1112: Modification to a previously approved special exception use with site plan approval for the sandwich take out counter business for Buccan Restaurant to request the following: (a) to install two (2) new awnings to match existing awnings; (b) to modify the storefront to include a new door in the existing opening; (c) to modify an interior floor plan of the sandwich shop (no seats are being proposed); (d) to modify the hours of operation to be 7:00 AM to 3:00 PM (previously approved were 11:00 AM 3:00 PM) [Applicant's Representative: Maura Ziska Esq]

The special exception and a portion of the site plan review was deferred at the approval of the agenda to the September 13, 2021 meeting.

There were no ex parte disclosures declared at this time.

After a short discussion between all parties, it was confirmed that the only items that would be discussed were the door and the awning.

Maura Ziska, attorney for the applicant, discussed the proposal for a replacement of the door and awnings.

Zoning Manager Castro provided staff comments.

Council Member Cooney confirmed that the request was for continuation of awnings that matched on the façade shown.

Council President Pro Tem Lindsay stated she had no issues with the proposed awning and door change.

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

Motion made by Council Member Cooney and seconded by Council President Zeidman, that Site Plan Z-21-00356 be approved based upon the finding that

the approval of the Site Plan 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 have been met concerning Section 134-329 items 1 through 11. Motion carried unanimously, 4-0.

- j. **Z-21-00360 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of MICHAEL & PAMELA CLINE, Applicants, relative to property located at **936 N LAKE WAY**, legal description on file, is described below. Section 134 893(7): The applicant is requesting a variance for a north side yard setback of 5.5 feet in lieu of 12.5 foot minimum required for a one story structure in the R B Zoning District for a new pool cabana. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved the project at their June 23, 2021 meeting. Carried 5-2.] Request for Withdrawal per Letter from Maura Ziska

This item was withdrawn at the approval of the agenda.

- k. **Z-21-00361 VARIANCE(S)** Zoning District: R-C Medium Density Residential The application of GARY PURUCKER (CONTRACT PURCHASER), Applicant, relative to property located at **334 CHILEAN AVE**, legal description on file, is described below. Section 134 948: A request for a variance to construct a new 5,270 square foot, two story residence, on a non-conforming lot with a lot area of 9,384 sq. ft. in lieu of the 10,000 sq. ft. minimum required in the R-C Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to their August 25, 2021 meeting. Carried 4-2.] Staff Recommends a Deferral to the September 13, 2021 Meeting.

This item was deferred at the approval of the agenda to the September 13, 2021 meeting.

- l. **Z-21-00369 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: R-D(2) High Density Residential The application of PARK PLACE INC, (DANA ENRIQUEZ, MANAGER), Applicant, relative to property located at **369 S LAKE DR**, legal description on file, is described below. Section 134-1052 (4): The Park Place Co op is requesting a site plan modification to allow the construction of a new 467 square foot building to enclosure a 400 KW generator with a 3,000 gallon fuel tank. The generator building is proposed to be adjacent to the pool deck in the middle of the property and will replace an existing storage shed that will be demolished to make room for the

new building. The following variance is being requested in order to construct the new generator building: Section 134-1060(9)d: request for lot coverage of 41.8 percent in lieu of the 41.3 percent existing and 40 percent maximum allowed in the R-D(2) Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [Architectural Review Commission approved the architectural portion of the project at the June 23, 2021 meeting, and the landscape portion of the project at the July 28, 2021 meeting. Carried 7-0.]

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

Maura Ziska, attorney for the applicant, explained the zoning requests.

Ralph Cantin, architect, presented the architectural plans for the proposed generator building.

Zoning Manager Castro and Director Bergman provided staff comments. No building permit would be issued until the utility easement that runs underneath the building was abandoned.

Council Member Crampton asked if the Town had any interest in the easement. Zoning Manager Castro responded Council would need to approve.

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

Motion made by Council Member Crampton and seconded by Council President Zeidman, that Variance Z-21-00369 shall be conditionally approved based on positive finding on the abandoned utility 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 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, 4-0.

Motion made by Council Member Crampton and seconded by Council President Zeidman, that Site Plan Z-21-00369 shall

be conditionally approved subject to abandonment of the utility easement and based upon the finding that the approval of the site plan 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 have been met concerning Section 134-329 items 1 through 11. Motion carried unanimously, 4-0.

2. New Business

- a. **Z-21-00371 SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of MICHAEL S. ARLEIN, TRUSTEE OF THE 267 DUNBAR ROAD TRUST DATED 10/07/20, APPLICANT, relative to property located at **267 DUNBAR RD**, legal description on file, is described below. Site Plan Review to allow the construction of a new two story 7,552 square foot single family residence on a non-conforming platted lot which is 98.5 feet in width in lieu of the 100-foot minimum width required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred this project to the August 25, 2021 Meeting. Carried 7-0] Staff Recommends a Deferral to the September 13, 2021 Meeting

This item was deferred at the approval of the agenda to the September 13, 2021 meeting.

- b. **Z-21-00372 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of 301 POLMER PARK LLC (RICHARD TRUE, CONTRACT PURCHASER), APPLICANT, relative to property located at **301 POLMER PARK**, legal description on file, is described below. The subject property is 37,818 square feet in total area. The applicant is requesting a variance to split the lot into two lots. East Lot with residence 22,873 square feet in area; and West vacant lot 14,945 square feet in area. All improvements will be removed from the West lot. The following variances are being requested in order to split the property into two lots and retain the residence on the East lot. Request for a west side yard setback of 8.25 feet (for the proposed East lot) in lieu of the 17.5 foot minimum required for a lot in the R B Zoning District that is in excess of 20,000 square feet and has a width in excess of 150 feet. A lot coverage of 29% in lieu of the 25% maximum allowed for a lot in excess of 20,000 square feet in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq]

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

Maura Ziska, attorney for the applicant, explained the zoning requests.

Zoning Manager Castro provided staff comments. He felt the problem was self-created and there was no hardship.

Council Member Crampton asked what part of the existing building would be removed. Ms. Ziska responded and further explained the request.

Council President Pro Tem Lindsay asked if the problem was the existing house. Zoning Manager Castro responded, and felt the changes could conform to the existing code.

Mayor Moore asked about the owners' intent with the property. Ms. Ziska responded the owners, who were developers, were either going to develop one lot or both lots and sell off the second lot. Mayor Moore commented if Council did not approve this application, the owners would split the lot and build a house on each lot. She did not understand the hardship.

Director Bergman commented it was not common practice to approve a subdivision that created a non-conformity. He felt this was contrary to the Town's comprehensive plan.

Council Member Cooney was concerned about density and overbuilding in the Town. He confirmed the lot coverage with Ms. Ziska.

Council President Zeidman confirmed the lot size with Ms. Ziska. She asked if the applicant could do anything with the existing house so that a variance would not be required. Ms. Ziska thought 3.5% or 800 square feet of lot coverage would have to be removed.

Bruce Lane, one of the owners of the property, explained they did not want to destroy part of the house.

Council Member Crampton was not in favor of creating an illegal structure and did not like the proposed plan.

Council President Zeidman inquired about the owner's right to split the lot. Zoning Manager Castro responded.

Council President Zeidman commented if there were two lots, they could build a house on each, and would be required to meet code. The problem here was there was an

existing house.

Council President Pro Tem Lindsay commented this was difficult with the plans that had been presented, and she would like the applicant to bring the house into compliance, since this would not comply with the comprehensive plan. She asked to defer this to next month and that the applicants come back with a plan that would bring the design into compliance.

Council consensus agreed with Council President Pro Tem Lindsay.

Council President Zeidman called for public comment.

Robert Fromer, 340 Polmer Park Road, stated that he and many of the neighbors love the existing home and would like it to remain, not to be demolished, and explained a proposal for it to be sold.

Zoning Manager Castro provided additional comments.

Council President Zeidman felt the Council needed more information.

Council Member Crampton agreed.

Motion made by Council Member Crampton and seconded by Council President Zeidman, to defer Variance Z-21-00372 to the September 13, 2021 meeting. Council Member Cooney and Council President Pro Tem Lindsay encouraged the applicant to come back with a plan that would allow them to keep the house and comply with zoning, and bring back better pictures of the house. Motion carried unanimously, 4-0.

- c. **Z-21-00373 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of BASIL VASILIOU, APPLICANT, relative to property located at **114 SEASPRAY AVE**, legal description on file, is described below. The applicant is proposing to demolish the existing wood staircase and railing at the garage accessory building that is not code compliant and replace it with a new masonry staircase that will have a 42 square foot bathroom addition tucked below it. Variances being requested to allow a staircase and bathroom with a rear yard setback of 2.4 feet for the new staircase in lieu of the 15-foot minimum rear yard setback required in the R-B Zoning District for a lot that is 12,060 square feet in area and rear yard setback of 2.4 feet for the

new bathroom addition in lieu of the 10-foot minimum rear yard setback required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq]

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

Maura Ziska, attorney for the applicant, stated there was an email from Melissa Ceriale in support. She explained the zoning requests.

Bill Nolan, Smith Architectural Group, reviewed the architectural modifications proposed for the existing residence.

Zoning Manager Castro provided staff comments. He confirmed for Council President Zeidman this did not fall into a previously recommended alternative plan, which was recommended by past Council President Michael Pucillo.

Council Member Crampton commented this plan was reducing a pre-existing non-conformity. He believed the changes were more visually pleasing and added his support for the proposal.

Council President Pro Tem Lindsay thought the proposed was de minimus and was supportive of the variance.

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

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay, that Variance Z-21-00373 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 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, 4-0.

Please Note: A break for lunch was taken at 12:12 p.m. The meeting reconvened at 12:53 p.m.

- d. **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]

This item was deferred at the approval of the agenda to the October 13, 2021 meeting.

- e. **Z-21-00375 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of ANDREA BALL, APPLICANT, relative to property located at **657 ISLAND DR**, legal description on file, is described below. A variance request to add a 714 square foot decked boat lift parallel to the existing dock 13 feet west of the bulkhead line in lieu of the 6 foot maximum allowed. [Applicant's Representative: Maura Ziska Esq]

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

Maura Ziska, attorney for the applicant, explained the zoning requests.

Zoning Manager Castro provided staff comments.

Council President Pro Tem Lindsay felt the platform boat lifts were becoming more popular and she was seeing more and more of them.

Council Member Crampton asked if the neighbors had objected, to which Ms. Ziska responded, no.

Council Member Cooney expressed his support.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay, that Variance Z-21-00375 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 have been met. Motion carried unanimously, 4-0.

- f. **Z-21-00376 SITE PLAN REVIEW WITH VARIANCE(S)**
Zoning District: R-D(2) High Density Residential The application of THE PATRICIAN OF PALM BEACH CONDOMINIUM APARTMENTS, INC. (PAULA MCINTOSH, MANAGER), APPLICANT, relative to property located at **3450 SOCEANBLVD**, legal description on file, is described below. The Patrician of Palm Beach Condominium Apartments is requesting site plan review to expand their pool deck by 3,968 square feet eastward to meet the existing seawall. The following variances are being requested to build the proposed pool deck expansion: a rear street setback of 0 feet In lieu of the 30 feet required and for lot coverage of 45.5 percent in lieu of the 42.9 percent existing and 22 percent maximum allowed for a building five stories or taller in the R-D(2) Zoning District. [Applicant's Representative: Maura Ziska Esq]

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

Maura Ziska, attorney for the applicant, explained the zoning requests.

James Payne, Architect, and Dustin Mizell, Environment Design Group, presented the modifications proposed for the extension of the pool deck.

Zoning Manager Castro provided staff comments. Mr. Castro stated there was not an application for shade structures and as such, they were not included in the submittal. The applicant reported ARCOM had requested a separate application for those. Mr. Castro advised that Town Council would also need to approve them.

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

Council Member Crampton expressed his support.

Mayor Moore stated she agreed with Council Member Crampton.

Motion made by Council Member Crampton and seconded by Council President Zeidman, that Site Plan Z-21-00376 be conditionally approved without any shade structures, with future shade structures to be approved by ARCOM and

Town Council and based upon the finding that the approval of the Site Plan 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 have been met concerning Section 134-329 items 1 through 11. Motion carried unanimously, 4-0.

Motion made by Council Member Cooney and seconded by Council President Zeidman, that Variance Z-21-00376 shall be conditionally granted with no shade structures included, and pending later review of the shade structures by ARCOM and Town Council, and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 have been met. Motion carried unanimously, 4-0.

- g. Z-21-00377 VARIANCE(S) Zoning District: R-B Low Density Residential The application of PETER MAY, APPLICANT, relative to property located at **320 DUNBAR RD**, legal description on file, is described below. A variance request to allow two new mooring piles associated with an existing dock to be located 154 feet from the seawall In lieu of the 150 feet maximum allowed from land and a variance request to allow four new mooring piles associated with an existing dock to be located 2 feet from the north property line (the Dunbar Road Right of Way) in lieu of the 25 feet minimum required. [Applicant's Representative: Maura Ziska Esq]

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

Maura Ziska, attorney for the applicant, explained the zoning requests.

Zoning Manager Castro provided staff comments and added that if the boat encroached over the property line, it would be a Code Enforcement violation.

Discussion ensued regarding the possibility the applicant might buy a larger boat in the future. Mr. Castro explained there was a provision in the code that prevented a potentially larger boat from overhanging one's own property line.

Council Member Cooney indicated he was comforted by the code provision.

Council Member Crampton asked if the boat had been drawn to scale.

Matt Butler, Isiminger & Stubbs Engineering, Inc., stated that he drew the boat to scale from the plans provided by the boat manufacturer.

Attorney Ziska stated the hardship was for safety.

Council President Pro Tem Lindsay inquired if the applicant had considered extending the dock to the south so as to provide more room. Discussion ensued.

Mr. Butler responded that the dock owners had incorporated a small elevator lift into the dock and if the dock were to be extended that would also have to be moved.

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

Motion made by Council Member Crampton and seconded by Council President Zeidman, that Variance Z-21-00377 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 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, 4-0.

- h. **Z-21-00378 VARIANCE(S)** Zoning District: R-A Estate Residential The application of ANN DESRUISSEAU, APPLICANT, relative to property located at **800 S COUNTY RD**, legal description on file, is described below. The applicant is seeking to modify the previous approval (Z 20 00261) which allowed the renovation and additions to a 2 story landmarked residence with accessory buildings in the R-A Zoning District. The renovation is underway and the approval included raising the finished floor elevations of all of the structures to 9.0 feet NAVD. The applicant is requesting approval to modify the previous approval to raise the finished floor elevation of the main residence and generator building (only) another two feet to 11.0 feet NAVD. The following variances are being requested to allow the new finished floor to be elevated another two feet from the previous approval: a north side yard setback of 5 feet for the boat house addition in lieu of the 30 foot minimum required; a north side yard setback ranging from 1.1 feet to 5.5 feet in lieu of the 30 foot minimum required for the existing boat house when raising the finished floor thus increasing the height in the setback; a rear yard setback of 0 feet in lieu of the 15 foot minimum required for the existing boat house when raising the finished floor thus

increasing the height in the setback; a rear yard setback ranging from 0 feet to 13.4 feet In lieu of the 15 foot minimum required for the existing main house when raising the finished floor thus increasing the height in the setback; a rear yard setback of 12.58 feet in lieu of the 15 foot minimum required for the existing boat house when raising the finished floor thus increasing the height in the setback; a north side yard setback of 14.5 feet for the 2 story generator building in lieu of the 30 foot minimum required; a south side yard setback ranging from 9 feet to 15.5 feet in lieu of the 30 foot minimum required for the new cabana and main house addition; a height in the main residence and addition to main house of 28.5 in lieu of the 25 foot maximum allowed; to allow the finished floor elevation to be 3.6 feet above the crown of the road in lieu of the 18 inches maximum allowed; to allow the finished floor elevation at 2.66 feet above grade in lieu of the 8 inch maximum allowed; a lot coverage of 28.46% in lieu of the 25% maximum allowed for the raised terrace; a rear yard setback of 1.75 feet in lieu of the 15 foot minimum required for the raised terrace; a south side yard setback of 4.5 feet in lieu of the 30 foot minimum required for the raised terrace. [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission deferred the project to their August 18, 2021 meeting. Carried 6-0.] Staff Recommends a Deferral to the September 13, 2021 Meeting

This item was deferred at the approval of the agenda to the September 13, 2021 meeting.

IX. ORDINANCES

A. **Second Reading**

1. Proposed ordinance to modify the code related to outdoor seating and docks.

ORDINANCE 16-2021 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Creating A Definition For Outdoor Café Seating; At Article VI, District Regulations, Sections 134-791, 134-841, 134-891, 134-946, 134-1001 And 134-1053, Accessory Structures, In The R-AA, R-A, R-B, R-C, R-D(1) And R-D(2) Residential Districts By Allowing Only One Dock On A Property And Cross Referencing The Setback And Other Dimensional Requirements For A Dock In Sections 62-74, 62-75 And 134-1697 Of The Code; At Section 134-1053, Accessory Uses, By Eliminating As An Accessory Use Administrative Approval Of Outdoor Seating In The R-D(2) Residential District; Section 134-1055, Special Exception Uses, By Changing From Outdoor Seating To Outdoor Cafe Seating Related To Hotels, Condo Hotels And Dining Rooms And Cross Referencing Sections 134-2104 Through 134-2108 Related To Requirements And Conditions Allowing Said Seating; Section

134- 1056, Stands, Seated Dining Areas And Open Counters For Eating And Drinking, By Eliminating Said Section In The R-D(2) District And Renumbering Subsequent Sections Of The Code; Section 134-1057, Accessory Structures, And 134-1057, Accessory Structures, In The R-D(2) Residential Districts By Allowing Only One Dock On A Property And Cross Referencing The Setback And Other Dimensional Requirements For A Dock In Sections 62-74, 62-75 And 134-1697 Of The Code; Sections 134-1108, 134-1158, 134-1208 And 134-1303, Accessory Uses, By Eliminating As An Accessory Use Administrative Approval Of Outdoor Seating In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Sections 134-1109, 134-1159 And 134- 1259 Special Exception Uses In The C-TS, C-WA And C-PC Commercial Zoning Districts, By Changing Outdoor Seating To Outdoor Café Seating Only For Restaurants, Retail Specialty Food Including The Sale Of Prepared Food For Takeout Only And Private, Social, Swimming, Golf, Tennis And Yacht Clubs And Cross Referencing Sections 134-2104 Through 134-2108 Related To Requirements And Conditions Allowing Said Seating; Sections 134- 1111, 134-1161, 134-1210, 134-1260 And 134-1305, Stands, Seated Dining Areas And Open Counters For Eating And Drinking, By Eliminating Those Sections In The C-TS, C-WA, C-OPI, C-Pc And C-B Commercial Zoning Districts And Renumbering Subsequent Sections Of The Code; Section 134-1304, Special Exception Uses, In The C-B Commercial Zoning District By Changing Outdoor Seating To Outdoor Café Seating For Only Hotels, Condo-Hotels And Dining Rooms And Cross Referencing Sections 134-2104 Through 134- 2108 Related To Requirements And Conditions Allowing Said Seating; Section 134-1209, Special Exception Uses In The C-OPI Commercial District By Changing Outdoor Seating To Outdoor Café Seating For Only Restaurants, Excluding Formula Restaurants As Defined In Section 134-2 And Dining Rooms And Cross Referencing Sections 124-2104 Through 134-2108 Related To Requirements And Conditions Allowing Said Seating; At Article VIII, Supplementary District Regulations, Section 134-1697, Buildings And Structures Over Lake Worth, By Clarifying That There Is An Exception For Town- Owned Landing Docks And Piers On Municipal Property, Providing For Only One Pier Or Landing Dock And Cross Referencing The Requirements For A Pier Of Landing Dock In Sections 62-74 And 62- 75 Of The Code; By Eliminating Division 14, Administrative Approval Of Outdoor Seating In Its Entirety And Creating A New Division 14, Section 134-2104 Through 134-2109, Conditional Approval Of A Special Exception For Sidewalk And/Or Private Property Outdoor Café Seating Only For Restaurants, Excluding Formula Restaurants As Defined In Section 134-2, Dining Rooms, Retail Specialty Food Including The Sale Of Prepared Food For Takeout Only, And Private, Social, Swimming, Tennis, And Yacht Clubs, Providing Conditions And Requirements; Fees And Security Deposit; Application Requirements; Standards And Criteria For Special Exception And Outdoor Café Permit And Review; Requirements For Liability And Insurance, Providing That Retail Specialty Food Uses Including The Sale Of Prepared Food For

Takeout Only That Is Under 2,000 Square Feet Gross Leasable Area Can Request An Additional Eight Seats Over The Inside Capacity; Provisions For Denial, Revocation And/Or Suspension Of Approval Of An Outdoor Café Seating Permit And Appeal Procedure For Denial, Suspension Or Revocation; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Town Attorney Randolph read Ordinance 16-2021 on second reading by title only.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to adopt Ordinance 16-2021 on second reading, by title only. Motion carried unanimously, 4-0.

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

2. Proposed ordinance to modify the code related to landing docks and piers.

ORDINANCE 17-2021 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 62, Marine Structures As Follows: At Article III, Bulkheads, And Pierheads On Lake Worth, Section 62-74, Bulkheads, Landing Docks And Piers To Accord With Plat; Waivers And Variances, To Allow One Pier Or Landing Dock And To Provide A Maximum Width Of A Pier Or Landing Dock; At Section 62-75, Construction Specification To Identify That One Pier Or Landing Dock Is Permitted And That The Maximum Width Of A Pier Or Landing Dock Is 30% Of The Lot Width, Six Feet From The Mean High Water Line Or Bulkhead Line, Whichever Is Furthest East, And Not More Than 10 Feet In Width When Past Said Six Feet; At Section 62-74.2, Exemptions By Correcting The Exemption For Town Owned And Operated Docks Is Exempt From The Chapter And Not The Section Of The Code; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Town Attorney Randolph read Ordinance 17-2021 on second reading by title only.

Mr. Castro stated that he had changed the heading about six lines up from the bottom to say ‘whichever is furthest landward’ instead of ‘whichever is furthest east’, and it had been advertised properly.

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

Motion made by Council Member Campton and seconded by Council President Zeidman to adopt Ordinance 17-2021 on

second reading, by title only. Motion carried unanimously, 4-0.

B. First Reading

1. Proposed ordinance to modify the code related to fill limitations as well as setbacks for stairs, landings, porches and ramps.

ORDINANCE 19-2021 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Modifying The Definitions For Building, Height Of (Applicable Only In The R-B Districts), Building Height Of (Applicable To All Districts Except The R-B Districts, Building, Height Of, (Applicable To Lots Or Portions Of Lots East Of The State Of Florida Coastal Construction Control Line (CCCL), Building, Height Of, (Applicable To R-B Lots Abutting Lake Trail) To Eliminate The References To Raising The Grade Of A Property And Eliminating Redundant Language; At Article VI, District Regulations, At Sections 134-795, 134-845 And 134-895, Same-Exceptions To Yard Regulations, By Allowing First Floor Entry Ramps, Landings, Associated Steps And Ramps Within Required Setbacks In The R- AA, R-A And R-B Residential Zoning Districts; Sections 134-950, 134-1006 And 134-1062 Same-Exceptions, By Allowing First Floor Entry Ramps, Landings, Open Terraces And/Or Steps Within Required Setbacks In The R-C, R-D(1) And R-D(2) Residential Zoning Districts; Sections 134-797, 134-848, 134-898, 134-953, 134-1009 And 134-1065, Lot Grade Topography And Drainage, By Providing That The Grade Of A Property Cannot Be Raised To Meet Base Flood Elevation Requirements Except As Provided For In A New Section 134-1600 Of The Code And Elimination The Requirement That The Habitable Finished Floor Of A Building Shall Not Exceed Eight Inches Above The Permitted Grade On A Property In The R-AA, R-A, R-B, R-C, R-D(1) And R-D(2) Residential Zoning Districts; Creating Sections 134-1121, 134-1171, 134-1221, 134-1269, 134-1316 And 134-1402, Lot Grade Topography And Grading In The C-TS, C-WA, C-OPI, C-PC, And C-B Commercial Zoning Districts And The PUD District To Provide That The Grade Of A Property In Those Districts Cannot Be Raised To Meet Base Flood Elevation Requirements Except As Provided For In A New Section 134-1600 Of The Code; Section 134-1309, Same-Exceptions, To Allow First Floor Entry Ramps, Landings And Associated Steps To Extend Into A Required Setback In The C-B Commercial District; At Article Viii, Supplementary District Regulations, Section 134-1548, Yard Regulations, To Allow First Floor Entry Ramps, Landings, Open Terraces, Porches And Associated Steps As Ordinary Projections Into A Required Yard And Cross Referencing The Specific Sections Of The Code That Apply; Creating A New Subdivision III Within Article VIII, Supplementary District Regulations, Section 134-1600, Lot Fill, Providing For A Calculation For The Maximum Amount Of Fill

That Can Be Placed On A Lot; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Town Attorney Randolph read Ordinance 19-2021, on first reading, by title only.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to adopt Ordinance 19-2021 on first reading, by title only. Motion carried unanimously, 4-0.

2. Proposed ordinance to modify the code related to supplemental off- site shared parking regulations.

ORDINANCE 20-2021 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Amending The Definition Of Supplemental Parking To Provide That Supplemental Off-Site Parking In An Underground Garage Or Surface, Enclosed, Partially Enclosed Or Rooftop Parking Facility Shall Not Be Required To Be In Addition To The Required Parking; Sunsetting The Definition On March 13, 2024, Unless Extended Or Modified By The Town Council; At Article VI, District Regulations, Sections 134-1107, 134-1157 And 134-1207, Permitted Uses, In The C-TS, C-WA And C-OPI Commercial Zoning Districts To Allow Supplemental Off-Site Shared Parking In A Surface, Enclosed, Partially Enclosed Or Rooftop Parking Facility As A Permitted Use; Cross Referencing The Requirement For Said Parking In Sections 134-2177 And 134-2182; And Providing A Sunsetting Provision For Said Parking Facilities In Those Districts On March 13, 2024, Unless Extended Or Modified By The Town Council; Section 134-2177 Location Of Parking Spaces, And Section 134- 2182, Location Of Parking Spaces, By Allowing Supplemental Off- Site Shared Parking In A Surface, Enclosed, Partially Enclosed Or Rooftop Parking Facility As A Permitted Use In The C-TS, C-WA And C-OPI Zoning Districts Provided That Said Parking Does Not Exceed 50 Percent Of The Parking Inventory Of The Parking Facility And Providing That If Said Parking Facility Abuts A Residential Use That Said Parking Shall Only Be Allowed Between The Hours Of 8:00 A.M. And 6:00 P.M.; At Section 134-2182 By Relocating The Existing Sunsetting Provision Into A New Subsection (E) And Including Surface, Enclosed, Partially Enclosed And Rooftop Off-Site Supplemental Shared Parking As Part Of The Existing Sunsetting Provision; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Town Attorney Randolph read Ordinance 20-2021, on first reading, by title only.

Council President Zeidman called for public comment.

John David Corey, 426 Australian Avenue, questioned the proposed change prior to the zoning study. He questioned why the employees were not utilizing the Apollo Lot. He added he did not believe the Town should be incentivizing other owners to sell their parking.

Council Member Crampton responded the Apollo Lot owners would have to have an offer they could not refuse, because negotiations had failed. Also, this would extend to other areas of congestion where there were under utilized lots.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to adopt Ordinance 20-2021 on first reading, by title only. Motion carried unanimously, 4-0.

Mayor Moore commented the Town had owned the Apollo Lot and had sold it to the current owners.

3. Beach Access Hours

ORDINANCE 21-2021 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 74 Of The Town's Code Of Ordinances By Amending Article V, Beach Access Closure To Include The Beach Access Point At Root Trail As Public; Providing For Closure From Sunset To Sunrise Daily; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Jay Boodheshwar, Deputy Town Manager, provided background on the ordinance.

Council President Pro Tem Lindsay asked Deputy Town Manager Boodheshwar to clarify ownership of the property. He responded approximately 10' of the opening to access the beach was public access, and to the south there was approximately another 10' that was privately owned, associated with the Ocean Towers private property. Anticipating approval, Staff planned to reach out to owners of Ocean Towers to see if they would enter into partnership with the Town to have the entire area gated, and to see if they wished to have continuous access.

Mayor Moore had heard negative comments about the architecture of the gates at Wells and Dunbar, and requested to discuss the gates when they came back before Council, before gating Root Trail.

Town Attorney Randolph read Ordinance 21-2021 on first reading by title only.

Motion made by Council President Pro Tem Lindsay and seconded by Council President Zeidman to adopt Ordinance 21-2021 on second reading, by title only, with the understanding that next month during second reading, staff would come back after having contacted the private ownership side regarding the signage and the gates and re-discuss with Council all of the gates before ordering another one. Motion carried unanimously, 4-0.

X. ANY OTHER MATTERS

There were no other matters to come before the Town Council.

XI. ADJOURNMENT

The meeting was adjourned at 2:00 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: September 14, 2021

Section of Agenda

Minutes

Agenda Title

Approval of Major Matters Considered by the Architectural Review Commission at its Meeting of August 25, 2021.

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- ▣ **Memorandum Dated September 1, 2021 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Minutes of the Architectural Review Commission Meeting of August 25, 2021**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

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 August 25, 2021

Date: September 1, 2021

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the major items that were approved by ARCOM at the regularly scheduled meeting of August 25, 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 August 25, 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 WEDNESDAY, AUGUST 25, 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. All members participated via Zoom Webinar due to the COVID-19 situation.

II. ROLL CALL

Michael B. Small, Chairman	PRESENT
John David Corey, Vice Chairman	PRESENT
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	ABSENT (excused)

Staff Members present were:

Wayne Bergman, Director of Planning, Zoning and Building
James G. Murphy, Assistant Director of Planning, Zoning and Building
Paul Castro, Zoning Manager
Sarah Pardue, 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 thanked the Town Council for allowing the Commission to meet virtually. He thanked staff for their participation in setting up the virtual meeting. Mr. Small continued with procedural information and comments regarding the upcoming meeting.

V. **APPROVAL OF THE MINUTES FROM THE JULY 28, 2021 MEETING**

Motion made by Mr. Corey and seconded by Ms. Grace to approve the minutes from the July 28, 2021 meeting. Motion carried unanimously.

VI. **APPROVAL OF THE AGENDA**

Mr. Small announced the following changes to the agenda:

Deferral of B-019-2021, 101 Nightingale Trail to the September 29, 2021 meeting

Deferral of B-034-2021, 905 N. Ocean Blvd to the October 27, 2021 meeting

Deferral of B-053-2021, 8 Windsor Ct. to the September 29, 2021 meeting

Deferral of B-058-2021, 1020 N. Lake Way to the September 29, 2021 meeting

Deferral of B-062-2021, 215 Via Tortuga to the September 29, 2021 meeting

Deferral of B-075-2021, 225 Wells Road to the September 29, 2021 meeting

Deferral of ARC-21-008, 214 Wells Road to the December 17, 2021 meeting

Deferral of ARC-21-020, 300 N. Lake Way to the November 19, 2021 meeting

Deferral of ARC-21-022, 870 S. Ocean Blvd to the September 29, 2021 meeting

Withdrawal of B-074-2021, 246 Eden Road

Withdrawal of A-020-2021, 150 Worth Avenue

Withdrawal of A-064-2021, 3140 S. Ocean Blvd.

Withdrawal of A-069-2021, 2285 Ibis Isle Rd. E.

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

VII. **PRESENTATION**

1. New Development Review Process – James Murphy

Mr. Murphy presented the new process improvement plan for the Planning, Zoning and Building Department, which staff hopes will create a more efficient standard operating procedure for development review projects. The new plan includes changes to project deadlines, legal advertisement and the method in which projects are reviewed before they are presented to the Commission. Mr. Murphy answered all questions asked by the Commissioners.

VIII. **PROJECT REVIEW**

A. **CONSENT AGENDA OF MINOR PROJECTS**

1. **ARC-21-027 Modifications**

Address: 222 Mockingbird Trail

Applicant: Steven Helms

Professional: General Garage Door Co., Inc.

Project Description: Replace a 16' x 7'6" garage door with Eden Coast Providence design in off white color.

This item was pulled from the consent agenda and was not included in the approval of the consent agenda.

Since the only item was pulled from the consent agenda, no motion was need.

B. DEMOLITIONS AND TIME EXTENSIONS

1. B-075-2021 Demolition

Address: 225 Wells Rd.

Applicant: M2B Properties LLC (Mary Frances Garrett)

Professional: Gregory Palmer/Harrison Design

Project Description: Demolition of the existing one-story residence, pool and all existing hardscape.

Please note: This project was deferred to the September 29, 2021 meeting at the Approval of the Agenda, Item VI.

2. ARC-21-006 Demolition

Address: 164 Seaspray Avenue

Applicant: Hayati Banastey

Professional: SKA Architect + Planner

Project Description: Demolition

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. Segraves agreed to the easement.

Patrick Segraves, SKA Architect + Planner, presented the architectural plans for the proposed demolition.

Dustin Mizell, Environment Design Group, presented the landscape and hardscape plans for the proposed demolition.

Mr. Small confirmed that the home was not on a list to be landmarked. The professional provided confirmation.

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

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

Ms. Catlin inquired about the wall to be used as screening during demolition. She did not believe a six-foot high wall was sufficient, especially in the rear yard. She requested screening above the wall to add height. Mr. Segraves stated he could install the 10-foot fence, prior to the demolition, if it was the will of the Commission. Mr. Small thanked Mr. Segraves for the suggestion.

Ms. Grace thought it was important to retain the historic aspect of the neighborhood. She stated the home to the west was raised during new construction and is now a narrow home. She cautioned that the owners should know the constraints of the lot prior to building a new home. She expected to see a very attractive replacement home, even with the constraints of the lot.

Mr. Corey expressed concern for what the lot would look like after the demolition. He expressed further concern that there was not a full landscape plan to show the lot after demolition.

Mr. Floersheimer also expressed similar concerns as Ms. Grace. He thought the replacement home should be modest and not overwhelm the neighbors.

Mr. Corey asked the applicant to respond to his concerns regarding the lack of the landscape plan.

Mr. Mizell stated that all of the ficus would remain. He also stated that he would add a Clusia hedge along the west property line. Mr. Corey stated that if the proposed landscape plan were presented, he would not have had inquired about the plan.

Mr. Segraves stated that the new submittal process took a bit more time, but assured the Commission that a new house would be proposed for the site.

Ms. Grace thought Mr. Corey had a good point. She did not believe there should be a deficiency in the plans and they should be complete.

Ms. Shiverick questioned if the home could be considered as a Historic Significant Building. Mr. Segraves stated the owners considered all options; he added many changes had been made to the existing home over the years.

Mr. Murphy commented on the application and stated he considered the proposed demolition and landscape plan relatively complete.

Ms. Catlin also felt that the landscape package was complete, given the remaining ficus hedges and the required sod. She understood the owners' wishes for the new home but cautioned them to take heed to Ms. Grace's statements when returning with a new home.

Mr. Corey stated he understood the plans but still thought a complete landscape plan should be included with the proposal. He added he could not support the project at this time.

Motion made by Mr. Corey and seconded by Ms. Grace to defer the project for one month, to the September 29, 2021 meeting, to allow the professionals to return with a complete landscape plan for the demolition. Motion carried 6-1, with Mr. Ives opposed.

C. MAJOR PROJECTS – OLD BUSINESS

1. B-019-2021 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)

Address: 101 Nightingale Trail

Applicant: 04TST101 Nightingale LLC (Brian Libman, Manager)

Professional: Brooks & Falotico Associates, LLP

Project Description: Exterior alterations and interior renovations to two-story single family residence; revised fenestration on all elevations; reframe portions of existing roof to accommodate new fenestration height and replace existing roof tiles; renovate entry portico, frame for second floor roof deck, and face with coquina; new Dutch gables at courtyard elevations; renovate pool terrace and incorporate new retaining walls; remove existing driveway and install new hardscape and landscape.

ZONING INFORMATION: 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.

A motion carried at the March meeting to defer the project to the April 28, 2021 meeting to address the comments of the Commissioners, which included the identity and character of the home, the front entry, the fenestration, the shutters, the balconies and glass railings. A motion carried at the April meeting to defer the project for one month, to the May 26, 2021 meeting, to restudy the gables, fenestration and in accordance with the comments of the Commission. A motion carried at the May meeting to defer the project to the June 23, 2021 meeting at the request of the professionals. A motion carried at the June meeting to defer the project to the July 28, 2021 meeting at the request of the professionals. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

Please note: This project was deferred to the September 29, 2021 meeting at the Approval of the Agenda, Item VI.

2. B-024-2021 Demolition/New Construction

Address: 240 Mockingbird Trail

Applicant: Lee Fensterstock

Professional: MP Design & Architecture, Inc.

Project Description: Demolition of existing one story structure. New construction of two story single family house in island style, approximately 5400 s.f. Final landscape and hardscape included.

A motion carried at the March meeting to approve the demolition. A second motion carried at the March meeting to defer the project to the April 28, 2021 meeting to address the comments of the Commissioners, which included adding some identity to the home, the fenestration, a restudy of the landscaping and pedestrian gate, and to return with a north, east, west and south cross section of the landscaping. A motion carried at the April meeting to defer the project to the May 26, 2021 meeting to restudy the size of the bay windows on the front elevation, to change the roof pitch to 5/12, to remove 12 inches in the second floor, to change the laundry room to a single window, and the French doors over the front entrance will be changed as previously proposed. A motion carried at the May meeting to defer the project to the June 23, 2021 meeting for a restudy of the home design. A motion carried at the June meeting to defer the project to the July 28, 2021 meeting at the request of the professional. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

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. Perry agreed to the easement.

Michael Perry, MP Design & Architecture, Inc., presented the architectural modifications proposed for the new 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 was in favor of the changes, particularly the squared off bay windows and cypress details. However, she thought the bay windows were too large and questioned the front entry feature. She thought the home be a bit smaller.

Ms. Catlin was in favor of the changes, particularly the cypress and the wood shingle roof. She thought the home was charming and had warmth. She thought the two palms in the front entrance should disappear so that the home was more visible. Mr. Nievera agreed to this suggestion.

Mr. Kirchhoff did not believe the front entry fit and thought the center bay should be wider than the two adjacent bays. He also thought the front entry was too tall. Mr. Perry showed the detailed sheet where the roof over the front entry was lowered. Mr. Kirchhoff thought the entry feature would look nice a little lower. Mr. Kirchhoff did not prefer the shed roofs over the bay windows. He also questioned the picture window for the bedroom on the street side of the home.

Mr. Smith stated he thought the neighborhood photographs should be included in the drawings. Mr. Perry inquired if the photographs were included in the mini-sets. Mr. Smith stated the mini-sets were very confusing.

Ms. Shiverick felt the shed roofs were clunky on the front of the home. She also agreed that the bay windows were a bit too big. She recommended changing the bay windows to a more traditional bay. She agreed that the entry feature was too tall. She expressed concern with the white and blue paint combination and added that many homes were requesting the same paint combination.

Mr. Ives agreed with comments made by Mr. Kirchhoff. He thought the design was too symmetrical. He thought breaking the symmetry could give the home some energy and flow. He added the house felt a bit cold.

Mr. Corey thought the changes were much more charming and felt the colors were warm and soft. He suggested changing the symmetry on the bay windows. He questioned the use of the shed roofs over the bay windows. He suggested cleaning up the drawings, particularly in respect to the chimneys on the plans. Mr. Corey requested the professionals include cross sections of the site in any future submittals.

Mr. Kirchhoff agreed with Ms. Shiverick's comment on the paint colors.

Ms. Grace followed up on Mr. Smith's comments and thought the mini-set plans were a bit confusing.

Mr. Small agreed with his fellow Commissioners.

Motion made by Ms. Shiverick and seconded by Ms. Grace to defer the project for one month, to the September 29, 2021 meeting, to address the comments from the Commissioners, particularly relating to the bay windows, the shed roof, the front entry and the symmetry of the front elevation. Motion carried unanimously, 7-0.

3. B-034-2021 Additions/Modifications

Address: 905 N. Ocean Blvd.

Applicant: 905 N. Ocean LLC (Maura Ziska)

Professional: LaBerge and Menard

Project Description: Guest house addition and new landscape/hardscape.

A motion carried at the April meeting to defer the project to the May 26, 2021 meeting for restudy, particularly how the home fits onto the lot. A motion carried at the May meeting to defer the project to the June 23, 2021 meeting at the request of the professional. A motion carried at the June meeting to defer the project to the July 28, 2021 meeting at the request of the professional. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

Please note: This project was deferred to the October 27, 2021 meeting at the Approval of the Agenda, Item VI.

4. B-039-2021 Demolition/New Construction

Address: 200 Bahama Lane

Applicant: 200 Bahama Lane, LLC (Maura Ziska)

Professional: SKA Architect + Planner

Project Description: Demolition of existing one story house. New construction of two story classical style house, approx. 5,856 sq. ft. Final landscape and hardscape included.

A motion carried at the May meeting to approve the demolition of the existing home as requested. A second motion carried to defer the project for two months to the July 28, 2021 meeting for an entire restudy. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

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. Segraves agreed to the easement.

Patrick Segraves, SKA Architect + Planner, presented the architectural plans proposed for the new residence.

Maura Ziska, attorney for the owners, spoke to the neighbors across the street who offered their support for the design.

Keith Williams, Nievera Williams Design, presented the landscape and hardscape 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. There were no staff comments heard at this time.

Ms. Grace was in favor of the style of the home proposed. She questioned whether the height of the home could be reduced, considering the heights of the neighboring homes. She questioned if the landscaping proposed was too formal. She did not prefer the front wall and railing as she felt it was inconsistent with the street.

Ms. Shiverick thought the house was stately on a nice lot and complimented the owners for offering to take care of the garden next door. She thought the house worked for the area. She liked the fence along the low area. She questioned the material for the fence and wondered if it was wood. Mr. Williams stated they would prefer to use wood. She liked the open fence and thought the landscaping was stunning. She questioned the white paint color and suggested using a green color.

Mr. Floersheimer agreed with Ms. Shiverick's comments. He also questioned if some height could be removed from the home. He was in favor of the landscape plan and was in favor of the railings. Mr. Floersheimer inquired about the landscaping next to the country club. Mr. Williams further explained the design.

Mr. Segraves discussed the proposed height of the home.

Mr. Kirchhoff thought this home was a nice improvement. Mr. Kirchhoff was not concerned about the height of the home but he did make a recommendation for the shed roof. He also thought the doors on the second floor, rear elevation should be changed to windows with a center door. Mr. Kirchhoff questioned the arch design on the front elevation. Mr. Segraves explained the details of the design. There was a short discussion about the details of the roof and details. Mr. Kirchhoff stated he liked the project but thought some refinement was needed.

Mr. Corey agreed completely with Mr. Kirchhoff. Mr. Corey thought some color could be added to bring warmth to the home. Mr. Corey was happy that the applicant was working with the Town on the garden next door. Mr. Corey was not happy with the guest house location; he thought it could be better and perhaps designed with more whimsy or perhaps as a folly. He suggested using some Seagrape trees on the front of the property.

Ms. Catlin was in favor of the home and thought it fit into the neighborhood. She agreed with Mr. Corey's assessment of the guest house. Ms. Catlin inquired about the zoning aspects. Maura Ziska, attorney for the applicant, explained the zoning needed for this project.

Mr. Smith thought the proposal was a vast improvement. He agreed with Mr. Corey that the guest home could be treated as a folly. He also agreed with Ms. Shiverick and Mr. Corey that a color would be nice, rather than the white paint proposed.

Mr. Smith shared the comments of Ms. Shiverick and Messrs. Corey and Kirchhoff.

Ms. Shiverick thanked the applicant for improving their renderings.

Motion made by Ms. Shiverick and seconded by Mr. Corey to defer the project for one month, to the September 29, 2021 meeting, to address the comments from the Commissioners, particularly relating to the details outlined by Mr. Kirchhoff, the roofline of the porch, the guest house, the addition of Sea grapes on the front elevation and a possible new color for the shutters and body of the home. Motion carried unanimously, 7-0.

Mr. Segraves stated that the guest house was designed as a folly and explained the reasons for its design.

Please note: A short break was taken at 11:05 a.m. The meeting resumed at 11:15 a.m.

5. B-042-2021 New Construction

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SITE PLAN REVIEW WITH VARIANCE(S)

Address: 1080 S. Ocean Blvd.

Applicant: Todd Glaser

Professional: LaBerge & Menard Inc.

Project Description: New two story home with pool cabana. House will have clay barrel tile roof, smooth stucco painted Manchester tan.

ZONING INFORMATION: Section 134-843(b): Request for Site Plan Review to allow the construction of a 9,485 square foot two-story, single family residence on a non-conforming platted lot that is 17,567 square feet in area in lieu of the 20,000 square foot minimum required in the R-A Zoning District.

A motion carried at the May meeting to defer the project to the June 23, 2021 meeting to restudy in accordance with the comments of the Commissioners, including the fenestration, balconies, chimneys, corner entry, rear loggia and orientation of garage doors. A motion carried at the June meeting to defer the project to the July 28, 2021 meeting, specifically to consider the comments of the Commissioners on the following items: the tower corner, the second floor doors on the tower, the colors, reinstate the small window on the west side, the pool, the terrace steps and garage doors. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting, specifically to consider the comments of the Commissioners on the following items: the garage doors, addition of shutters on the west elevation, addition of more palms on the east, removal of the pergola, rustication on south elevation.

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. Menard agreed to the easement.

Daniel Menard, LaBerge & Menard Inc., presented the architectural modifications proposed for the new residence.

Christopher Cawley, Christopher Cawley Landscape Architecture, 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 staff comments heard at this time.

Mr. Floersheimer thought the project was good. He inquired about an additional window that was missing on one of the elevations and questioned if it was proposed. Mr. Menard stated they would like to propose the additional window.

Ms. Grace was in favor of the changes. She recommended adding more species in the landscape plan. She also recommended adding more Bougainvillea on the east side. Mr. Cawley agreed to add more Bougainvillea.

Ms. Catlin thought the changes were nicely executed.

Ms. Shiverick appreciated all of the changes. She questioned the color of the windows. Mr. Menard stated the window colors had not changed.

Motion made by Mr. Corey and seconded by Mr. Kirchhoff that the project at 1080 S. Ocean Blvd. has met the criteria for approval listed in Sec. 18-205 of the Town's Code of Ordinances and to approve the project as presented. Motion carried 6-1, with Mr. Ives opposed. 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. B-048-2021 New Construction

Address: 224 S. Ocean Blvd.

Applicant: Armen Manoogian

Professional: Jose A. Gonzalez/Gonzalez Architects

Project Description: Proposed work includes the construction of a new 836 square foot, one story detached, four car garage and driveway. Also, the siding and all trim of the existing adjacent guest house will be repainted to match the main house.

A motion carried at the May meeting to defer the project to the June 23, 2021 meeting in accordance with the comments from the Commissioners, with a specific request to bring a view of the colonnade from the south. A motion carried at the June meeting to defer the project to July 28, 2021 meeting to consider an alternative design for the garage. A motion carried at the July meeting to approve the project as presented with the following conditions: the east and west garage bays will be stepped back from the north façade, the windows on the second floor, north façade will remain in the existing size, the palms between the home and garage will be staggered along the grasscrete, the colonnade will be restudied and considered as a pergola structure with the element returning to the Commission for approval at the August 25, 2021 meeting.

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. Gonzalez agreed to the easement.

Mr. Gonzales presented architectural modifications as well as the landscape and hardscape modifications proposed for the guest house and carriage house design.

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

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

Ms. Grace preferred the colonnade without the coquina stone. She liked the hedge at the same height as the hedge around the home.

Mr. Floersheimer preferred the coquina stone but could go either way on the colonnade design. He also thought the hedge should be the same height as the hedge on the home.

Ms. Catlin liked the coquina but felt it was clunky. She would side with the architect's proposal. She also agreed that the hedge should be lowered to match the home.

Ms. Shiverick agreed with Ms. Catlin. She liked the coquina but thought the columns could be paired down.

Mr. Corey thought the architect did a great job with the carriage house. He was not in favor of either proposal for the colonnade. He thought the colonnade should be completely removed.

Mr. Kirchhoff agreed with Mr. Corey's comments.

Motion made by Ms. Shiverick and seconded by Mr. Smith to approve the project as presented with the following conditions: the coquina on the columns is lowered by 1/3 of the height and the coquina on the columns are less tapered. Motion carried 6-1, with Mr. Corey opposed. 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. B-050-2021 New Construction

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)

Address: 334 Chilean Ave.

Applicant: GW Purucker JV Contract Purchaser (Maura Ziska)

Professional: MP Design & Architecture, Inc.

Project Description: A new two-story house, two-car garage with new pool, landscape, hardscape on a vacant lot.

A motion carried at the June meeting to defer the project to the July 28, 2021 meeting to consider the comments of the Commissioners which included the study of changing the orientation of the house, adding more native landscaping, the fenestration and possibly changing the design style to Mediterranean Revival. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

ZONING INFORMATION: Section 134-948: A request for a variance to construct a new 5,270 square foot, two story residence, on a non-conforming lot with a lot area of 9,384 sq. ft. in lieu of the 10,000 sq. ft. minimum required in the R-C Zoning District.

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. Perry agreed to the easement.

Michael Perry, MP Design and Architecture, presented the architectural modifications proposed for the new residence.

Daniel Sugg, Sugg Design Studio, 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.

Mr. Corey thought the design has come so far and would add value to the area. He stated he would remove the pergola in the rear but he added it could not be seen from the street.

Mr. Kirchhoff questioned the mixture of window styles. He recommended changing all of the windows to casement windows.

Mr. Floersheimer was impressed with the changes and thought the project looked great.

Ms. Catlin thought the professional did a good job working with a non-conforming lot. She was in favor of the changes.

Mr. Corey questioned changing all of the windows to casement windows. He was in favor of the windows as proposed. Mr. Perry discussed how he could make the change and keep the same dimensions.

Motion made by Mr. Corey and seconded by Ms. Grace that implementation of the proposed variance will not cause negative architectural impact to the subject property. Motion carried unanimously, 7-0.

Motion made by Ms. Shiverick and seconded by Mr. Corey to approve the project as presented. Motion carried 5-2, with Messrs. Smith and Kirchhoff opposed. 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. B-053-2021 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)

- Done 6/23/21

Address: 8 Windsor Ct.

Applicant: Mr. & Mrs. Jonathan Sack (Maura Ziska)

Professional: MP Design & Architecture, Inc.

Project Description: Existing breezeway modifications to replace existing awning with new cooper roof. Existing pool cabana modifications to replace existing roof and awning with new copper roof. Existing open porch modifications to replace exiting trellis with new copper roof.

A motion carried at the June meeting that implementation of the proposed variances will not cause negative architectural impact to the subject property. A second motion carried to approve the project as presented with the removal of the rear trellis and to return to the July 28, 2021 meeting with an alternate design of a roof over the two doors on the north elevation. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

Please note: This project was deferred to the September 29, 2021 meeting at the Approval of the Agenda, Item VI.

9. B-058-2021 Demolition/New Construction

Address: 1020 N. Lake Way

Applicant: Mr. & Mrs. Kanders, Contract Purchaser (Maura Ziska)

Professional: MP Design & Architecture, Inc.

Project Description: Demolition of existing residence, including hardscape, landscape. Existing pool to remain. New two-story residence, new hardscape, new landscape, existing pool to be modified.

A motion carried at the June meeting to approve the demolition of the existing home as requested. A second motion deferred the hearing of the new construction to the July 28, 2021 meeting. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

Please note: This project was deferred to the September 29, 2021 meeting at the Approval of the Agenda, Item VI.

10. B-060-2021 New Construction

Address: 1480 N. Lake Way

Applicant: Southpaw Trust (Jennifer Stallone)

Professional: Tom Benedict/The Benedict Bullock Group PA

Project Description: Provide exterior modifications to existing residence including replacing metal windows and doors changing frame color from white to bronze, enlarging entry door, replacing loggia shutters with glass doors and providing bi-fold doors to enclose and air condition this room, add new windows to match existing window in master bedroom, adjust existing beam and remove two existing center columns on living room loggia, replace existing west library window with glass door/window assembly, expand cabana eastward 14' and add trellis, and provide modifications to existing vehicle gates at front entrances with associated landscape and hardscape improvements.

A motion carried at the July meeting to defer the project for one month, to the August 25, 2021 meeting, to restudy the windows, gates, columns, and loggia and to return with a rendering of any doors and windows to be used.

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. Benedict agreed to the easement.

M. Timothy Hanlon, attorney for the applicant, provided an overview of the project and a summation of the changes that had been made since the last presentation.

Mr. Benedict presented the architectural modifications proposed for the existing home.

Dustin Mizell, Environment Design Group, presented the landscape and hardscape modifications 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 staff comments heard at this time.

Ms. Catlin liked all of the changes and appreciated the need for privacy. She did not feel it was necessary for the professional to indicate whether the pergola would be open or closed.

Mr. Smith objected to the removal of the columns on the rear living room loggia. Mr. Benedict stated the columns would remain.

Ms. Shiverick was in favor of the changes to the gates. Ms. Shiverick stated that the changes to the windows and doors was acceptable. She cautioned using a limestone in a large quantity around the pool.

Ms. Grace liked the changes but preferred the existing gates. She also preferred the white trim for the doors and windows versus the bronze proposed.

Mr. Small supported the changes proposed.

Motion made by Mr. Corey and seconded by Mr. Smith to approve the project as presented with the condition that the two columns on the rear, ground floor loggia will remain. 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.

Please note: The Commission took a lunch break at 12:23 p.m. The meeting resumed at 1:00 p.m. Mr. Kirchhoff returned at 1:02 p.m. Mr. Ives returned at 1:16 p.m. Ms. Catlin voted in the absence of Mr. Ives.

11. B-061-2021 Demolition/New Construction

Address: 584 Island Dr.

Applicant: 584 Island, LLC (Carl M. Sabatello, Manager)

Professional: Roger Janssen/Dailey Janssen Architects

Project Description: Demolition of existing residence, hardscape, landscape and pool. Construction of a new two-story residence, landscape, hardscape and pool.

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 at the July meeting to approve the project as presented with the following conditions: the gable on the one-story element, east side is removed, the roof over the garage is change to a pitch roof and to eliminate the vehicular gate, with the changes returning for approval at the August 25, 2021 meeting.

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. Mayfield agreed to the easement.

Patrick Mayfield, 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. There were no staff comments heard at this time.

Ms. Catlin thought the changes were acceptable; however, she thought the changes to the roof made the home become a little more ordinary.

Motion made by Ms. Shiverick and seconded by Mr. Kirchhoff 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.

12. B-062-2021 Additions/Modifications

Address: 215 Via Tortuga

Applicant: 215 Via Tortuga, LLC (Whitney Crane)

Professional: Tod E. Sikkenga/Wadia Associates

Project Description: Renovations and small addition to existing house (141 sf).

New enclosed pool pavilion (409 sf) Three new skylights. Maintain and paint existing roof tile. Modify existing swimming pool, landscape, and hardscape.

New generator and outdoor mechanical and pool equipment. Replace existing windows and doors, and new openings with impact resistant units. Miscellaneous improvements to exterior elevations.

A motion carried at the June meeting to defer the project to the July 28, 2021 meeting to address the comments of the commissioners. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

Please note: This project was deferred to the September 29, 2021 meeting at the Approval of the Agenda, Item VI.

13. B-064-2021 Modifications

Address: 402 Primavera Ave.

Applicant: Thomas and Lillian O'Malley (Manuel Angles)

Professional: Manuel Angles/Angles Design Architecture

Project Description: To increase green areas and provide additional privacy, we are proposing the following: removal all existing parking paving in front of the residence and replace with sod, new plantings, and stepping-stones (to match existing). Provide a new continuous hedge along Primavera Avenue. Add a vehicular and a pedestrian gate at existing motor court to conceal garage doors and one pedestrian gate in front of main residence entry. All finishes to match existing.

A motion carried at the June meeting to defer the project to the July 28, 2021 meeting to address the comments of the commissioners. A motion carried at the July meeting to defer the project for one month, to the August 25, 2021 meeting, to revise the gates as requested by the Commission.

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. Angles agreed to the easement.

Mr. Angles presented the modifications to the gates 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 staff comments heard at this time.

Mr. Corey inquired about location of the pedestrian gate. Mr. Angles responded. Mr. Corey inquired about the location of the vehicular gate. Mr. Angles responded.

Motion made by Mr. Corey and seconded by Ms. Catlin 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.

14. B-068-2021 New Construction

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SITE PLAN REVIEW

Address: 267 Dunbar Road

Applicant: Michael S. Arlein, Trustee of the 267 Dunbar Road Trust (Maura Ziska)

Professional: SKA Architect + Planner

Project Description: New Construction of one and two story Mediterranean style house approximately 7,550 sq. ft. Final landscape and hardscape included.

A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

ZONING INFORMATION: Section 134-893(c): Site Plan Review to allow the construction of a new two story 7,552 square foot single family residence on a non-conforming platted lot which is 98.5 feet in width in lieu of the 100 foot minimum width required in the R-B Zoning District.

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. Segraves agreed to the easement.

Patrick Segraves, SKA Architect + Planner, presented the architectural plans proposed for the new residence.

Daniel Clavijo, SKA Architect + Planner, presented the design for the doors and windows for the new residence.

Keith Williams, Nievera Williams Design, presented the landscape and hardscape modifications for the new residence.

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. Kirchhoff thanked the architect for making the changes. He was in favor of the house but did not prefer the second banding proposed.

Mr. Floersheimer liked the home but indicated the significant increase in the size of the home compared to the previous home. He thought home was very long. He agreed with Mr. Kirchhoff and did not prefer the second banding. Mr. Floersheimer inquired about the slope of the property and how it would affect the neighbor to the east. Mr. Williams responded. Mr. Floersheimer pointed out the difference in size between the proposed home and the home next door.

Ms. Shiverick thought the home was a bit heavy in the front of the home. She thought the front door was foreboding and recommended a wrought iron door with glass to allow light flow. She suggested adding mullions in the windows over the front door. She was not in favor of the mahogany for the trim and thought it added a heaviness to the home. She recommended a painted trim and thought it would lighten up the home. She recommended adding lanterns next to the front door, possibly gas lanterns. She suggested using a different color for the body of the home.

Mr. Corey expressed concern about the height of the proposed home compared to the existing street. Mr. Corey requested a cross section of the site. He supported the front door. He wondered if the home was too tall and questioned the double-story glass on the rear of the home. He thought changes could be made to make the home more charming.

Ms. Grace questioned if a different stone material around the front door could be used to make it more distinctive. She agreed with Ms. Shiverick's comments that a painted trim would be preferred. She also liked the idea of a wrought iron door and lanterns next to the front door. She thought the home needed to be reduced overall to fit into the neighborhood.

Ms. Catlin thought the house was fine; however, she was upset that the charming home that existed was being replaced with a more ordinary home. She also questioned the size of the home proposed.

Mr. Small thought the proposed home was in harmony and character with the neighborhood. He was pleased to see that the home was in a Mediterranean style. He did not believe the additional banding was necessary. He was in favor of Ms. Shiverick's suggestion of gas lanterns.

Mr. Segraves discussed the height and size of the home. Mr. Segraves thought the suggestion for gas lanterns was a good suggestion.

Motion made by Ms. Grace and seconded by Ms. Shiverick to defer the project for one month, to the September 29, 2021 meeting, in accordance with the comments from the Commissioners. Motion carried 6-1, with Mr. Small opposed.

15. B-074-2021 Additions/Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)

Address: 246 Eden Rd.

Applicant: The Beach House Trust (Maura Ziska)

Professional: Keith Williams/Nievera Williams Design

Project Description: Proposed generator and enclosure. Associated landscape and hardscape changes.

A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

ZONING INFORMATION: 1) Section 134-893(b)(5): A request for a variance to allow a 38 KW generator to be placed in the front yard setback (on Adam Road) with a setback of 8.3 feet in lieu of the 25 foot minimum required in a front yard setback. 2) Section 134-1637: A request for a variance to allow a six foot wall and landscaping (for the generator) in lieu of the 30 inches maximum height allowed within the intersection sight triangle area.

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

16. B-079-2021 Modifications

Address: 315 Cocoanut Row

Applicant: Melissa Schorr

Professional: Christopher G. Doriot

Project Description: Install (2) 4'h HR-10 white aluminum roll gates with access control operators; (1) 18' wide and (1) 14' wide at each end of circular driveway for security.

A motion carried at the July meeting to defer the project to the August 25, 2021 meeting due to an issue with the notice.

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. Leja agreed to the easement.

Richard Leja, ACI Consultants, presented the architectural plans proposed for the existing residence.

Mr. Small inquired about the proposed color of the gates. Mr. Leja responded.

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

Mr. Small called for staff comment. Mr. Castro asked for confirmation that the gates would be 18 feet from the setback. Mr. Leja provided confirmation.

Ms. Grace did not feel that gates were an improvement to the home or a good precedent for the area.

Mr. Corey agreed with Ms. Grace's comment and added he could not support the project. He thought the gates were too wide. He did not support the material, the proposal and the landscape plan. He did not believe the gates were compatible for the neighborhood.

Mr. Floersheimer agreed with the previous comments. He questioned where the call box would be located.

Mr. Kirchhoff agreed with the previous comments. He thought there was a lack of details in the proposal. He added he could not support the request.

Ms. Catlin questioned the design of the gates.

Mr. Smith did not understand the security issue and need for gates. He did not understand why the gates were different sizes.

Mr. Small agreed with the previous comments and did not believe these gates were compatible in the area.

Mr. Murphy indicated that the proposed did not comply with zoning, due to the screening of supplemental parking.

Motion made by Ms. Grace and seconded by Ms. Shiverick to deny the project at 315 Cocoanut Row as presented, based on Section 18-205 (a), criteria 6 (c) and 8. Motion carried 6-1, with Mr. Ives opposed.

D. MAJOR PROJECTS – NEW BUSINESS

1. ARC-21-001 Modifications

Address: 179 East Inlet Drive

Applicant: Lisa Hedley & Walter Wick

Professional: Roger Janssen/ Dailey Janssen Architects

Project Description: Replacement of existing single hung windows with new impacts windows to match existing. Replacement of existing cement roof tile with new white cement roof tile. Removing of unsound entry portico.

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. Urquhart agreed to the easement.

Lauren Urquhart, Dailey Janssen Architects, 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. Mr. Castro stated his concerns with the dormer windows above the garage. Ms. Urquhart stated the windows were existing.

Ms. Shiverick inquired if the professional has more photographs of 173 East Inlet. Ms. Urquhart responded. Ms. Shiverick inquired if the professional would consider double hung windows. She also inquired about the removal of the unsound portico. Ms. Urquhart explained the design.

Ms. Grace thought that since the changes were in kind, she supported the request.

Mr. Floersheimer thought it would be nice to add a touch of color to the body of the home. Otherwise, he supported the changes.

Ms. Catlin thought that much of the character of the home was being removed.

Mr. Small thought the changes would enhance the home. He did not believe the home was remotely similar to the home at 173 Inlet Drive.

Motion made by Mr. Corey and seconded by Mr. Ives to approve the project as presented. Motion carried 6-1, with Ms. Shiverick opposed. 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.

2. ARC-21-005 New Construction

Address: 210 Palmo Way

Applicant: Bruce Percelay

Professional: Roger Janssen / Dailey Janssen

Project Description: Construction of a new 2 story residence. New landscape, hardscape and pool.

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.

Patrick Mayfield, Dailey Janssen Architects, presented the architectural plans 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. Mr. Murphy provided staff comments.

Ms. Grace stated she thought this project had been denied several months ago and questioned why it had returned to the Commission. Mr. Mayfield responded. Ms. Grace thought this home was more attractive than the previous home proposed. However, she thought the home was still a bit massive.

Steve West, Parker-Yannette Design Group, presented the landscape and hardscape 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. Mr. Murphy provided staff comments.

Mr. Kirchhoff generally liked the classic Monterey project. However, he did not prefer the front entry and the porch above the front entry. Mr. Kirchhoff thought a classic Monterey style porch with a single door on the second floor could be more appropriate. He questioned the window style as proposed and suggested a six over six window. He also was not in favor of the travertine driveway proposed.

Ms. Grace also was not in favor of the travertine driveway proposed as well. She agreed with Mr. Kirchhoff's comments that the west elevation was too large.

Mr. Smith agreed with Mr. Kirchhoff's comments. Mr. Smith thought the window on the west gable was off center and need to be cleaned up.

Ms. Catlin was in favor of the style proposed. However, she wished the house was pushed back on the lot so that it did not loom over the street. She wondered if the home should be reduced.

Mr. Floersheimer agreed with the other Commissioners. He indicated that the home was twice as big as the previous home. He discussed the size of the home on the lot. He also suggested open railings for the balcony on the front of the home.

Ms. Shiverick thought the home could be reduced, especially on the west elevation. Ms. Shiverick agreed that the travertine driveway was not appropriate. She questioned the color choice of the home. She made a suggestion for the first floor bedrooms on the east side of the home.

Mr. Floersheimer inquired about the three fake garage bays on the east elevation. Mr. Janssen responded.

Mr. Janssen discussed the reason the garage was placed in the rear.

Motion made by Ms. Grace and seconded by Ms. Shiverick to defer the project for one month, to the September 29, 2021 meeting, in accordance with the comments from the Commissioners. Motion carried unanimously, 7-0.

3. ARC-21-008 Demolition/New Construction

Address: 214 Wells Road

Applicant: E. Burke Ross Jr. Trust

Professional: Peter Papadopoulos/Smith and Moore Architects, Inc.

Project Description: Demolition of existing one-story residence, including pool, hardscape elements and landscape. Construction of a new two-story residence and new detached one-story, two-car garage. New pool. Final landscape and hardscape.

Please note: This project was deferred to the December 17, 2021 meeting at the Approval of the Agenda, Item VI.

4. ARC-21-015 Additions/Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)

Address: 146 Seaspray Ave.

Applicant: Michael Fries and Michelle Malone

Professional: SKA Architect + Planner

Project Description: Section 134-893(9): Request a variance for a 128 square foot, one story cabana/office addition to the rear accessory building that will result in a 5.6 foot rear yard setback in lieu of the 10 foot minimum required in the R-B Zoning District. Section 134-416(d): Request to expand a non-conforming two story accessory building.

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. Segraves agreed to the easement.

Daniel Clavijo, SKA Architect + Planner, presented the architectural plans for the proposed for the addition to the garage and guest home.

Todd MacLean, Todd MacLean Outdoors, presented the landscape and hardscape plans proposed for the site.

Maura Ziska, attorney for the owner, explained the area being disputed by the neighbor at 151 Seaview Avenue.

Mr. Small called for public comments.

John Eubanks, attorney representing John Firestone at 151 Seaview Avenue, stated his client's objections to the proposed project.

Mr. Small called for staff comment. Mr. Castro provided staff comments, particularly related to the landscape in the front of the home. Mr. MacLean responded and explained the design.

Ms. Shiverick inquired if it was possible to build the addition on the north portion of the garage. Mr. Clavijo responded and indicated why the proposed had minimum impact to the site. Ms. Shiverick thought the addition was tasteful. She liked the addition of the fence as well.

Ms. Catlin thought it was disturbing to receive the back and forth emails from the neighbor, in relation to an issue that did not relate to the Commission. She supported the addition.

Mr. Floersheimer did not believe the addition would have a negative impact to the architecture.

Ms. Grace inquired about the square footage of the main home. Mr. Clavijo responded. Ms. Grace questioned about alternative designs for the addition. Mr. Clavijo responded. Ms. Grace inquired about the front fence proposed. Mr. MacLean responded.

Mr. Corey expressed concern for the lack of plans and renderings for the addition and thought the item should return next month.

Ms. Shiverick inquired if the second floor above the garage could be changed to an office.

Michelle Malone Fries, owners, discussed the need for the office and the reason for her request.

Motion made by Mr. Corey to approve the landscape plan for the front of the property and to defer the remainder of the project for one month, to the September 29, 2021 meeting. Motion failed for lack of a second.

Motion made by Ms. Shiverick and seconded by Mr. Ives that implementation of the proposed variance will not cause negative architectural impact to the subject property. Motion carried 4-3, with Messrs. Corey, Smith and Ms. Grace opposed.

A second motion made by Mr. Ives and seconded by Ms. Shiverick to approve the project as presented. Motion carried 4-3, with Messrs. Corey, Smith and Ms. Grace opposed. 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.

5. ARC-21-017 Demolition/New Construction

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SPECIAL EXCEPTION AND SITE PLAN REVIEW

Address: 223 Monterey Road

Applicant: 239 Monterey Road, LLC (Louis Capano, Jr., Manager)

Professional: Roger Janssen/Dailey Janssen Architects

Project Description: 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. 1.

Request to demo the existing one-story residence, accessory structure, pool, driveway and miscellaneous site walls, piers and fences. 2. Request to construct a new single family residence on a non-conforming lot (overall size and width) meeting all applicable Town codes. 3. Request to construct a new two-story single family residence consisting of 3,902 gross square feet on a non-conforming lot, driveway, pool/spa, hardscape and landscape, including an emergency generator and civil, storm water and grading.

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.

Molly Mitchell, Dailey Janssen Architects, presented the architectural plans proposed for the demolition of the existing home.

Carol Perez, AGT Land Landscape Architecture, presented the landscape and hardscape plans proposed for the demolition of the existing home.

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

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

Mr. Corey inquired about a landscape plan that showed the site, post demolition. Ms. Perez responded. Mr. Corey inquired about the landscape proposed for the

north east property line. Ms. Perez responded. Mr. Corey expressed concern for the condition of the lot between demolition and new construction.

Ms. Catlin agreed with Mr. Corey and thought the lot should be sodded and irrigated if new construction was delayed.

A discussion ensued about the lot and the requirements between demolition and new construction.

Motion made by Mr. Corey and seconded by Mr. Smith to approve the demolition as presented for 223 Monterey Road with the condition to sod and irrigate the property within 30 days, to fill in any holes in the landscape and to adhere to the Town's screening requirements. 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.

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

Carol Perez, AGT Land Landscape Architecture, presented the landscape and hardscape plans proposed for the site after the new construction.

Mr. Small called for public comments.

Peter Broberg, 220 Monterey Road, stated that he lived directly across the street from the project and had been looking at a construction site for almost three years. He also indicated that he had not seen the plans prior to the project. Mr. Murphy addressed the comments made by Mr. Broberg. Mr. Broberg expressed concern for the construction trucks that would be utilizing the street. He requested the Commission to not allow the construction trucks the ability to park on the street.

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

Ms. Grace liked the home and she thought it had an island feel. She liked the mix of stucco and wood. She questioned the wood door and thought it should be painted. She suggested using wood railings rather than the welcoming arms at the front entrance.

Ms. Shiverick thought the siting and massing of the home was nice. She questioned the proposed blue trim color. She suggested adding shutters on the windows. She questioned the windows proposed and suggested using four over four windows. She suggested reducing the windows from three to two next to the front door. She thought the rear glazing should be reduced as well.

Ms. Catlin liked the home and the colors. She was in favor of the front door. She thought the home was simple with just enough detail. She thought the home fit very well on the street. She requested that the professional move the home back one foot to provide relief to the street.

Mr. Floersheimer agreed with Ms. Shiverick's comments. He thought that while the home was bigger than the existing, he did not believe the massing was significant. He liked Ms. Catlin's suggestion to move the home back by one foot.

Mr. Kirchhoff agreed with Ms. Shiverick's comments. He made a suggestion to pull the windows forward on the front elevation. He questioned the door over the front door and thought it should be changed to a window.

Motion made by Ms. Shiverick and seconded by Ms. Grace to defer the project for one month, to the September 29, 2021 meeting, in accordance with the comments from the Commissioners. Motion carried unanimously, 7-0.

6. ARC-21-019 Modifications

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)

Address: 266 Orange Grove Rd.

Applicant: Jeanne H. Olofson, Trustee of the Jeanne H. Olofson Revocable Trust dated October 19, 1992

Professional: Keith Spina/Spina O'Rourke + Partners

Project Description: Section 134-2179: Request to allow a 224 square foot existing garage on a one story residence to be converted to living space by creating a guest bedroom, which would require a variance to not provide a one-car garage on a lot that is 75 feet in width.

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. Freijomel agreed to the easement.

Nelo Freijomel, Spina O'Rourke + Partners, presented the architectural and landscape modifications proposed to the existing home.

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 project was attractive. She liked that the view would now be of a room rather than a garage.

Mr. Floersheimer supported the project but expressed concern that the owner would eventually need a space to store their car. Maura Ziska, attorney for the owner, responded.

Ms. Catlin agreed it would look better from the street but was concerned that there would be no area for car storage. She thought it was cute but wondered if the change served the neighborhood.

Mr. Smith agreed with Mr. Floersheimer and was not in favor of the cars sitting in the driveway. He stated he could not support the request.

Mr. Small thought the change enhanced the home and added he was not concerned about the lack of garage.

Motion made by Ms. Grace and seconded by Mr. Corey that implementation of the proposed variance will not cause negative architectural impact to the subject property. Motion carried 6-1, with Mr. Smith opposed.

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-21-020 Additions/Modifications

Address: 300 N. Lake Way

Applicant: David and Constance Littman

Professional: Jeffrey Smith/Smith Architectural Group

Project Description: Section 134-893(13): Request for a variance to add 1,452 square foot, one story addition, onto an existing one story guest house that will result in a cubic content ratio ("CCR") of 4.72 in lieu of the 4.49 existing and the 4.5 maximum allowed in the R-B zoning district for a lot that is 65,500 feet in area.

Please note: This project was deferred to the November 19, 2021 meeting at the Approval of the Agenda, Item VI.

8. ARC-21-022 New Construction

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SPECIAL EXCEPTION WITH VARIANCE(S)

Address: 870 S. Ocean Blvd.

Applicant: 870 S. Ocean, LLC (Todd Glaser, Manager)

Professional: MP Design & Architecture

Project Description: Section 134-840: Request for a special exception with site plan review to allow construction of a 210 square foot beach pergola and 83 square

foot cabana bathroom/storage in the R-A/B-A Zoning District. Section 134-1474(a): Request for a variance to construct a 210 square foot beach pergola and 83 square foot cabana bathroom/storage that is on a lot with frontage of 101.53 feet in lieu of the 125 feet required for lot width in the B-A Zoning District for beach area property adjacent to R-A Zoning District. As part of the proposed project, this proposal meets the Town of Palm Beach ocean vista requirements.

Please note: This project was deferred to the September 29, 2021 meeting at the Approval of the Agenda, Item VI.

9. ARC-21-031 New Construction

Address: 433 Antigua Ln.

Applicant: Malcolm McCluskey

Professional: Patrick Ryan O'Connell Architect, LLC

Project Description: Proposed construction of a new two-story, single family residential structure, including a new pool, hardscape and landscape.

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. O'Connell agreed to the easement.

Mr. O'Connell presented the architectural plans proposed for the new residence.

Don Skowron, Landscape Architect, presented the landscape and hardscape plans 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. There were no staff comments heard at this time.

Mr. Corey thought the house worked well. He thought the professional maximized the use of the lot. He liked the landscape plan. He suggested the front door needed more character.

Ms. Shiverick agreed with Mr. Corey on the front door. She thought a restudy was needed for the front door. She suggested not using paint in the decorative vents. She thought the circular windows were over used, particularly under the triple hung windows. She questioned if the triple hung windows were too long. She thought the front entry should have a finial to match the other two finials. She thought the front entrance should possibly be a tad higher. She asked about the driveway material. Mr. Skowron responded.

Ms. Grace liked the way the home was sited and the way it was broken into two wings. She thought the two story portion was a bit awkward. She was not a fan of the round windows; she suggested traditional or oval windows. She agreed that the entrance could be a bit taller. She agreed that the vented areas should not be painted.

Ms. Catlin liked the home and design. She agreed that the front door could be restudied. She liked the pop of color in the vented areas.

Mr. Floersheimer thought the house was nicely sited. He agreed with the comments on the front door and the triple hung windows. He initially had trouble with the roof plans but understood after seeing the renderings.

Mr. Kirchhoff thought the master bedroom should have the same overhang on the roof as the other sections. He agreed with the comments on the round windows. He questioned the roof design on the two story element.

Mr. Small agreed with many of the Commissioners comments. He thought the project was intriguing.

Motion made by Mr. Corey and seconded by Ms. Shiverick to defer the project for one month, to the September 29, 2021 meeting, in accordance with the comments from the Commissioners. Motion carried unanimously, 7-0.

E. MINOR PROJECTS – OLD BUSINESS

1. A-020-2021 Modifications

Address: 150 Worth Ave.

Applicant: Wilson 150 Worth LLC (Yvonne Jones)

Professional: Michael Dumala

Project Description: Add 14 new impact windows on south side of building at second floor level. *****Please note: Requires Special Exception with Site Plan Review*****

A motion carried at the February meeting to defer the project to the March 24, 2021 meeting to allow the applicant to provide notice to the surrounding properties. A motion carried at the March meeting to defer the project to the April 28, 2021 meeting to provide notice to the neighbors. A motion carried at the April meeting to defer the project to the June 23, 2021 meeting to file a zoning application. A motion carried at the June meeting to defer the project to the July meeting at the request of the professional. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting to allow the applicant to address a zoning issue.

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

2. A-064-2021 Additions/Modifications

Address: 3140 S. Ocean Blvd.

Applicant: Carlton Place Condominium (Sharon Moye, Property Manager)

Professional: Don Skowron

Project Description: Proposed addition of a +/- 900 sq. ft. tensioned sun sail over the west upper terrace previously approved. Reconsideration of synthetic turf cut outs in terrace paving.

A motion made at the June meeting to defer the project to the July 28, 2021 meeting to allow the applicant to find an alternative to the synthetic turf and shade sails. A motion carried at the July meeting to defer the project to the August 25, 2021 meeting at the request of the professionals.

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

3. A-069-2021 Modifications

Address: 2285 Ibis Isle Rd. E.

Applicant: 2285 Ibis LLC (Eric Yeghian, Managing Member)

Professional: James Philip Drago

Project Description: Remodel front street side elevation, other elevations cannot be seen from street. Add doors and windows to other elevations.

A motion carried at the June meeting to defer the project to the July 28, 2021 meeting to allow the applicant to give a full presentation. A motion carried at the July meeting to defer the project for one month, to the August 25, 2021 meeting, returning with a simplification of materials, the existing and proposed elevations on one sheet (above/below) and renderings.

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

F. **ITEMS PULLED FROM CONSENT AGENDA**

1. ARC-21-027 Modifications

Address: 222 Mockingbird Trail

Applicant: Steven Helms

Professional: General Garage Door Co., Inc.

Project Description: Replace a 16' x 7'6" garage door with Eden Coast Providence design in off white color.

Please note: The professional was not present to make the presentation to the Commissioners.

Motion made by Mr. Corey and seconded by Mr. Smith to defer the project for one month, to the September 29, 2021 meeting, since the professional was not online to make the presentation. Motion carried unanimously, 7-0.

G. MINOR PROJECTS – NEW BUSINESS

1. A-093-2021 Landscape/Hardscape

Address: 280 El Pueblo Way

Applicant: Danielle Ganek

Professional: Dustin Mizell/Environment Design Group

Project Description: Revisions to previously approved landscaping.

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

Mr. Mizell presented the proposed landscape and hardscape modifications to the previously approved plans.

Mr. Small stated that the color of the home was a bright pink. He indicated that he did not remember approving that color for the home.

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 discussed her recollection of the approval of the color pink. She believes it was painted incorrectly.

Mr. Small indicated that staff would research the color of the paint approved for the project.

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

2. ARC-21-003 Modifications

Address: 280 Sandpiper Drive

Applicant: Hasenhuttl Kurt Trust

Professional: Rafael Angel Gonzalez Mendoza

Project Description: Addition of Solar PV System mounted out of public view and a re-roof of existing saxony tile.

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

Jackson McInerney, Go Solar Power, presented the architectural plans for the proposed solar panels.

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

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

Ms. Grace inquired if the neighbors received notice. Mr. McInerney stated he did send a notice. Ms. Grace believed that the neighbors may be able to see the solar panels. Mr. McInerney responded. Ms. Grace asked how many two story homes were in the area. Mr. McInerney responded.

Mr. Floersheimer inquired about the location of the inverters. Mr. McInerney responded they would be located on the roof, under the panels.

Mr. Shiverick inquired if 280 Sandpiper Drive was a single-story home. Mr. McInerney confirmed it was a one story. Ms. Shiverick inquired about the size of the panels. Mr. McInerney responded.

Motion made by Mr. Corey and seconded by Mr. Smith to approve the project as presented. Motion carried 5-2, with Mses. Grace and Shiverick opposed.

3. ARC-21-009 Modifications

Address: 135 Seminole Ave.

Applicant: Michael Aram

Professional: Architectural Consultants Inc.

Project Description: Replace all existing windows in the Main Residence and Guest House/ Garage with aluminum clad impact windows with minor modifications including the deletion of some windows and resizing of others.

Add precast quoins, columns and trim at the front, rear and side elevations of the Main Residence to replace and supplement the existing stucco trim. Add decorative wood outlookers to the underside of the roof overhang. Replace the garage door. Add a fountain on the Garage/ Guest House. Add an exterior sliding glass door to the Garage/ Guest House. Modify the existing rear yard pool deck and landscaping. Add Bahama shutters to specific windows at the Garage/ Guest House.

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

Richard Leja, ACI Consultants, presented the architectural changes proposed to the existing home.

Steve West, Parker-Yannette Design Group, presented the landscape and hardscape 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. Mr. Murphy provided staff comments.

Ms. Shiverick was happy to see the change to the windows. She questioned the change to the portico. Mr. Leja stated the portico only projected 10 inches from the home.

Michael Aram, owner, stated that the existing home felt very flat and wide. He explained that the home did have an overhang at one time. He explained the request for the portico.

Mr. Smith liked the changes in the windows. He did not like the stone additions; he felt the stone made the home feel heavy. He agreed with Ms. Shiverick that the home looked nice as it existed.

Mr. Floersheimer questioned the door on the north elevation, ground floor between the two windows; he stated it felt too narrow. He inquired about the lawn in the rear of the home, around the pool. Mr. West responded and explained the design. Mr. Floersheimer inquired if the owner would consider changing the lower patio to lawn. Mr. West responded.

Ms. Grace liked the changes in the windows and the new garage door. She preferred the existing front door over the proposed.

Mr. Kirchhoff liked the window changes. He did not like the front door change, especially with the railing above the pediment. He was not in favor of the half round pieces above the French doors. He thought it was a bit heavy. He recommended a restudy of the south elevation.

Mr. Corey liked the changes to the windows but agreed with Mr. Smith's comments on the addition of the stone. Mr. Corey offered some suggestions to embellish the home. Mr. Corey liked the existing home. He made some suggestions to replace the dormer windows. He also suggested increasing the size of the cornice over the front door. He was not in favor of the additions of the quoins. Mr. Corey did not believe synthetic turf was appropriate. He thought the two date palms in the rear of the home were a bit bombastic.

Mr. Small was not in favor of the front door and entry change.

Mr. Aram inquired if he could order the new windows.

Motion made by Ms. Shiverick and seconded by Mr. Corey to approve the windows proposed for the project but to defer the rest of the project for one month, to the September 29, 2021 meeting, in accordance with the comments from the Commissioners. Motion carried unanimously, 7-0.

H. CLARIFICATION HEARING

1. 1045 S. Ocean Blvd. - Staff and neighbor concerns with proposed plantings in north easement by applicant and approval of same by Town of Palm Beach

Mr. Bergman stated that the issue had been resolved and there was no need for the hearing. Mr. Bergman stated the item could be canceled.

IX. UNSCHEDULED ITEMS (3 MINUTE LIMIT PLEASE)

1. Public
None.

2. Staff

Mr. Bergman stated that Thomas Kirchhoff declared a conflict for his project at 304 Garden Road at the July 28, 2021 meeting and had correctly completed the 8B form in accordance with State Law.

Mr. Bergman stated that Jeffrey Smith declared a continuing conflict for his project at 114 Seaspray Avenue at the July 28, 2021 meeting and had correctly completed the 8B form in accordance with State Law.

3. Commission

Ms. Catlin inquired if a project could get a CO prior to the finalization of the landscape planting. Ms. Catlin pointed out a scenario on Country Club Road. Mr. Bergman stated he would need to look into the issue and get back to the Commission.

Mr. Kirchhoff inquired about the new process changes in the department and to what point the professional could continue making modifications to the plans. Mr. Kirchhoff stated it seemed like a long lead time for the plans being submitted to the department. Mr. Murphy responded.

Ms. Grace inquired about the staff written notice to the neighbors and how it would be handled if the project changes in scope. Mr. Murphy responded. Ms. Catlin requested that a copy of the notice could be sent to the Commissioners.

X. ADJOURNMENT

Motion made by Mr. Smith and seconded by Mr. Kirchhoff to adjourn the meeting at 6:13 p.m. on Wednesday, August 25, 2021. Motion carried unanimously.

The next meeting will be held on Wednesday, September 29, 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: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 085-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Consent to Deemed Assignment of Investment Advisory Agreement(s) with PFM Asset Management, and Authorizing the Town Manager to Execute all Documents Necessary on Behalf of the Town.

Presenter

Jane Le Clainche, Director of Finance

ATTACHMENTS:

- ▣ **Memorandum dated September 1, 2021, from Jane Le Clainche, Director of Finance**
- ▣ **Resolution No. 085-2021**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Jane Le Clainche, Director of Finance

Re: Approval of Constructive or Deemed Assignment of Investment Advisory Agreement with PFM Asset Management LLC.
Resolution No. 085-2021

Date: September 1, 2021

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 085-2021 which would approve the deemed assignment of the Investment Advisory Agreement with PFM Asset Management LLC, upon U.S. Bankcorp Asset Management, Inc's acquisition of PFM Asset Management.

GENERAL INFORMATION

The Town has utilized the services of PFM Asset Management since 2009 to provide investment management services for a portion of the Town's surplus and bond funds overseen by the Investment Advisory Committee.

PFM has recently notified us that the holding company that owns PFM Asset Management has entered into a definitive agreement to sell PFM Asset Management to U. S. Bancorp Asset Management, Inc. The sale will require a consent of the deemed assignment of our contract. See attached letter regarding this matter.

The Investment Advisory Committee reviewed the information provided from PFM Asset Management and unanimously voted to forward the matter to the Town Council for approval. PFM has demonstrated a high level of professionalism and has provided quality services to the Town.

PFM Asset Management will remain as the part to the Agreement after the acquisition. Accordingly, we have been assured that the PFM Asset Management personnel that currently serve on our account will continue to do so. This assignment is only related to the Asset Management services that are provided by PFM and does not affect the Financial Advisory Services that Jay Glover provides.

FUNDING/FISCAL IMPACT

The fee structure currently in place with PFM Asset Management will not change.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division of the Finance Department and approved as recommended.

TOWN ATTORNEY REVIEW

This Resolution and agreement has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachment:

cc: Investment Advisory Committee
Mr. Scott Stitcher, PFM Asset Management
Dean Mealy, Purchasing Manager

jll

RESOLUTION NO. 085-2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE CONSENT TO DEEMED ASSIGNMENT OF INVESTMENT ADVISORY AGREEMENT(S) WITH PFM ASSET MANAGEMENT, AND AUTHORIZING THE TOWN MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY ON BEHALF OF THE TOWN.

WHEREAS; the Town Council awarded an investment advisory agreement to PFM Asset Management on May 12, 2009, and;

WHEREAS; PFM Asset Management is owned through a holding company which has entered into a definitive agreement to sell PFM Asset Management along with other associated entities to U.S. Bancorp Asset Management, Inc. a subsidiary of U.S. Bancorp, and

WHEREAS; PFM Asset Management has performed investment advisory services and has demonstrated a high level of professionalism and provided quality services to the Town; and

WHEREAS; The Town wishes to continue our agreement for investment advisory services; and

WHEREAS; The Investment Advisory Committee has recommended approval of the assignment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. The Town Manager is hereby authorized to execute the Consent to Deemed Assignment of Investment Advisory Agreement with PFM Asset Management LLC in the manner and form attached hereto.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 14th day of September, 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 105-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Designating Town Depositories for Fiscal Year 2022 Pursuant to Section 2-517 of the Town Code of Ordinances and Designating Parties to Sign Checks or Warrants on Behalf of the Town Pursuant to Section 2-36 of the Town Code of Ordinances.

Presenter

Jane Le Clainche, Director of Finance

ATTACHMENTS:

- ▣ **Memorandum dated September 1, 2021, from Jane Le Clainche, Finance Director**
- ▣ **Resolution No. 105-2021**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Jane Le Clainche, Director of Finance

Re: Designation of Town Depositories and Parties Authorized to Sign
Checks or Warrants on Behalf of the Town for Fiscal Year 2022
Resolution No. 105-2021

Date: September 1, 2021

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 105-2021 designating the Town depositories and authorized parties to sign checks and warrants on behalf of the Town for fiscal year 2022.

GENERAL INFORMATION

Pursuant to sections 2-36 and 2-517 of the Town of Palm Beach Code of Ordinances, the Town Council must annually designate Town depositories and authorized parties to sign checks and warrants on behalf of the Town.

TOWN ATTORNEY REVIEW

Town Attorney review is not necessary for this resolution since it is the standard resolution used every year and was previously approved by the Town Attorney.

jl

Attachment

RESOLUTION NO. 105-2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, DESIGNATING TOWN DEPOSITORIES FOR FISCAL YEAR 2022 PURSUANT TO SECTION 2-517 OF THE TOWN CODE OF ORDINANCES AND DESIGNATING PARTIES TO SIGN CHECKS OR WARRANTS ON BEHALF OF THE TOWN PURSUANT TO SECTION 2-36 OF THE TOWN CODE OF ORDINANCES.

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. Pursuant to Section 2-517 of the Town Code of Ordinances, the Town Council hereby designates the following financial institutions as depositories for Fiscal Year 2022:

- 1) TD Bank, N.A. (Checking and Merchant Accounts)
- 2) Florida League of Cities (Excess Funds)
- 3) PFM Asset Management LLC (Excess Funds)
- 4) FL PALM (Public Assets for Liquidity Management)
- 5) TD Wealth Management (Custody Account)
- 6) Salem Trust (Custody Account)
- 7) BankUnited (Money Market and Certificates of Deposit Accounts)
- 8) Qualified Public Depositories per Florida State Statute 280.02

Section 2. Pursuant to Section 2-36 of the Town Code of Ordinances, funds may be withdrawn from the Town's bank accounts referenced in Section 1, upon checks, warrants, or wire transfers duly signed by the Town Manager and the Town's Finance Director.

In the absence of or as may be designated by the Town Manager, the Deputy Town Manager or the Assistant Town Manager may sign checks, warrants, or wire transfers in the place

and instead of the Town Manager.

In the absence of or as may be designated by the Finance Director, the Assistant Finance Director, or the Budget Analyst may sign checks, warrants, or wire transfers in the place and instead of the Finance Director.

The Town Manager, Deputy Town Manager and Assistant Town Manager are not authorized to countersign each other's signatures; nor are the Finance Director, the Assistant Finance Director, and the Budget Analyst authorized to countersign each other's signatures.

Section 3. To open a new account, all current authorized account signatures will sign the appropriate paperwork. To close an existing account, the financial institution will be notified by letter signed by the Finance Director or Town Manager.

Section 4. Pursuant to Section 2-36 of the Town Code of Ordinances, funds may be withdrawn from the Town bank account designated for the payment of liability, property and worker's compensation claims upon checks, warrants, or wire transfers duly signed by two designated staff members of the Town's contracted third party claims administrator.

Section 5. The Town Clerk is hereby directed to furnish a certified copy of this Resolution to TD Bank, N.A., Florida League of Cities, N.A., PFM Asset Management LLC, Florida Education Investment Trust Fund, TD Wealth Management, Salem Trust, BankUnited, and any additional Qualified Public Depositories utilized by the Town.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 14th day of September, 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO 106-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing an Agreement with the State of Florida, Division of Emergency Management, Agreement No. Y5252, for Funding through the American Rescue Plan Act of 2021, Coronavirus Local Fiscal Recovery Fund, in the Amount of \$4,415,526.00, and Authorizing the Mayor to Execute all Documents Necessary on Behalf of the Town.

Presenter

Jane Le Clainche, Director of Finance

ATTACHMENTS:

- ▣ **Memorandum dated September 1, 2021, from Jane Le Clainche, Finance Director**
- ▣ **Resolution No. 106-2021**
- ▣ **Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

FROM: Jane Le Clainche, Finance Director

RE: Authorization of the Funding Agreement with State of Florida Division of Emergency Management for Funding through the American Rescue Plan Act of 2021 Coronavirus Local Fiscal Recovery Fund
Resolution No. 106-2021

DATE: September 1, 2021

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 106-2021 authorizing the Mayor to sign the funding agreement with the State of Florida Division of Emergency Management for funding through the American Rescue Plan Act of 2021 Coronavirus Local Fiscal Recovery Fund in the amount of \$4,415,526.

GENERAL INFORMATION

The American Rescue Plan Act of 2021, Coronavirus Local Fiscal Recovery Fund provides funding to local governments to facilitate the ongoing recovery from the COVID-19 pandemic. The Town of Palm Beach is considered a non-entitlement unit and is receiving funding from the State of Florida. The funding is based on the Town's proportional share of the total population of all non-entitlement units in the State and totals \$4,415,526.

The funding can be used for eligible expenditures such as to support public health response, replace public sector revenue loss, address negative economic impacts, premium pay for essential workers, and water, sewer and broadband infrastructure. The Town has proposed during the budget process to use this funding for sewer and storm water projects such as pipe lining and pump station improvements as part of the Capital Improvement Program.

FUNDING/FISCAL IMPACT

The total funding that will be allocated under this agreement will total \$4,415,526 and be provided in two payments; half after the agreement is signed and approved and the other half not earlier than 12 months from the date of the initial disbursement. The funding will be deposited in the Capital Improvement Program and be used for sewer and storm water projects.

TOWN ATTORNEY REVIEW

This Resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency. In addition, the Town's Attorney has reviewed the funding agreement and has approved it for legal form and sufficiency.

Attachments

cc: H. Paul Brazil, Director of Public Works
9-14-21 TCM Backup

RESOLUTION NO. 106-2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AN AGREEMENT WITH THE STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT AGREEMENT NO. Y5252, FOR FUNDING THROUGH THE AMERICAN RESCUE PLAN ACT OF 2021, CORONAVIRUS LOCAL FISCAL RECOVERY FUND, IN THE AMOUNT OF \$4,415,526.00, AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY ON BEHALF OF THE TOWN.

WHEREAS, State of Florida and the Florida Division of Emergency Management have been tasked to facilitate the distribution of American Rescue Plan Act Coronavirus Local Fiscal Recovery Funds to Non Entitlement units of local government and counties in Florida; and

WHEREAS, the Town is fully qualified and eligible to receive this funding in accordance with ARPA for the purposes identified in the agreement; and

WHEREAS, based upon the State's calculation of the Town's proportional share of the total population of all non-entitlement units in the State the Town's allocation under this agreement is \$4,415,526.00; and

WHEREAS, the Town expects to use these funds for necessary investments in sewer and stormwater infrastructure; and

WHEREAS, the Town will follow all Treasury and State laws, rules, regulations, policies and guidelines related to these funds.

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 Agreement No. Y5252, to provide funding to the Town through the American Rescue Plan Act 2021 Coronavirus Local Fiscal Recovery Fund.

Section 3. The Mayor is hereby authorized to execute the agreement and all documents necessary on behalf of the Town.

Section 5. This Resolution shall be provided to the Florida Division of Emergency Management, at 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, in accompaniment with an executed original of the agreement.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 14th day of September 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

**AMERICAN RESCUE PLAN ACT
CORONAVIRUS LOCAL FISCAL RECOVERY FUND AGREEMENT**

This Agreement is entered into by and between the State of Florida, Division of Emergency Management (the "Division") and Palm Beach, Town of (the "Non-Entitlement Unit" or "Recipient").

RECITALS

- A. Section 9901 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-2, §9901) added section 603(a) to the Social Security Act ("ARPA"), which created the Coronavirus Local Fiscal Recovery Fund for the purpose of providing funds to local governments in order to facilitate the ongoing recovery from the COVID-19 pandemic ("Fiscal Recovery Funds"); and
- B. Following the enactment of ARPA, the U.S. Department of the Treasury ("Treasury" or "Secretary") released formal and informal guidance regarding implementation of ARPA, including the disbursement and expenditure of Fiscal Recovery Funds, including Treasury Interim Final Rule, 31 CFR pt. 35, 2021, attending rule guidance published in the Federal Register, Volume 86, No 93,¹ and informal guidance made publicly available by Treasury, which may be amended, superseded, or replaced during the term of this Agreement ("Treasury Guidance"); and
- C. ARPA allocated **\$7,105,927,713.00** for making payments to metropolitan cities, non-entitlement units of local government, and counties in Florida, 21% of which is to be paid directly to metropolitan cities in Florida, 59% of which was paid directly to counties in Florida, and 20% of which is to be paid to the State of Florida for distribution to non-entitlement units of local government; and
- D. The Secretary disbursed **\$5,689,502,590.00** of these funds directly to metropolitan cities and counties; and
- E. A remaining balance of **\$1,416,425,123.00** was reserved for the State of Florida to disburse to non-entitlement units of local government; and
- F. The Division has received these funds from the Secretary through the State of Florida in accordance with the provisions of ARPA; and
- G. Pursuant to the provisions of ARPA, the Division is the state entity responsible for disbursing the funds to the Recipient under this Agreement; and
- H. The Recipient is fully qualified and eligible to receive this funding in accordance with ARPA for the purposes identified therein.

Therefore, in consideration of the mutual promises, terms and conditions contained herein, the Division and the Recipient agree as follows:

- (1) RECITALS. The foregoing recitals are true and correct and are incorporated herein by reference.
- (2) TERM. This Agreement shall be effective **upon execution** and shall end on **December 31, 2024**, unless terminated earlier in accordance with the provisions of this Agreement. Upon expiration or termination of this Agreement for any reason, the obligations which by their nature are intended to survive expiration or termination of this Agreement will survive.
- (3) FUNDING. The State of Florida, through the Division, will make a disbursement of each non-entitlement unit of local government's allocation based on the list of non-entitlement units published by Treasury and based upon the State's calculation of the Recipient's proportional share of the total population of all non-entitlement units in the State. The total Fiscal Recovery Funds allocation for Recipient under this Agreement is **\$4,415,526.00**.
- (4) USE OF FISCAL RECOVERY FUNDS
 - a. The State, through the Division, will—within 30 days of receiving payment from the Secretary, or within such other time period as may be permitted by the Secretary—make an initial disbursement to the non-entitlement

¹ <https://www.regulations.gov/document/TREAS-DO-2021-0008-0002> | Federal Register, Vol. 86, No. 93, Pg. 26786 ("Federal Register")

unit of local government of 50% of the total amount allocated to the non-entitlement unit.² Not earlier than 12 months from the date upon which the State makes the initial disbursement, the Secretary is expected to release the Second Tranche amount to the State. The State will—within 30 days of receiving payment from the Secretary, or within such other time period as may be permitted by the Secretary—make a second disbursement to the non-entitlement unit of local government.

- b. Recipients may use payments for any expenses eligible under ARPA Coronavirus State and Local Fiscal Recovery Funds. Payments are not required to be used as the source of funding of last resort.
- c. ARPA requires that Fiscal Recovery Funds may only be used to cover expenses incurred by the non-entitlement unit of local government by December 31, 2024³, such as:
 - i. to respond to the public health emergency with respect to COVID-19 or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
 - ii. to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the non-entitlement unit of local government that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
 - iii. for the provision of government services to the extent of the reduction in revenue of such non-entitlement unit of local government due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the non-entitlement unit of local government; or
 - iv. to make necessary investments in water, sewer, or broadband infrastructure.
- d. As specified in the Treasury Guidance, Eligible Use of Fiscal Recovery Funds falls under four categories, including (1) Public Health and Economic Impacts, (2) Premium Pay for Essential Workers, (3) Revenue Loss, and (4) Investments in Infrastructure.
 - i. Public Health and Economic Impacts: Examples of eligible uses of Fiscal Recovery Funds under this category include, but are not limited to:
 - 1. COVID-19 Mitigation and Prevention expenses, such as vaccination programs, medical care, testing, personal protective equipment (PPE), and ventilation improvements;⁴
 - 2. Medical expenses, including both current expenses and future medical services for individuals experiencing prolonged symptoms and health complications from COVID-19;⁵
 - 3. Payroll expenses for public safety, public health, health care, human services, and other similar employees, to the extent that their services are devoted to mitigating or responding to COVID-19;⁶
 - 4. Efforts to remedy the economic impact of the COVID-19 public health emergency on households, individuals, businesses, and state, local, and tribal governments;⁷ and
 - 5. Efforts to remedy pre-existing economic disparities which were exacerbated by the COVID-19 public health emergency.⁸
 - ii. Premium Pay: Fiscal Recovery Funds may also be used to provide premium pay to essential workers, per Treasury Guidance's definition of "essential work."⁹ Examples of essential workers include, but are not limited to:
 - 1. Staff at nursing homes, hospitals, and home care settings;
 - 2. Workers at farms, food production facilities, grocery stores, and restaurants;
 - 3. Janitors, truck drivers, transit staff, and warehouse workers
 - 4. Public health and safety staff;
 - 5. Childcare workers, educators, and other school staff; and

² "First Tranche Amount," American Rescue Plan Act of 2021, H.R. s. 601(b)(7) "Timing"

³ <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

⁴ See Federal Register, pg. 26790.

⁵ *Id.*

⁶ *Id.* at 26791

⁷ *Id.* at 26791-26797

⁸ *Id.*

⁹ *Id.* at 26797

- 6. Social service and human services staff.¹⁰
- iii. Revenue Loss: Recipients may use Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 Public Health Emergency.¹¹
- iv. Investments in Infrastructure: Treasury Guidance specifies that Fiscal Recovery Funds may be used to improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband services.¹²
- e. Additional guidance regarding eligible uses of Fiscal Recovery Funds, as well as impermissible uses (including for pensions or to offset revenue losses from tax reductions) is set forth in Treasury Guidance.

(5) LAWS, RULES, REGULATIONS, AND POLICIES

- a. Performance under this Agreement is subject to the applicable provisions of 2 CFR Part 200, entitled "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" including the cost principles and restrictions on general provisions for selected items of cost.
 - i. The following 2 CFR policy requirements apply to this assistance listing¹³:
 - Subpart B, General provisions;
 - Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards;
 - Subpart D, Post Federal; Award Requirements;
 - Subpart E, Cost Principles; and
 - Subpart F, Audit Requirements.
 - ii. The following 2 CFR policy requirements also apply to this assistance listing: 2 C.F.R. Part 25, Universal Identifier and System for Award Management; 2 C.F.R. Part 170, Reporting Subaward and Executive Compensation Information; and 2 C.F.R. Part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement). The following 2 CFR Policy requirements are excluded from coverage under this assistance listing: For 2 C.F.R. Part 200, Subpart C; 2 C.F.R. § 200.204 (Notices of Funding Opportunities); 2 C.F.R. § 200.205 (Federal awarding agency review of merit of proposal); 2 C.F.R. § 200.210 (Pre-award costs); and 2 C.F.R. § 200.213 (Reporting a determination that a non-Federal entity is not qualified for a Federal award). For 2 C.F.R. Part 200, Subpart D, the following provisions do not apply to the SLFRF program: 2 C.F.R. § 200.308 (revision of budget or program plan); 2 C.F.R. § 200.309 (modifications to period of performance); C.F.R. § 200.305 (b)(8) and (9) (Federal Payment).
- b. In addition to the foregoing, the Recipient and the Division will be governed by all applicable State and Federal laws, rules and regulations, including those identified in Attachment C. Any express reference in this Agreement to a particular statute, rule, or regulation in no way implies that no other statute, rule, or regulation applies.

(6) NOTICES

- a. All notices under this Agreement shall be made in writing to the individuals designated in this paragraph. In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the new name, title and contact information of the new representative will be promptly provided to the other party, and no modification to this Agreement is required.
- b. In accordance with section 215.971(2), Florida Statutes, the Division's Program Manager will be responsible for enforcing performance of this Agreement's terms and conditions and will serve as the Division's liaison

¹⁰ *Id.*

¹¹ *Id.* at 26799

¹² *Id.* at 26802

¹³ As defined in 2 C.F.R. § 200.1

with the Recipient. As part of his/her duties, the Program Manager for the Division will monitor and document Recipient performance.

- c. The Division's Program Manager for this Agreement is:

Erin White
Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
Telephone: 850-815-4458
Email: Erin.White@em.myflorida.com

- d. The name and address of the representative responsible for the administration of this Agreement is:

Melissa Shirah
Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
Telephone: 850-815-4455
Email: Melissa.Shirah@em.myflorida.com

- e. The contact information of the representative of the Recipient is:

Authorized Representative:

Title:

Address:

Telephone:

Email:

(7) PAYMENT

- a. In order to obtain funding under this Agreement, the Recipient must file with the Division Program Manager information and documentation, including but not limited to the following:
- Local government name, Entity's Taxpayer Identification Number, DUNS number, and address;
 - Authorized representative name, title, and email;
 - Contact person name, title, phone, and email;
 - Financial institution information (e.g., routing and account number, financial institution name and contact information);
 - Total NEU budget (defined as the annual total operating budget, including general fund and other funds, in effect as of January 27, 2020) or top-line expenditure total (in exceptional cases in which the NEU does not adopt a formal budget);
 - Signed Assurances of Compliance with Title VI of the Civil Rights Act of 1964. (Attachment D); and
 - Signed Award Terms and Conditions Agreement (Attachment E).
- b. Payment requests must include a certification, signed by an official who is authorized to legally bind the Recipient, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

(8) RECORDS

- a. As a condition of receiving state or federal financial assistance, and as required by sections 20.055(6)(c) and 215.97(5)(b), Florida Statutes, the Division, the Chief Inspector General of the State of Florida, the Florida Auditor General, or any of their authorized representatives, shall enjoy the right of access to any documents, financial statements, papers, or other records of the Recipient which are pertinent to this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access to the Recipient's personnel for the purpose of interview and discussion related to such documents. For the purposes of this section, the term "Recipient" includes employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement.
- b. The Recipient shall maintain all records related to this Agreement for the period of time specified in the appropriate retention schedule published by the Florida Department of State. Information regarding retention schedules can be obtained at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>.
- c. Florida's Government in the Sunshine Law (section 286.011, Florida Statutes) provides the citizens of Florida with a right of access to governmental proceedings and mandates three, basic requirements: (1) all meetings of public boards or commissions must be open to the public; (2) reasonable notice of such meetings must be given; and (3) minutes of the meetings must be taken and promptly recorded.
- d. Florida's Public Records Law provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. Unless specifically exempted from disclosure by Florida Statute, all materials made or received by a governmental agency (or a private entity acting on behalf of such an agency) in conjunction with official business which are used to perpetuate, communicate, or formalize knowledge qualify as public records subject to public inspection.

IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (850) 815-4156, Records@em.myflorida.com, or 2555 Shumard Oak Boulevard, Tallahassee, FL 32399.

(9) AUDITS

- a. In accounting for the receipt and expenditure of funds under this Agreement, the Recipient must follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 CFR §200.49, "GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).
- b. When conducting an audit of the Recipient's performance under this Agreement, the Division must use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 CFR §200.50, "GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.
- c. If an audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of and strict compliance with this Agreement and with Section 603(c) of the Social Security Act, the Recipient will be held liable for reimbursement to the Secretary of all funds used in violation of these applicable regulations and Agreement provisions within thirty (30) days after the Division has notified the Recipient of such non-compliance.
- d. The Recipient must have all audits completed by an independent auditor, which is defined in section 215.97(2)(i), Florida Statutes, as "an independent certified public accountant licensed under chapter 473." The independent auditor must state that the audit complied with the applicable provisions noted above. The audits must be received by the Division no later than nine months from the end of the Recipient's fiscal year.
- e. The Recipient must send copies of reporting packages required under this paragraph directly to each of the following:
 - i.

The Division of Emergency Management
DEMSingle_Audit@em.myflorida.com

OR

Office of the Inspector General
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

ii.

The Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

- f. Fund payments are considered to be federal financial assistance subject to the Single Audit Act and the related provisions of the Uniform Guidance.

(10) REPORTS

- a. The Recipient must provide the Secretary with periodic reports providing a detailed accounting of the uses of such funds by such non-entitlement unit of local government including such other information as the Secretary may require for administration of the Coronavirus Local Fiscal Recovery Fund. Concurrently, Recipients must provide to the Division a copy of the report given to the Secretary.
- b. Failure by Recipient to submit all required reports and copies may result in the Division's withholding of further payments until all such documents are submitted to the Division and deemed to be satisfactory.
- c. The Recipient must provide additional program updates or information if requested by the Division.

(11) LIABILITY.

Any Recipient which is a state agency or subdivision, as defined in section 768.28, Florida Statutes, agrees to be fully responsible for its negligent or tortious acts or omissions which result in claims or suits against the Division, and agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity applies. Nothing herein will be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement.

(12) TERMINATION

- a. The Division may terminate this Agreement immediately for cause upon written notice to Recipient. Cause includes, but is not limited to, misuse of funds, fraud, non-compliance with ARPA, Treasury Guidance, or other applicable rules, laws and regulations, or failure by the Recipient to afford timely public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Florida Statutes.
- b. The Division may terminate this Agreement for convenience upon thirty (30) days' prior written notice to Recipient.
- c. In the event this Agreement is terminated, the Recipient must not incur new obligations for the terminated portion of this Agreement after it has received the notification of termination. The Recipient must cancel as many outstanding obligations as possible. Obligations incurred after receipt of the termination notice will be disallowed. The Recipient will not be relieved of liability to the Division because of any breach of this Agreement by the Recipient. The Division may, if and to the extent permitted by ARPA and Treasury Guidance, withhold payments to the Recipient for the purpose of set-off until the exact amount due the Division from the Recipient is determined and resolved.

(13) MISCELLANEOUS

- a. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any later submission or response to a Division request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials is incorporated by reference. The inaccuracy of the submissions

or any material changes will, at the option of the Division and with thirty (30) days written notice to the Recipient, cause the termination of this Agreement and the release of the Division from all its obligations to the Recipient.

- b. This Agreement must be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement will be in the Circuit Court of Leon County. If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then the provision is null and void to the extent of the conflict, and is severable, but does not invalidate any other provision of this Agreement.
- c. Any power of approval or disapproval granted to the Division under the terms of this Agreement will survive the term of this Agreement.
- d. This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.
- e. The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.
- f. The Recipient must comply with any Statement of Assurances incorporated as Attachment D.
- g. Those who have been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of \$25,000.00 for a period of thirty-six (36) months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.
- h. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with Chapter 216, Florida Statutes, or the Florida Constitution.
- i. All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.
- j. Any bills for travel expenses must be submitted in accordance with section 112.061, Florida Statutes.
- k. This Agreement, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of this Agreement.
- l. This Agreement may not be modified except by formal written amendment executed by both of the parties.
- m. If the Recipient is allowed to temporarily invest any advances of funds under this Agreement, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 603 of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fiscal Recovery Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended. The State of Florida will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")]. The Division shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A(e) of the INA will be grounds for unilateral cancellation of this Agreement by the Division.
- n. The Recipient is subject to Florida's Government in the Sunshine Law (section 286.011, Florida Statutes) with respect to the meetings of the Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board. All of these meetings must be publicly noticed, open to the public, and the minutes of all the meetings will be public records, available to the public in accordance with Chapter 119, Florida Statutes.
- o. All expenditures of state or federal financial assistance must be in compliance with the laws, rules and regulations applicable to expenditures of State funds, including but not limited to, the Reference Guide for State Expenditures.
- p. In accordance with section 215.971(1)(d), Florida Statutes, the Recipient may expend funds authorized by this Agreement only for allowable costs resulting from obligations incurred during the specific agreement period.

- q. Any balances of unobligated cash that have been advanced or paid that are not authorized to be retained for direct program costs in a subsequent period must be refunded to the Secretary.
- r. If the purchase of the asset was consistent with the limitations on the eligible use of Fiscal Recovery Funds provided by ARPA and Treasury Guidance, the Recipient may retain the asset. If such assets are disposed of prior to December 31, 2024, the proceeds would be subject to the restrictions on the eligible use of Fiscal Recovery Funds provided by ARPA.

(14) LOBBYING PROHIBITION

- a. 2 CFR §200.450 prohibits reimbursement for costs associated with certain lobbying activities.
- b. Section 216.347, Florida Statutes, prohibits “any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency.”
- c. No funds or other resources received from the Division under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.
- d. The Recipient certifies the following:
 - i. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
 - ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Recipient must complete and submit Standard Form-LLL, “Disclosure of Lobbying Activities.”
 - iii. The Recipient must require that this certification be included in the award documents for all subawards (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose.
 - iv. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(15) REQUIRED CONTRACTUAL PROVISIONS

a. EQUAL OPPORTUNITY EMPLOYMENT

- i. In accordance with 41 CFR §60-1.4(b), the Recipient hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

- 1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- a. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the portion of the sentence immediately preceding paragraph 1(a)(ii) of this section and the provisions of subparagraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

b. COPELAND ANTI-KICKBACK ACT

- i. The Recipient hereby agrees that, unless exempt under Federal law, it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, the following clause:

“Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 CFR pt. 3 as may be applicable, which are incorporated by reference into this contract.”

- ii. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause in subsection b(i) above and such other clauses as the Secretary may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- iii. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR § 5.12.

c. CONTRACT WORK HOURS AND SAFETY STANDARDS

If the Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds \$100,000 and involves the employment of mechanics or laborers, then any such contract must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

d. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

If the Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds \$150,000, then any such contract must include the following provision:

“Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).”

e. SUSPENSION AND DEBARMENT

If the Recipient, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following provisions:

- i. This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such the contractor is required to verify that neither the contractor, its principals (defined at 2 CFR § 180.995), nor its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).
- ii. The contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction into which it enters.
- iii. This certification is a material representation of fact relied upon by the Division. If it is later determined that the contractor did not comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the Division, the Federal Government may pursue available remedies, including, but not limited to, suspension and/or debarment.
- iv. The bidder or proposer agrees to comply with the requirements of 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

f. BYRD ANTI-LOBBYING AMENDMENT

If the Recipient enters into a contract using funds authorized by this Agreement, then any such contract must include the following clause:

“Byrd Anti-Lobbying Amendment, 31 USC § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.”

(16) ATTACHMENTS. The parties agree to, and incorporate as though set forth fully herein, the following exhibits and attachments:

Exhibit 1	Funding Sources
Attachment A	ARPA Coronavirus Local Fiscal Recovery Fund Eligibility Certification
Attachment B	Certification Regarding Lobbying
Attachment C	Program Statutes and Regulations
Attachment D	Statement of Assurances
Attachment E	Award Terms and Conditions

(17) LEGAL AUTHORIZATION. The Recipient certifies that its governing body has authorized the Recipient's execution of this Agreement and that the undersigned person has the authority to legally execute and bind the Recipient to the terms of this Agreement.

RECIPIENT

Palm Beach, Town of

By:

Name and title:

Date:

FEIN : 596000402

DUNS : 787932755

STATE OF FLORIDA

DIVISION OF EMERGENCY MANAGEMENT

By: _____

Name and Title: **Kevin Guthrie, Director**

Date: _____

Exhibit 1

Funding Sources

STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT, SUBJECT TO SECTION 215.97, FLORIDA STATUTES, CONSIST OF THE FOLLOWING:

State Project -

State awarding agency: Florida Division of Emergency Management

Catalog of State Financial Assistance title: Coronavirus State and Local Fiscal Recovery Funds (CSFRF)

Catalog of Federal Domestic Assistance number: 21.027

Amount of State Funding: \$4,415,526.00

Attachment A

ARPA Coronavirus Local Fiscal Recovery Fund Eligibility Certification

I, _____, am the Authorized Agent of Palm Beach, Town of ("Recipient") and I certify that:

1. I have the authority on behalf of the Recipient to request fund payments from the State of Florida ("State") for federal funds appropriated pursuant to section 603 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2, Title VI (March 11, 2021).
2. I have submitted to the State the Recipient's Total Budget in effect as of January 27, 2020, as defined by the United States Department of the Treasury, the annual operating budget including general fund and other funds.
3. I understand that the State will rely on this certification as a material representation in making grant payments to the Recipient.
4. I acknowledge that the Recipient should keep records sufficient to demonstrate that the expenditure of funds it has received is in accordance with section 603(a) of the Social Security Act.
5. I acknowledge that all records and expenditures are subject to audit by the United States Department of Treasury's Inspector General, the Florida Division of Emergency Management, and the Florida State Auditor General, or designee.
6. I acknowledge that the Recipient has an affirmative obligation to identify and report any duplication of benefits. I understand that the State has an obligation and the authority to de-obligate or offset any duplicated benefits.
7. I acknowledge and agree that the Recipient shall be liable for any costs disallowed pursuant to financial or compliance audits of funds received.
8. I acknowledge that if the Recipient has not obligated the funds it has received to cover costs that were incurred by December 31, 2024, as required by the statute, those funds must be returned to the United States Department of the Treasury.
9. I acknowledge that the Recipient's proposed uses of the funds provided as grant payments from the State by federal appropriation under section 603 of the Social Security Act will be used only to cover those costs that:
 - a. to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
 - b. to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the metropolitan city, non-entitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
 - c. for the provision of government services to the extent of the reduction in revenue of such metropolitan city, non-entitlement unit of local government, or county due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, non-entitlement unit of local government, or county prior to the emergency; or
 - d. to make necessary investments in water, sewer, or broadband infrastructure.

In addition to each of the statements above, I acknowledge on submission of this certification that my jurisdiction has incurred eligible expenses during the period that begins on March 3, 2021 and ends on December 31, 2024.

By:

Signature:

Title:

Date:

Attachment B
Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned Recipient, _____, certifies, to the best of his or her knowledge that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. Sec. 1352 (as amended by the Lobbying Disclosure Act of 119). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Recipient, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Recipient understands and agrees that the provisions of 31 U.S.C. Sec. 3801 *et seq.* apply to his certification and disclosure, if any.

By:

Signature:

Title: _

Date: _

Attachment C

Program Statutes and Regulations

42 U.S.C. 801 Social Security Act	Coronavirus State and Local Fiscal Recovery Funds
Title 31, Part 35, Code of Federal Regulations	Treasury Interim Final Rule
Section 215.422, Florida Statutes	Payments, warrants, and invoices; processing time limits; dispute limitation; agency or judicial branch compliance
Section 215.971, Florida Statutes	Agreements funded with federal and state assistance
Section 216.347, Florida Statutes	Disbursement of grant and aids appropriations for lobbying prohibited
CFO MEMORANDUM NO. 04 (2005-06)	Compliance Requirements for Agreements

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the “Recipient”) provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient’s beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient’s program(s) and activity(ies), so long as any portion of the Recipient’s program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient’s programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

Palm Beach, Town of

Date

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address:

Palm Beach, Town of

Address:

DUNS Number: 787932755

Taxpayer Identification Number: 596000402

Assistance Listing Number: 21.027

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient: Palm Beach, Town of

Authorized Representative:

Title:

Date signed:

U.S. Department of the Treasury:

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
 - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.
4. Maintenance of and Access to Records
 - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

- a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and

Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

14. Debts Owed the Federal Government.

- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are

determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.

- b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR

19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 107-2021 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Approving Proposed Fixed Costs for Property, Liability, Workers' Compensation, Automobile and Ancillary Coverages for FY2022 in the Amount of \$1,061,517 and Variable Costs in the Amount of \$1,100,000; Approving a Non-Exclusive Insurance Broker Services Agreement with Relation Insurance Service of Florida, Inc. "Relation", in the Amount of \$40,000; Approving a Non-Exclusive Insurance Broker Services Agreement with Arthur J. Gallagher Risk Management Services, Inc., "AJG," in the Amount of \$7,500; Approving a Third Party Administration Services Agreement with Preferred Governmental Claim Solution "PGCS" in the Amount of \$53,230; Conditioning All Matters Contained Herein Subject to Approval of the Fiscal Year 2022 Budget; and Authorizing the Town Manager to Execute the Non-Exclusive Insurance Broker Services Agreements with Relation, AJG and PGCS on Behalf of the Town.

Presenter

Carolyn Stone, Assistant Town Manager

ATTACHMENTS:

- ▣ **Memorandum Dated September 1, 2021, from Karen Temme, Risk Manager**
- ▣ **Resolution No. 107-2021**
- ▣ **Exhibit "A" - Premiums Coverage Option Comparison**
- ▣ **Exhibit "B" - Lines of Coverage Summary**
- ▣ **Exhibit "C" - Relation Non Exclusive Insurance Broker Services Agreement**
- ▣ **Exhibit "D" - AJG Non Exclusive Insurance Broker Services**
- ▣ **Exhibit "E" - PGCS Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

Via: Carolyn Stone, Assistant Town Manager

From: Karen Temme, ARM, Risk Manager

Re: Liability, Property, Workers' Compensation, Automobile
& Ancillary Insurance Coverages for FY2022
Resolution No. 107-2021 – Insurance Program Renewal

Date: September 1, 2021

STAFF RECOMMENDATION

Staff recommends Town Council approve Resolution No. 107-2021 for the Town's 2021-2022 insurance program as outlined in this memorandum and authorize the Town Manager to execute the necessary documents and required payments prior to October 1, 2021. Based upon staff recommendations, the total fixed costs for the FY22, insurance renewals including premiums, claims management and broker fees are \$1,061,517.

GENERAL INFORMATION

The Town's risk insurance program is a hybrid program, as it includes insurance that is first dollar traditional coverage and coverages that are self-insured. Remaining partially self-insured provides the Town with input to decision-making for those lines of insurance that are self-insured. The current hybrid model employed by the Town provides maximum flexibility to adjust to market conditions and save money where possible.

Beyond traditional lines of coverage with established deductibles, the self-insurance program also uses an alternative risk financing method whereby an exposure to loss is retained by the Town under the self-insured retention (SIR). An SIR is the amount that the Town self-insures beneath the excess coverage. With an SIR, the insured has control over the claims management and loss control.

The Town has purchased excess insurance coverage above the SIR. The insurance premium savings over the traditional/first dollar program allows the Town to keep the premium dollars in

house in order to reserve funds to cover future potential losses. The required reserve fund amounts are calculated using actuarial models and claim information.

FUNDING/FISCAL IMPACT

The Risk Fund and overall budget for FY22 has sufficient funding to cover the recommendations herein for Property, Liability, Workers' Compensation, Automobile physical damage and Ancillary coverages for the FY22, insurance renewal.

PURCHASING REVIEW

The Purchasing Manager has reviewed and approved the documents for the for FY22 insurance renewal.

ATTACHMENTS

c: Department Directors
 Andy Jadoo, IT Division Director
 Dean Mealy, Purchasing Manager

RESOLUTION NO. 107-2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING PROPOSED FIXED COSTS FOR PROPERTY, LIABILITY, WORKERS' COMPENSATION, AUTOMOBILE AND ANCILLARY COVERAGES FOR FY2022 IN THE AMOUNT OF \$1,061,517 AND VARIABLE COSTS IN THE AMOUNT OF \$1,100,000; APPROVING A NON-EXCLUSIVE INSURANCE BROKER SERVICES AGREEMENT WITH RELATION INSURANCE SERVICE OF FLORIDA, INC. "RELATION", IN THE AMOUNT OF \$40,000; APPROVING A NON-EXCLUSIVE INSURANCE BROKER SERVICES AGREEMENT WITH ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES, INC., "AJG," IN THE AMOUNT OF \$7,500; APPROVING A THIRD PARTY ADMINISTRATION SERVICES AGREEMENT WITH PREFERRED GOVERNMENTAL CLAIM SOLUTION "PGCS" IN THE AMOUNT OF \$53,230; CONDITIONING ALL MATTERS CONTAINED HEREIN SUBJECT TO APPROVAL OF THE FISCAL YEAR 2022 BUDGET; AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE NON-EXCLUSIVE INSURANCE BROKER SERVICES AGREEMENTS WITH RELATION, AJG AND PGCS ON BEHALF OF THE TOWN.

* * * * *

WHEREAS, staff has recommended renewal of the proposed Property, Liability, Workers' Compensation, Automobile and Ancillary insurance coverages to memorialize the expectations of the Town of Palm Beach relative to services to be provided by the Town's insurance brokers of record and other parties as may be needed.

WHEREAS, Town Council accepts the staff recommendation and hereby approves the awards in the manner stated herein.

NOW, THEREFORE, 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 proposed Property, Liability, Workers' Compensation, Automobile and Ancillary insurance coverages for FY2022 as recommended by staff as part of the FY2022 insurance renewal proposal, attached hereto as Exhibit "A", is hereby approved in the amount of \$1,061,517 fixed costs and \$1,100,000 variable costs.

- Section 3: The Lines of Coverage Summary, attached hereto as Exhibit “B”, is hereby approved.
- Section 4: The Non-Exclusive Insurance Broker Services Agreements with Relation, attached hereto as Exhibit “C”, is hereby approved in the amount of \$40,000.
- Section 5: The Non-Exclusive Insurance Broker Services Agreement with AJG, attached hereto as Exhibit “D”, is hereby approved in the amount of \$7,500.
- Section 6: The Third Party Administration Services Agreement with PGCS attached hereto as Exhibit “E”, is hereby approved in the amount of \$53,230.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 14th day of September 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

Summary: The original FY22 budget submitted projected premium renewals totaling \$1,153,689. Renewal quotes for existing coverages were received for \$1,061,517.

Coverage Type	FY21 Actual	FY22 Proposed Budget	FY22 Negotiated Renewal Proposals	FY22 Proposed Budget to Renewal Difference (+/-)
Property includes Boiler & Machinery & Inland Marine	\$441,525	\$529,830	\$495,899	(\$33,931)
Rental Equipment Coverage	\$6,360	\$6,996	\$6,250	(\$746)
General Liability	\$45,300	\$49,830	\$49,500	(\$330)
Cyber Liability ¹	\$32,250	\$41,925	n/a	(41,925)
Law Enforcement Liability ²	\$52,000	\$57,200	\$44,500	(\$12,700)
Unmanned Aviation Liability ³ (Public Safety Drones)	\$1,547	\$1,200	\$1,547	\$347
Public Officials/ Employment Practices	\$105,000	\$115,500	\$110,000	(\$5,500)
Automobile Liability	\$40,000	\$44,000	\$55,000	\$11,000
Automobile Physical Damage	\$17,274	\$19,001	\$17,021	(\$1,980)
Commercial Crime	\$5,400	\$5,400	\$5,400	\$0
Storage Tank Liability	\$5,798	\$6,377	\$6,388	\$11
Excess Workers' Compensation ⁴	\$120,895	\$128,493	\$120,899	(\$7,594)
Workers' Compensation State Assessment for self-insureds	\$10,000	\$10,000	\$10,000	\$0
Claims Management	\$51,680	\$53,230	\$53,230	\$0
Insurance Agent Flat Rate Fee	\$50,000	\$47,500	\$47,500	\$0
NFIP Flood Insurance ³	\$29,969	\$30,425	\$31,601	\$1,176
Marine Hull & Liability ³	\$6,774	\$6,782	\$6,782	\$0
Total Fixed Costs	\$919,517	\$1,153,689	\$1,061,517	(\$92,172)

¹ There were 27 insurance carriers contacted and only (1) carrier provided a quote. The Town will not renew based on high premium, reduction in coverage and increased deductible. The Town will self-insure and will continue to pursue other carriers to obtain a more favorable quote.

² Limits and deductible recommended change. Refer to Exhibit B

³ All lines of coverage renew on 10/1/2020, except those marked with this footnote.

⁴ Subject to an annual audit by FMIT, the Town's excess insurance carrier.

SUMMARY OF LOSS FUND

Coverage Type	Actual FY21	Proposed FY22 Budget	FY22 Renewal Proposals
Loss Fund to pay claims	\$1,100,000	\$1,100,000	\$1,100,000



FY22 Risk Management Program Lines of Coverage Summary

Exhibit “B”

The following provides a summary of the various lines of coverage purchased within the Town’s hybrid Risk Management program, showing both FY21 and FY22 premium costs. The program utilizes premium plans and a budgeted loss fund that is determined by an actuarial evaluation of the projected claim exposure to cover the claims and expenses incurred in the various liability coverages outlined herein.

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Property

The Property insurance coverage is a traditional/first dollar policy. The property insurance covers the Town's buildings and contents for fire, theft, wind, and flood. Florida Municipal Insurance Trust, FMIT, provides this coverage.

The property coverage premium is \$495,899 with a \$25,000 per occurrence deductible. The Named Storm deductible is a 5% deductible of the insured value per location per occurrence. The program also includes a \$5,000,000 limit of liability for flood, which is in excess of the National Flood Insurance Program (NFIP) policies for Flood zones A or V. A \$5,000 or All Other Perils deductible, whichever is greater, per occurrence applies for other Flood zones.

The Property coverage includes various extensions of coverage including valuable papers and records at a limit of \$500,000, extra expense at a limit of \$1,000,000, business income \$500,000, electronic data processing software at \$250,000, fine arts up to \$250,000 with a maximum of \$15,000 any one item.

FMIT's provides their members with access to Synergy Disaster Preparedness and Turnkey Recovery Programs. These programs allow the Town direct access to services and programs for crisis planning, disaster response and recovery, from fires to floods to hurricanes. FMIT has decades of recovery experience combined with cutting-edge technology to provide critical incident communications both pre and post event, rapid damage assessments immediately after a catastrophe, and building stabilization services that maintain operations and reduce claim costs. Based upon the Town's losses over the past several years, we found that the Turnkey Recovery Program saves the Town time and money by quickly restoring the facilities to their regular operations and allowing the Town to transfer of risk of hiring contractors to FMIT.

FMIT also provides Property Damage Mitigation Coverage. This coverage will provide the Town with immediate stabilization services (such as water extraction and remediation services), through FMIT's disaster recovery partnership and vendor network with a \$500,000 per occurrence limit and no deductible.

As a condition of receiving Public Assistance for permanent work through FEMA, the Town is required to remain compliant with Section 311 of the Stafford Act and its implementing regulations, Title 44 CFR 206.250-253. This requires the Town to maintain wind coverage for the life of the facility. Should the Town fail to keep this coverage, FEMA will not provide assistance for the same facility in future disasters. (1/14/21 per Hurricane IRMA requirements)

The commercial property rates have continued to increase between 15% and 30%, depending on the level of CAT-exposure. The Town's renewal is a 12% increase in premium. This increase is below the current industry pricing for a barrier island.

In order to ensure the best pricing, the Town's insurance broker, Relation Insurance Services did obtain estimated pricing with layering coverage with various carriers which would have resulted



in a premium between \$700,000 - \$750,000, and a higher deductible. The estimated pricing was not competitive with the FMIT premium and policy coverages.

Carrier: Florida Municipal Insurance Trust "FMIT"

	<u>FY21</u>	<u>FY22</u>
Premium:	\$441,525	\$495,899
Deductible:	\$25,000	\$25,000
	<i>5% per scheduled location for Named Storm</i>	
Limit of Liability:	\$53,837,863	\$53,942,363 *

* Limit will increase by \$1,417,589 on 11/1/2021 as the (3) new buildings at the Town Marina will be placed under this policy. Premium will be adjusted to cover the (3) buildings.

Boiler and Machinery

Boiler and Machinery is for equipment breakdown, is covered under the heading of property coverage. The Boiler and Machinery coverage includes equipment within the Town's Water Resources Division such as storm water and sewer pumps, generators and air conditioning equipment as outlined in the Town's equipment schedule.

Carrier: Florida Municipal Insurance Trust "FMIT"

	<u>FY21</u>	<u>FY22</u>
Premium:	Included in Property Premium	Included in Property Premium
Deductible:	\$25,000	\$25,000
Limit of Liability:	Same as Property	Same as Property

Equipment Rental Coverage

This coverage allows the Town to lease/rent large equipment such as generators, backhoes, etc. and meet the equipment rental insurance requirements of outside vendors. The Town compared costs for purchasing the coverage through the rental company versus purchasing an annual stand-alone policy. It was determined to be a cost savings to purchase a stand-alone annual policy. Based upon urgent needs throughout the year, including post-storm to rent equipment this coverage continues to be necessary.

Carrier: Scottsdale Insurance Company

	<u>FY21</u>	<u>FY22</u>
Premium:	\$6,360	\$6,360
Deductible:	\$5,000 and 5% wind/hail subject to \$5,000 minimum (new for FY21)	\$5,000



defense expenses and \$4,000,000 aggregate limit of liability for storage tank incidents for both above and underground storage tanks with a \$5,000 deductible.

Carrier: Commerce & Industry Insurance Company

	<u>FY21</u>	<u>FY22</u>
Premium:	\$5,798	\$6,388
Deductible:	\$5,000	\$5,000
Limit of Liability:	\$1,000,000/\$4,000,000	\$1,000,000/\$4,000,000

General Liability

General Liability insurance is premises, operations liability coverage, products, completed operations and personal injury coverage with a limit of liability of \$1M per occurrence/\$2M annual aggregate.

General Liability, Law Enforcement Liability, Automobile Liability, Public Officials Liability and Employment Practices Liability are bundled with one carrier, BRIT, for the most competitive pricing.

Carrier: BRIT Global Specialty USA

	<u>FY21</u>	<u>FY22</u>
Premium:	\$45,300	
SIR:	\$200,000	\$200,000
Limit of Liability ¹ :	\$1,000,000 per occurrence/ \$2,000,000 annual aggregate	\$1,000,000 per occurrence/ \$2,000,000 annual aggregate

Law Enforcement Liability

Law Enforcement Liability insurance protects against the inherent risks associated with the operation of a law enforcement agency such as false arrest, detention or imprisonment, malicious prosecution, etc. The Towns current limit of liability is \$5,000,000 per occurrence/\$10,000,000 aggregate was not offered for this year's renewal, due to the recent litigation against law enforcement agencies.

The recent litigation against police agencies and officers, along with the defunding of the police movement have caused insurance carriers to lower the limits of liability and provide options to increase self-insured retentions. In addition, insurance carriers are focusing more on hiring practices, training, detention facilities, policies and procedures when determining coverage renewals.



The following options have been offered for this coverage renewal. Staff is recommending the Town renewal coverage based upon Option 3.

Coverage	Option 1	Option 2	Option 3
Limit	\$5M/\$5M	\$5M/\$5M	\$3M/\$3M
Self-Insured Retention	\$100,000	\$200,000	\$200,000
Premium	\$70,500	\$59,500	\$44,500

General Liability, Law Enforcement Liability, Automobile Liability, Public Officials Liability and Employment Practices Liability are bundled with one carrier, BRIT, for the most competitive pricing.

Carrier: BRIT Global Specialty USA

	<u>FY21</u>	<u>FY22</u>
Premium:	\$52,000	\$44,500
SIR:	\$100,000	\$200,000
Limit of Liability:	\$5,000,000 per occurrence /\$10,000,000 aggregate	\$3,000,000 per occurrence /\$3,000,000 aggregate

Public Officials Liability and Employment Practices Liability

Public Official Liability insurance provides elected officials protection for actions that may be deemed as wrongful or for failure to perform while acting in an official capacity. The Public Officials Liability has a limit of liability of \$5,000,000 per occurrence/\$5,000,000 aggregate with a \$100,000 per occurrence self-insured retention. Employment Practices Liability insurance provides protection for the insured employer against claims by employees, former employees or prospective employees resulting from negligent acts or omissions involving hiring, firing, EEOC, retaliation, discrimination, etc. The Employment Practices Liability has a limit of liability of \$5,000,000 per occurrence/\$5,000,000 aggregate with a \$200,000 per occurrence self-insured retention.

General Liability, Law Enforcement Liability, Automobile Liability, Public Officials Liability and Employment Practices Liability are bundled with one carrier, BRIT, for the most competitive pricing.

Carrier: BRIT Global Specialty USA

	<u>FY21</u>	<u>FY22</u>
Premium:	\$105,000	\$110,000
SIR:	\$100,000 POL/\$200,000 EPLI	\$100,000 POL/\$200,000 EPLI



Limit of Liability: \$5,000,000 per occurrence/\$5,000,000 aggregate

Note: The Public Officials & Employment Practices Liability are subject to a combined annual aggregate limit of \$5,000,000

Automobile Liability

Automobile Liability insurance is for claims involving bodily injury or property damage because of an accident involving licensed vehicles, owned, leased or hired by the Town. The Town's fleet consists of 187 vehicles. The limit of liability is \$1M per occurrence/ no annual aggregate with a \$100,000 per occurrence self-insured retention.

General Liability, Law Enforcement Liability, Automobile Liability, Public Officials Liability and Employment Practices Liability are bundled with one carrier, BRIT, for the most competitive pricing.

Carrier: BRIT Global Specialty USA

	<u>FY21</u>	<u>FY22</u>
Liability Premium:	\$40,000	\$55,000
SIR:	\$100,000	\$100,000
Limit of Liability:	\$1,000,000 per occurrence /no aggregate	\$1,000,000 per occurrence/ no aggregate

Automobile Physical Damage

Automobile Physical Damage provides comprehensive and collision protection to scheduled vehicles in the event of an accident. Physical Damage coverage annual premium is \$17,021 with a \$10,000 deductible per occurrence.

Carrier: Florida Municipal Insurance Trust "FMIT"

	<u>FY21</u>	<u>FY22</u>
Physical Damage Premium:	\$17,274	\$17,021
Deductible:	\$10,000	\$10,000
Limit:	Actual Cash Value	Actual Cash Value

Unmanned Aircraft Liability (public safety drones)

Unmanned Aircraft Liability insurance provides liability for bodily injury, property damage and physical damage for the use of drones by the Town's public safety departments. The police department has four (4) drones. The Unmanned Aircraft Liability policy has a limit of liability of \$1,000,000 per occurrence with zero deductible.



Carrier: Global Aerospace

	<u>FY21</u>	<u>FY22</u>
Premium:	\$1,688	\$1,688
Deductible:	zero	zero
Limit of Liability:	\$1,000,000	\$1,000,000

Marine Hull & Liability and Protection and Indemnity

The Town purchases Hull & Liability coverage that covers damage to the boat's hull, machinery and equipment and Protection and Indemnity that covers losses due to legal liability for injury to passengers.

The Town owns a 2015 34' SeaVee with twin Mercury 300 H.P. outboard engines. This boat is for the Police Department's Marine Unit.

Carrier: The Great American Insurance Group

	<u>FY21</u>	<u>FY22</u>
Premium:	\$6,774	\$6,774
Deductible:	\$5,000	\$5,000
Limit of Liability P & I:	\$1,000,000	\$1,000,000
Limit of Liability Hull & Liability:	\$130,000	\$130,000

Workers' Compensation and Employer's Liability

Workers' Compensation is statutorily required and provides protection to employees and volunteers while performing duties within the course and scope of their assigned duties pursuant to Florida State Statute 440. Workers' Compensation limits are statutory. The Town has a \$500,000 self-insured retention under the policy.

Employer's Liability is coverage B under the Workers' Compensation policy and applies to liability that maybe imposed on an employer outside the provisions of the Workers' Compensation law. The Employer's Liability coverage has a \$1,000,000 limit of liability per occurrence and \$500,000 self-insured retention.

The Workers' Compensation and Employer's Liability coverage at an annual premium of \$120,899. The premium is subject to an annual audit at the end of the policy period. There is also an annual assessment for self-insured's from the State of Florida estimated at \$10,000.



Carrier: Florida Municipal Insurance Trust “FMIT”

	<u>FY21</u>	<u>FY22</u>
Premium:	\$122,374	\$120,899
Assessment to State:	\$10,000	\$10,000
Total Costs:	\$132,021	\$130,899
SIR:	\$500,000	\$500,000
Limit of Liability:	Statutory	Statutory

Loss Fund

The loss fund is set up to cover the costs of claims within the Town’s self-insured retention and deductible. During the annual actuarial evaluation of the Risk Management program, the long-term future impact of claims is determined and funds are set-up accordingly. The loss fund for FY22 is \$1,100,000.

Insurance Broker Fee

The Town has two insurance brokers that have access to the open market so we can gain maximum flexibility within our insurance program. The Town entered into a Non-Exclusive Insurance Broker Services Agreement with Relation Insurance Services, Inc. for the package insurance coverages and Arthur J. Gallagher Risk Management Services for the ancillary coverages.

Flat Fee Rates:

	<u>FY21</u>	<u>FY22</u>
Relation Insurance Services, Inc.	\$40,000	\$40,000
Arthur J. Gallagher Risk Management Services	\$10,000	\$7,500

Claims Management Services and Third Party Administration (TPA)

The Town’s TPA is PGCS, Preferred Governmental Claims Solution. The claims administration program provided consists of workers' compensation, general liability, bodily injury, personal injury, property, auto liability, auto physical damage, employment practices liability, school leaders/educators liability and public officials liability. PGCS also provides a dedicated subrogation unit to pursue reimbursements from at-fault third parties, and catastrophic adjusting team in the event of a hurricane, natural, or manmade disaster.

Provider: Preferred Governmental Claims Solution “PGCS”

	<u>FY20</u>	<u>FY22</u>
Flat Fee Rate:	\$51,680	\$53,230

NON-EXCLUSIVE INSURANCE BROKER SERVICES AGREEMENT

This agreement ("Agreement"), entered into this 14th day of September, 2021, by and between Relation Insurance Services of Florida, Inc. "Relation", a Florida corporation, hereinafter "Insurance Broker" or "Broker", with offices located at 700 Central Parkway, Stuart, FL and the Town of Palm Beach, a Florida municipal corporation ("Town"), with offices located at 360 South County Road, Palm Beach, FL 33480.

WHEREAS Relation is to provide insurance for the Town for its annual insurance renewal to be effective October 1, 2021.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and value of which is hereby acknowledged by both parties, the parties agree as follows:

Article 1

Incorporation by Reference

1. The terms and conditions of the Town's Request for Qualifications RFQ No. 2012-18 for Property, Liability, Workers' Compensation and Ancillary Coverages and the Insurance Broker's response to RFQ 2012-18 provided to the Town are hereby incorporated into this Agreement as Exhibit A and Exhibit B respectively. In the event of any inconsistency in interpreting this Agreement, RFQ No 2012-18, provided to the Town, the Town's interpretation shall prevail.

Article 2

Insurance Broker's Specific Obligations

1. Insurance Broker will provide the insurance broker services in conjunction with the insurance policy or policies provided by Insurance Broker in accordance with the insurance broker requirements set forth in this Agreement. Breach of these requirements shall be considered a breach of this Agreement.

- (a) The insurance policy or policies to be provided by the Insurance Broker pursuant to this Agreement are as follows:

- i. Property
- ii. Boiler & Machinery
- iii. Inland Marine
- iv. General Liability
- v. Cyber Liability
- vi. Law Enforcement Liability
- vii. Public Officials Liability
- viii. Employment Practices Liability
- ix. Automobile Liability
- x. Automobile Physical Damage
- xi. Workers' Compensation
- xii. Rental Equipment Coverage
- xiii. Unmanned Aircraft (public safety drones)

Any substantive change, that may occur at any time, as determined solely by the Town, in the quality of the insurance company providing said coverage, an increase in the associated premiums, reduction in the scope of said coverage provided, or an increase or decrease in associated deductible or self-insured retention, thereof may be grounds for the Town to modify this agreement and obtain coverage from an alternative insurance broker, insurance company or underwriters or may be grounds for the Town to unilaterally terminate this Agreement in the Town's sole discretion. The Town may make modifications to this agreement throughout the contract period and any such modifications shall be in writing.

(b) Work with the Town's Risk Manager in risk analysis, preparation of underwriting, submissions/specifications, marketing, program design and carrier selection. Insurance Broker will be actively involved to ensure the proper coverage for whatever the program may require. Maintain contact with global insurance markets, which are interested, available, and qualified to provide insurance and loss prevention services to the Town.

- (c) The Town will receive 48 hours of loss control services from Relation as part of this Agreement. Should the Town desire additional hours of loss control services the rate is \$650.00 per day (8 hours) or \$85.00 per hour. All travel expenses are included in this rate. The Town will receive unlimited hours of loss control services with coverages placed with Preferred by the loss control division within Preferred.
- (d) Support the Town's efforts in continual development of Risk Management Policies. To include: presentation of industry standard practices; assistance in development of policies that support the goals of the Town toward use of local resources; innovation in the design of risk funding of the Town toward use of local resources; and assist in presentations to policy and decision making authorities. Inform the Town of application Federal and State compliance legislation, legislative trends and issues and necessary governmental filings.
- (e) Coordinate with Town staff to assure that up-to-date exposure data is incorporated into issuance of newly purchased policies as enumerated herein.
- (f) Issue and deliver valid and timely binders for applicable insurance policies purchased by the Town as enumerated herein.
- (g) Assure that insurance policies being purchased as enumerated herein will be delivered in accordance with the proposal(s) that were negotiated and/or accepted by the Town.
 - i. Verification of policy language, checking for: accuracy, appropriate forms, compliance with requirements, proper application to risk. Assure that the policies issued reflect not less than policy terms, conditions, coverage amounts and options than were accepted by the Town.
 - ii. Immediately correct policy deficiencies before delivery to the Town.
 - iii. Promptly deliver the policies to the Town within 30 days of policy inception. If any deficiencies from the accepted proposal remain, provide a timeline for their resolution to the satisfaction of the Town.
 - iv. Broker is responsible for billing of premiums to the Town. All premiums shall be provided net of commission. All invoices should be sent to the Risk Manager.

- (h) Promptly and accurately process insurance policy endorsements and other change requests as needed.
- (i) Within 30 days of policy inception Insurance Broker will specify to the Risk Manager the loss control and safety services available from the insurers whose policies were purchased through the broker and thereafter coordinate loss control and safety services desired by the Town.
- (j) Assist the Town in filing claims with insurers from whom the Town has purchased policies through the broker.
- (k) Be available for risk management meetings with the Town and for meetings with the Town Council, as desirable during the year.
- (l) Issue Certificates of Insurance, within forty-eight (48) hours of receipt of a request for the same from the Town.
- (m) Monitor and notify the Town of major developments regarding the insurance industry or the Town's insurers or policies as enumerated herein that may affect the Town.
- (n) Respond to coverage or other insurance policy questions as may be presented by the Town within twenty-four (24) hours.
- (o) At mutually agreeable dates and times to be initiated by Insurance Broker, but not less than annually, Insurance Broker will review with Town staff the premium and coverages of the Town for the policies purchased and benchmark Town pricing and coverage against relevant, confidential municipal peer groups both with and without claim experience calibration/consideration.
- (p) Insurance Broker will provide the Town's Risk Manager, a stewardship and marketing report upon the request of the Town. The stewardship report must include, but is not limited to, a schedule of policies in force, premiums, losses, commissions and fees earned or waived, developments and trends in the markets for these coverages; and proposals for change in the Town's coverages. Also include any measures that may broaden the current coverages and any premium cost reductions that may be available. Highlight accomplishments, loss control services, claims advocates, and any special services provided to the Town. The marketing report should provide the Town with: current program evaluation;

marketing timetable; ratings of markets to be approached; broker recommendations and reasons; and anticipated rates and premium. Organize the presentation of the risk financing plan and exposures to the appropriate markets. Review the presentation plan and documents with the Town's Risk Manager for approval to proceed. Advise the Town on methods of optimizing and developing high-quality relationships with the markets as a trusted client. Negotiate best terms, rates and conditions. Monitor the financial condition of insurers, including their ability to pay claims promptly, and advise the Town whenever any insurer is downgraded by any applicable rating agency.

- (q) Not less than 150 days before renewal, proposals for additional insurance markets assigned to Insurance Broker by the Town for which there are no conflicts with other qualified brokers of the Town shall be obtained, and provided to the Town with a listing of all companies contacted, detail spreadsheets of all proposals received and all rejection letters, if any.
- (r) Insurance Broker will provide a matrix of final, written renewal proposals received to the Town to include an evaluation of coverage, limits and costs by a date determined by the Town. This shall be received in time for Town staff to prepare and present the insurance renewal to the Town Council at its regularly scheduled September Town Council meeting. If unable to meet this requirement Insurance Broker shall provide a written explanation to the Town sufficient to enable the Town to corroborate the broker's explanation.
- (s) If the Town conducts an RFQ or RFP process for coverages provided, Insurance Broker will promptly provide necessary background and rating data, and premium/claims history information desired for the RFQ or RFP.
- (t) Insurance Broker will cooperate with the Town in developing a fair reduction of the contracted broker/broker remuneration in the event the Town exercises the option to solicit competition for one or more types of insurance outside the broker of record contract.
- (u) Insurance Broker will fully disclose insurance policy premiums and commissions or other remuneration received for the sale of such policies to the Town.

- (v) Insurance Broker will permit the Town to conduct an audit of all remuneration/revenues attributable to the Town's account and to fully cooperate with persons designated by the Town to perform such audit.
- (w) As needed, Insurance Broker will provide all requested actual and estimated premiums for any line of coverage requested by the Town to assist the Town with planning, budgeting and forecasting associated with its risk management program. This includes times that are not associated with the actual policy renewals.
- (x) Sales Executive and/or Account Executive shall respond to the Town inquiries within 24 hours of the Town's request for routine inquiries. For an emergency when designated as such by the Town, Sales Executive and/or Account Executive shall respond to the Town within four (4) hours of Town notifying the Sales Executive and/or Account Executive of an emergency situation. Sales Executive and/or Account Executive must be able to communicate remotely via phone, e-mails, etc.
- (y) An alternate Sales Executive and/or Account Executive shall be made available to the Town in the absence of the regularly assigned Sales Executive and/or Account Executive.
- (z) Broker shall notify the Town in writing should the designated Sales Executive and/or Account Executive be removed from the Town's account advising of the newly appointed Sales Executive and/or Account Executive and providing the Town with a full resume for this individual. Any change in the personnel assigned to the Town as indicated in the Insurance Broker's response to the RFQ No. 2012-18 may be grounds for unilateral termination of this Agreement by the Town.

Article 3

Financial

1. Insurance Broker shall be compensated by the Town in accordance with the Insurance Broker's RFQ 2012-18 submittal, as amended by negotiations with the Town, if any, as contained within this article.

- (a) Insurance Broker may invoice the Town for agreed upon services in accordance with applicable terms and conditions agreed upon by the parties, but only when insurance binders have been delivered to the Town.
- (b) Insurance Broker shall be compensated by the Town in the amount of \$40,000 through September 30, 2022. All current and new policies purchased throughout the contract period shall be written with a zero percent (0%) commission.
- (c) Unless the Insurance Broker has proposed a flat rate fee or fixed percentage rate of commission on policies sold to the Town for a pre-determined period of time in the Insurance Broker's response to RFQ No. 2012-18 or as may be negotiated thereafter between the parties to this Agreement. Insurance Broker will provide written notice during the Town's budget process of any requested increase in commission or flat rate commission so the Town may properly consider renewal of the Agreement pursuant to section 5(a). If the Insurance Broker has proposed a flat rate fee or fixed percentage rate of commission on policies sold to the Town for a pre-determined period of time in the Insurance Broker's response to RFQ No. 2012-18 or as may be negotiated thereafter between the parties to this Agreement, the Insurance Broker is not entitled to request an increase in commission or flat rate commission for those years the Insurance Broker has committed to no increase in commission or flat rate commission to the Town.
- (d) If Broker is being compensated based upon a fixed dollar amount or fixed percentage fee, meaning that this agreement specifies compensation and states that additional compensation will not be paid to Broker or any other party, then additional compensation is strictly prohibited. Similarly, if this agreement sets compensation based upon a fixed dollar amount or fixed percentage fee, and this agreement specifies that additional compensation shall be credited to the Town, then any additional compensation to any party must be promptly returned to the Town. If this agreement is not based upon such fixed fee terms, then no owned or affiliated party, including brokers, wholesale brokers or third party intermediaries, may accept any type of compensation without full disclosure by Broker to the Town of the dollar amount or percentage of compensation prior to binding coverage.

- (e) In the event that Broker receives commission payments in connection with the placement procurement of Property, Liability, Workers' Compensation and Ancillary Insurance coverages excluding Flood Insurance for Town, the amount of such payments will be credited against the balance of the fee owed to Broker pursuant to this Agreement, and any commission amount in excess of such balance shall be promptly paid to Town within 30 days after receipt of such commission by Broker. In addition, it is understood and agreed that Broker, or Broker's corporate parent, subsidiaries or affiliated entities, may receive contingent payments or allowances from insurers based on factors which are not client-specific, such as the performance and/or size of an overall book of business produced with an insurer. Such contingent payments or allowances are not subject to this Agreement, and will not be credited against the balance of the fee owed to Broker pursuant to this Agreement or paid to Town.
2. Any funds returned to the Town pursuant to this Article shall be deemed an overpayment to the Broker of his/her fee or commission for service.

Article 4

Insurance

1. Insurance Broker shall provide the following insurance:
- (a) Errors and Omissions insurance with a limit of liability of \$10,000,000 per occurrence.
 - (b) Insurance broker shall provide the Town with a Certificate of Insurance evidencing the above requested coverage prior to providing any services on behalf of the Town. Insurance coverage required shall be in force throughout the Agreement term. Should Insurance Broker fail to provide acceptable evidence of current insurance within seven (7) days of receipt of written notice at any time during the term of the Agreement, the Town shall have the right to consider the Agreement breached and shall have the right to immediately terminate the Agreement.

- (c) No changes to these insurance amounts may be made without a written amendment to this Agreement.

Article 5

Term and Termination

1. The term of this Agreement shall be from the date of execution through September 30, 2022.
 - (a) This Agreement may be renewed by the Town for additional one-year terms. Any renewal must be in writing and executed by the parties.
 - (b) This Agreement may be terminated or modified with or without cause. If either party fails to carry out and comply with any of the covenants, conditions, and agreements to be performed by it, then the other party may notify the non-complying party of such failure or default and demand that the same be remedied within ten (10) days. In the event of the failure to so remedy within said period, the non-defaulting party shall thereupon have the right to cancel, modify and/or terminate the Agreement immediately upon delivery of written notice to the other party. Should a party receive a second notice for the same item of failure or default, such party shall have no right of remedy and the Agreement may terminate upon written notice to the defaulting party.

Article 6

Miscellaneous

1. Notice – All notices shall be in writing and sent via registered or certified mail addressed as follows:

Insurance Broker:

Tim McCreary
Relation Insurance Services of Florida
700 Central Parkway
Stuart, FL 34994

Town of Palm Beach: Karen Temme, ARM
Risk Manager
360 South County Road
Palm Beach, FL 33480

Copy to: Carolyn Stone
Assistant Town Manager
360 South County Road
Palm Beach, FL 33480

- (a) Successors and Assigns – The provisions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. The Agreement cannot be assigned by either party without the prior written consent of the other, not to be reasonably withheld.
- (b) Force Majeure – If, because of Acts of God, strikes or other labor disputes, vendor delays, or other unavoidable cause, either party is unable to perform its obligations hereunder, such non-performance shall not be considered a breach of the Agreement.
- (c) Equal Opportunity Employer – Insurance Broker affirms that it is an Equal Opportunity Employer and will comply with all laws and regulations prohibiting employment discrimination in the performance of the Agreement.
- (d) The failure of either party to insist upon or enforce any term or provision or to exercise any right, option, or remedy of the Agreement, or to require at any time performance of any provision hereof, shall not be construed as a waiver of any such term or provision. No waiver by either party of any term or provision hereof shall be binding unless made in writing and signed by such party.
- (e) If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect.
- (f) This document, along with the documents incorporated into the Agreement in Paragraph 1.1, together with all insurance documents required hereby, and any other materials required under the bid documents shall constitute the entire Agreement. This Agreement may not be changed other than by agreement in writing signed by the parties.
- (g) In the event an action is brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its legal fees and

court costs, through all appeals, in addition to any other remedies it may be entitled to under this Agreement or otherwise under the law.

- (h) Nothing contained herein shall be deemed or construed to create any rights to any member of the public or any third party whatsoever.
- (i) Independent Contractor – Insurance Broker shall at all times be deemed to be an independent contractor and nothing in this Agreement shall be construed to create the relationship of employer and employee, principal and broker, partnership or joint venture as between the Town and Insurance Broker.
- (j) Governing Law – This Agreement shall be governed by the laws of the State of Florida and venue shall lie in Palm Beach County, Florida.
- (k) Interpretation – This Agreement shall be administered on behalf of the Town by the Town's Risk Manager or his/her designee. As used herein, the word "Town" shall refer to the Risk Manager or his/her designee unless otherwise noted or unless the context renders such construction illogical.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

TOWN OF PALM BEACH

INSURANCE BROKER

Kirk Blouin, Town Manager

Authorized Signature

Date

Print Name, Title and date

ATTEST:

Queenester Nieves, CMC, Town Clerk

Corporate Seal

Exhibit A

RFQ 2012-18
Property, Liability, Workers' Compensation
And Ancillary Coverages Insurance Broker

RFQ and Addendums are available upon request

NON-EXCLUSIVE INSURANCE BROKER SERVICES AGREEMENT

This agreement ("Agreement"), entered into this 14th day of September, 2021, by and between Arthur J. Gallagher Risk Management Services, Inc., "AJG" a Illinois corporation, hereinafter "Insurance Broker" or "Broker", with offices located at 2255 Glades Road, FL 33431 and the Town of Palm Beach, a Florida municipal corporation ("Town"), with offices located at 360 South County Road, Palm Beach, FL 33480.

WHEREAS, AJG is to provide insurance for the Town for its insurance renewal to be effective October 1, 2021.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and value of which is hereby acknowledged by both parties, the parties agree as follows:

Article 1

Incorporation by Reference

1. The terms and conditions of the Town's Request for Qualifications RFQ No. 2012-18 for Property, Liability, Workers' Compensation and Ancillary Coverages and the Insurance Broker's response to RFQ 2012-18 provided to the Town are hereby incorporated into this Agreement as Exhibit A. In the event of any inconsistency in interpreting this Agreement, RFQ No 2012-18, provided to the Town, the Town's interpretation shall prevail.

Article 2

Insurance Broker's Specific Obligations

1. Insurance Broker will provide the insurance broker services in conjunction with the insurance policy or policies provided by Insurance Broker in accordance with the insurance broker requirements set forth in this Agreement. Breach of these requirements shall be considered a breach of this Agreement.
 - (a) The insurance policy or policies to be provided by the Insurance Broker pursuant to this Agreement are as follows:

- i. Crime

- ii. Flood Insurance policies with NFIP (8 policies)
- iii. Storage Tank Pollution Liability
- iv. Marine Hull & Liability/Protection & Indemnity Coverage
- v. Fiduciary Liability – Investment Advisory Board
- vi. Fiduciary Liability – Town of Palm Beach Employee Retirement Board
- vii. Fiduciary Liability – Defined Contribution Plan

The Town agrees not to hold AJG responsible for deficiencies in the insurance coverages listed above which have been purchased by other insurance brokers on behalf of the Town, until AJG has a reasonable opportunity to make a review and to provide the Town with their recommendations of any said deficiencies.

Any substantive change, that may occur at any time, as determined solely by the Town, in the quality of the insurance company providing said coverage, an increase in the associated premiums, reduction in the scope of said coverage provided, or an increase or decrease in associated deductible or self-insured retention, thereof may be grounds for the Town to modify this agreement and obtain coverage from an alternative insurance broker, insurance company or underwriters or may be grounds for the Town to unilaterally terminate this Agreement in the Town's sole discretion. The Town may make modifications to this agreement throughout the contract period and any such modifications shall be in writing.

(b) Work with the Town's Risk Manager in risk analysis, preparation of underwriting, submissions/specifications, marketing, program design and carrier selection. Insurance Broker will be actively involved to ensure the proper coverage for whatever the program may require. Maintain contact with global insurance markets, which are interested, available, and qualified to provide insurance and loss prevention services to the Town.

(c) The Town will receive zero hours of loss control services from AJG as part of this Agreement. Should the Town desire loss control services the rate is \$1,000 per day (8 hours) or \$150 per hour. All travel expenses are included in this rate.

(d) Support the Town's efforts in continual development of Risk Management Policies. To include: presentation of industry standard practices; assistance in development

of policies that support the goals of the Town toward use of local resources; innovation in the design of risk funding of the Town toward use of local resources; and assist in presentations to policy and decision making authorities. Inform the Town of application Federal and State compliance legislation, legislative trends and issues and necessary governmental filings.

- (e) Coordinate with Town staff to assure that up-to-date exposure data is incorporated into issuance of newly purchased policies as enumerated herein.
- (f) Issue and deliver valid and timely binders for applicable insurance policies purchased by the Town as enumerated herein.
- (g) Assure that insurance policies being purchased as enumerated herein will be delivered in accordance with the proposal(s) that were negotiated and/or accepted by the Town.
 - i. Verification of policy language, checking for: accuracy, appropriate forms, compliance with requirements, proper application to risk. Assure that the policies issued reflect not less than policy terms, conditions, coverage amounts and options than were accepted by the Town.
 - ii. Immediately correct policy deficiencies before delivery to the Town.
 - iii. Promptly deliver the policies to the Town within 30 days of policy inception. If any deficiencies from the accepted proposal remain, provide a timeline for their resolution to the satisfaction of the Town.
 - iv. Broker is responsible for billing of premiums to the Town. All premiums shall be provided net of commission. All invoices should be sent to the Risk Manager.
- (h) Promptly and accurately process insurance policy endorsements and other change requests as needed.
- (i) Within 30 days of policy inception Insurance Broker will specify to the Risk Manager the loss control and safety services available from the insurers whose policies were purchased through the broker and thereafter coordinate loss control and safety services desired by the Town.

- (j) Assist the Town in filing claims with insurers from whom the Town has purchased policies through the broker.
- (k) Be available for risk management meetings with the Town and for meetings with the Town Council, as desirable during the year.
- (l) Issue Certificates of Insurance, within forty-eight (48) hours of receipt of a request for the same from the Town.
- (m) Monitor and notify the Town of major developments regarding the insurance industry or the Town's insurers or policies as enumerated herein that may affect the Town.
- (n) Respond to coverage or other insurance policy questions as may be presented by the Town within twenty-four (24) hours.
- (o) At mutually agreeable dates and times to be initiated by Insurance Broker, but not less than annually, Insurance Broker will review with Town staff the premium and coverages of the Town for the policies purchased and benchmark Town pricing and coverage against relevant, confidential municipal peer groups both with and without claim experience calibration/consideration.
- (p) Insurance Broker will provide the Town's Risk Manager, a stewardship and marketing report upon the request of the Town. The stewardship report must include, but is not limited to, a schedule of policies in force, premiums, losses, commissions and fees earned or waived, developments and trends in the markets for these coverages; and proposals for change in the Town's coverages. Also include any measures that may broaden the current coverages and any premium cost reductions that may be available. Highlight accomplishments, loss control services, claims advocates, and any special services provided to the Town. The marketing report should provide the Town with: current program evaluation; marketing timetable; ratings of markets to be approached; broker recommendations and reasons; and anticipated rates and premium. Organize the presentation of the risk financing plan and exposures to the appropriate markets. Review the presentation plan and documents with the Town's Risk Manager for approval to proceed. Advise the Town on methods of optimizing and developing high-quality relationships with the markets as a trusted client. Negotiate best terms, rates and

conditions. Monitor the financial condition of insurers, including their ability to pay claims promptly, and advise the Town whenever any insurer is downgraded by any applicable rating agency.

- (q) Not less than 150 days before renewal, proposals for additional insurance markets assigned to Insurance Broker by the Town for which there are no conflicts with other qualified brokers of the Town shall be obtained, and provided to the Town with a listing of all companies contacted, detail spreadsheets of all proposals received and all rejection letters, if any.
- (r) Insurance Broker will provide a matrix of final, written renewal proposals received to the Town to include an evaluation of coverage, limits and costs by a date determined by the Town. This shall be received in time for Town staff to prepare and present the insurance renewal to the Town Council at its regularly scheduled September Town Council meeting. If unable to meet this requirement Insurance Broker shall provide a written explanation to the Town sufficient to enable the Town to corroborate the broker's explanation.
- (s) If the Town conducts an RFQ or RFP process for coverages provided, Insurance Broker will promptly provide necessary background and rating data, and premium/claims history information desired for the RFQ or RFP.
- (t) Insurance Broker will cooperate with the Town in developing a fair reduction of the contracted broker/broker remuneration in the event the Town exercises the option to solicit competition for one or more types of insurance outside the broker of record contract.
- (u) Insurance Broker will fully disclose insurance policy premiums and commissions or other remuneration received for the sale of such policies to the Town.
- (v) Insurance Broker will permit the Town to conduct an audit of all remuneration/revenues attributable to the Town's account and to fully cooperate with persons designated by the Town to perform such audit, subject to 30 days notice to Insurance Broker.
- (w) As needed, Insurance Broker will provide all requested actual and estimated premiums for any line of coverage requested by the Town to assist the Town with

planning, budgeting and forecasting associated with its risk management program. This includes times that are not associated with the actual policy renewals.

- (x) Sales Executive and/or Account Executive shall respond to the Town inquiries within 24 hours of the Town's request for routine inquiries. For an emergency when designated as such by the Town, Sales Executive and/or Account Executive shall respond to the Town within four (4) hours of Town notifying the Sales Executive and/or Account Executive of an emergency situation. Sales Executive and/or Account Executive must be able to communicate remotely via phone, e-mails, etc.
- (y) An alternate Sales Executive and/or Account Executive shall be made available to the Town in the absence of the regularly assigned Sales Executive and/or Account Executive.
- (z) Broker shall notify the Town in writing should the designated Sales Executive and/or Account Executive be removed from the Town's account advising of the newly appointed Sales Executive and/or Account Executive and providing the Town with a full resume for this individual. Any change in the personnel assigned to the Town as indicated in the Insurance Broker's response to the RFQ No. 2012-18 may be grounds for unilateral termination of this Agreement by the Town.

Article 3

Financial

1. Insurance Broker shall be compensated by the Town in accordance with the Insurance Broker's RFQ 2012-18 submittal, as amended by negotiations with the Town, if any, as contained within this article.
 - (a) Insurance Broker may invoice the Town for agreed upon services in accordance with applicable terms and conditions agreed upon by the parties, but only when insurance binders have been delivered to the Town.
 - (b) Insurance Broker shall be compensated by the Town in the amount of \$7,500 through September 30, 2022. All current and new policies purchased throughout the contract period shall be written with a zero percent (0%) commission.
 - (c) Unless the Insurance Broker has proposed a flat rate fee or fixed percentage rate of commission on policies sold to the Town for a pre-determined period of

time in the Insurance Broker's response to RFQ No. 2012-18 or as may be negotiated thereafter between the parties to this Agreement. Insurance Broker will provide written notice during the Town's budget process of any requested increase in commission or flat rate commission so the Town may properly consider renewal of the Agreement pursuant to section 5(a). If the Insurance Broker has proposed a flat rate fee or fixed percentage rate of commission on policies sold to the Town for a pre-determined period of time in the Insurance Broker's response to RFQ No. 2012-18 or as may be negotiated thereafter between the parties to this Agreement, the Insurance Broker is not entitled to request an increase in commission or flat rate commission for those years the Insurance Broker has committed to no increase in commission or flat rate commission to the Town.

- (d) If Broker is being compensated based upon a fixed dollar amount or fixed percentage fee, meaning that this agreement specifies compensation and states that additional compensation will not be paid to Broker or any other party, then additional compensation is strictly prohibited. Similarly, if this agreement sets compensation based upon a fixed dollar amount or fixed percentage fee, and this agreement specifies that additional compensation shall be credited to the Town, then any additional compensation to any party must be promptly returned to the Town. If this agreement is not based upon such fixed fee terms, then no owned or affiliated party, including brokers, wholesale brokers or third party intermediaries, may accept any type of compensation without full disclosure by Broker to the Town of the dollar amount or percentage of compensation prior to binding coverage.
- (e) In the event that Broker receives commission payments in connection with the placement procurement of Property, Liability, Workers' Compensation and Ancillary Insurance coverages excluding Flood Insurance for Town, the amount of such payments will be credited against the balance of the fee owed to Broker pursuant to this Agreement, and any commission amount in excess of such balance shall be promptly paid to Town within 30 days after receipt of such commission by Broker. In addition, it is understood and agreed that Broker, or Broker's corporate parent, subsidiaries or affiliated entities, may receive contingent payments or allowances from insurers based on factors which are

not client-specific, such as the performance and/or size of an overall book of business produced with an insurer. Such contingent payments or allowances are not subject to this Agreement, and will not be credited against the balance of the fee owed to Broker pursuant to this Agreement or paid to Town.

2. Any funds returned to the Town pursuant to this Article shall be deemed an overpayment to the Broker of his/her fee or commission for service.

Article 4

Insurance

1. Insurance Broker shall provide the following insurance:
 - (a) Errors and Omissions insurance with a limit of liability of \$10,000,000 per occurrence.
 - (b) Insurance Broker shall provide the Town with a Certificate of Insurance evidencing the above requested coverage prior to providing any services on behalf of the Town. Insurance coverage required shall be in force throughout the Agreement term. Should Insurance Broker fail to provide acceptable evidence of current insurance within seven (7) days of receipt of written notice at any time during the term of the Agreement, the Town shall have the right to consider the Agreement breached and shall have the right to immediately terminate the Agreement.
 - (c) No changes to these insurance amounts may be made without a written amendment to this Agreement.

Article 5

Term and Termination

1. The term of this Agreement shall be from the date of execution through

September 30, 2022.

- (a) This Agreement may be renewed by the Town for additional one-year terms. Any renewal must be in writing and executed by the parties.
- (b) This Agreement may be terminated or modified with or without cause. If either party fails to carry out and comply with any of the covenants, conditions, and agreements to be performed by it, then the other party may notify the non-complying party of such failure or default and demand that the same be remedied within ten (10) days. In the event of the failure to so remedy within said period, the non-defaulting party shall thereupon have the right to cancel, modify and/or terminate the Agreement immediately upon delivery of written notice to the other party. Should a party receive a second notice for the same item of failure or default, such party shall have no right of remedy and the Agreement may terminate upon written notice to the defaulting party.

Article 6

Miscellaneous

1. Notice – All notices shall be in writing and sent via registered or certified mail addressed as follows:

Insurance Broker:

Judy Arenz. CPCU
Arthur J. Gallagher –Boca Raton
One Boca Plaza
2255 Glades Road, Suite 400 E
Boca Raton, FL 33431

Town of Palm Beach:

Karen Temme, ARM
Risk Manager
360 South County Road
Palm Beach, FL 33480

Copy to:

Carolyn Stone
Assistant Town Manager
360 South County Road
Palm Beach, FL 33480

- (a) Successors and Assigns – The provisions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. The Agreement cannot be assigned by either party without the prior written consent of the other, not to be reasonably withheld.
- (b) Force Majeure – If, because of Acts of God, strikes or other labor disputes, vendor delays, or other unavoidable cause, either party is unable to perform its obligations hereunder, such non-performance shall not be considered a breach of the Agreement.
- (c) Equal Opportunity Employer – Insurance Broker affirms that it is an Equal Opportunity Employer and will comply with all laws and regulations prohibiting employment discrimination in the performance of the Agreement.
- (d) The failure of either party to insist upon or enforce any term or provision or to exercise any right, option, or remedy of the Agreement, or to require at any time performance of any provision hereof, shall not be construed as a waiver of any such term or provision. No waiver by either party of any term or provision hereof shall be binding unless made in writing and signed by such party.
- (e) If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect.
- (f) This document, along with the documents incorporated into the Agreement in Paragraph 1.1, together with all insurance documents required hereby, and any other materials required under the bid documents shall constitute the entire Agreement. This Agreement may not be changed other than by agreement in writing signed by the parties.
- (g) In the event an action is brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its legal fees and court costs, through all appeals, in addition to any other remedies it may be entitled to under this Agreement or otherwise under the law.
- (h) Nothing contained herein shall be deemed or construed to create any rights to any member of the public or any third party whatsoever.
- (i) Independent Contractor – Insurance Broker shall at all times be deemed to be an independent contractor and nothing in this Agreement shall be construed to create the relationship of employer and employee, principal and

broker, partnership or joint venture as between the Town and Insurance Broker.

- (j) Governing Law – This Agreement shall be governed by the laws of the State of Florida and venue shall lie in Palm Beach County, Florida.
- (k) Interpretation – This Agreement shall be administered on behalf of the Town by the Town's Risk Manager or his/her designee. As used herein, the word "Town" shall refer to the Risk Manager or his/her designee unless otherwise noted or unless the context renders such construction illogical.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

TOWN OF PALM BEACH

INSURANCE BROKER

Kirk Blouin, Town Manager

Authorized Signature

Date

Print Name, Title and date

ATTEST:

Queenester Nieves, CMC, Town Clerk

Corporate Seal

RFQ 2012-18
Property, Liability, Workers' Compensation
And Ancillary Coverages Insurance Broker

RFQ and Addendums are available upon request

Town of Palm Beach
Liability, Auto Physical Damage, Property, and Workers’ Compensation
Third Party Administration Services

AGREEMENT FOR THIRD PARTY ADMINISTRATION (TPA) SERVICES

THIS AGREEMENT made and entered into this 14th day of September 2021, by and between Town of Palm Beach, a municipal corporation of the State of Florida, hereinafter referred to as the “Town” and Preferred Governmental Claim Solution “PGCS” of Florida, hereinafter referred to as “Administrator”.

WITNESSETH

WHEREAS, the Town desires to engage the services of Third Party Administrator to provide claims management services for the Town’s liability, auto physical damage, property, and workers’ compensation claims in accordance with this Agreement;

WHEREAS, Administrator is qualified and desires to provide claims management services for the Town’s liability, auto physical damage, property and workers’ compensation claims in accordance with this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto do mutually agree as follows:

I. AGREEMENT TERM

1. The effective date of this Agreement shall be October 1, 2021. Agreement term shall expire on September 30, 2022 subject to termination as provided herein.
2. This Agreement constitutes the entire understanding of the parties with respect to provision of services.

II. ADMINISTRATOR FEES

Town shall pay Administrator an annual flat rate of \$53,230 as the third party administrator during the period of this Agreement. This amount will be paid in quarterly during the term of this Agreement.

III. SCOPE OF SERVICES

Administrator will serve as the third party administrator for all claims and will provide the following services under this Agreement:

1. Administer and adjust all claims in compliance with applicable laws, rules and regulations governing the administration of the Town's insurance claims.
2. Provide qualified and experienced personnel capable of servicing all claims of the Town. Any change in adjuster assigned to the Town must be provided in writing in advance of said change.
3. Administrator will maintain an office with a toll-free telephone number which is located in Florida.
4. Administrator must be able to manage the claims with a comprehensive database system which will allow internet access for the Town to view the adjuster's notes, pay history, financials and other pertinent information needed by the Town at no additional charge to the Town.
5. Administrator (assigned claims adjuster) shall contact the claimant and/or injured employee within 24 hours of claim notification.
6. Administrator will investigate, including taking a recorded statement from the claimant and any witnesses for each reported claim or loss, including investigation into the compensability of each reported workers' compensation claim or loss and conduct such reasonable investigations as necessary to protect the Town from waiving any defenses available in liability or under the workers' compensation statute.
6. Maintain a file for each claim or loss, which shall be available for review by the Town. By the terms of this contract it is agreed that any and all electronic and hard/paper files for each claim or loss is owned by the Town of Palm Beach.
7. Perform administrative and clerical duties for each claim or loss, including the preparation of checks or vouchers, compromises, releases, agreements and any other documents prepared and/or approved by legal counsel necessary to finalize a claim.
8. Recommend claim reserves and update as appropriate only with the approval of the Risk Manager.
9. Provide narrative and analytical reports of all claims as required by the Town.
10. Administrator must obtain approval from the Town prior to any settlements.
11. Claims adjusters and appropriate claims managers shall attend in person or virtual

quarterly claim review meetings to be held at the Town or a location agreed upon by the Town and Administrator.

12. Notify the Town's Risk Manager and excess carriers of claims or losses with respect to which potential losses may exceed the Town's stop loss, self-insured retention and/or deductible and provide said parties with information on the current status of those claims or losses.
13. Coordinate investigations on litigated claims with the Town and approved legal defense counsel, excess carrier(s), etc. This includes negotiation of settlements, subrogation and reimbursement from excess carrier(s).
14. The Town's Risk Manager will attend all mediations or settlement meetings along with the claims adjuster and defense attorney for claims handled through the insurance program.
15. Provide all claim forms and other forms as required by the State of Florida that are appropriate for efficient administration of the Town's claims.
16. Report all claims to the excess carrier(s) according to the insurance policy reporting requirements. For any late reporting penalties imposed by the carrier due to late reporting by the Administrator, the Administrator will either pay the penalties directly or reimburse the Town for those amounts within 30 days of request for reimbursement from the Town.
17. Administrator will submit requests to the excess carrier for all payments above the self-insured retention or deductible on behalf of the Town. The reimbursement checks will be forwarded to the Town and the amount recovered will be entered into Administrator's claim database for each file. A quarterly report of all submissions to excess carriers will be provided to the Town.
18. Investigate and pursue all subrogation and liens on behalf of the Town in all states permitting subrogation. Monies received from all subrogation within the Town's self-insured retention and/or deductible shall be the revenue of the Town.
19. Administrator shall perform medical control and management of workers' compensation claims in conjunction with the Risk Manager. Such medical control and management shall be performed in accordance with the industry standard applicable to such services.
20. Arrange for independent medical evaluations or other experts to the extent deemed necessary by the Administrator with the approval of the Risk Manager.
21. Jointly and in conjunction with the Risk Manager select a panel of physicians or other health care providers to treat employees and a panel of medical specialist to provide long-term or specialty care for the Town's Medical Management program. The Town

will have final approval of any medical doctors placed into the care of their employees.

22. The insurance adjuster shall arrange for required medical appointments as indicated by the approved treating medical provider(s) within 24 hours of notification. Only with the approval of the Risk Manager should a 3rd party vendor be used to arrange medical appointments.
23. Coordinate with the Risk Manager in order to develop ways of using any medical facility more effectively.
24. Administrator will monitor the treatment programs recommended for employees by physicians, specialists and other health care providers by reviewing all medical reports so prepared and by maintaining such contact with these providers as may be appropriate and in conjunction with the Risk Manager.
25. Assist the Town with the interpretations of medical reports as needed. Assist the Town in returning the injured employee to work as needed. The Administrator will comply with all applicable state and federal laws regarding medical reports and data including but not limited to HIPAA.
26. Assist the Town in arranging for rehabilitation or retraining of employees in appropriate cases. The Administrator will utilize telephonic or field nurse case management only when authorized by the Town.
27. Administrator must notify the Risk Manager of any networks utilized on the Town's claims.
28. Administrator shall submit and pay medical bills pursuant to Rule 69L-7.602.
29. Administrator will provide all reports, forms and documents to the State of Florida as required per Florida State Statutes.
30. The Administrator, at their expense will ensure all claims and payment data is included in the loss runs (detailed and summary). Historical data from all prior third party Administrators will be included in the loss runs (detailed & summary).
31. Loss runs will be provided to the Town on a monthly basis for detailed and summary reports sorted separately by each claim, policy year, department/location and claim type in an excel and pdf format. Specific detail and summary reports must also be provided. There will not be an additional charge for any loss run reports provided by the Administrator. The following reports are required, but not limited to:
 - Weekly payment register
 - Monthly detailed and summary loss reports – all years; all claim types

- Annual detailed and summary loss reports – all years; all claim types for insurance renewals
 - Subrogation and lien reports
 - Litigation reports
 - Legal payment reports
 - 5 Year Summary Loss
 - Coverage Report
 - Large Loss Report
 - Monthly - open claims only report
32. Administrator will provide the Town with remote access to review claims within Risk Master or other software provided by Administrator. Administrator shall provide all necessary training to utilize Risk Master or other equivalent software. The Administrator must provide the Town with all detailed claim data in a transferrable and readable format as directed by the Town's IT Manager and upon request by the Town or upon termination of this agreement.
 33. Assist the Town as needed in arranging for a bank account to be used for issuing checks under this Agreement.
 34. Administrator shall make all applicable payments in accordance with Florida State Statute, excess carrier(s) policy language and legal precedent from the Town's bank account. Fees, interest or civil penalties incurred due to late payments or adjuster mishandling are to be paid by the Administrator unless late reporting was caused by the Town.
 35. Administrator to provide the Town with a weekly payment register for all checks issued by the Administrator from the Town's bank account in order for the Town to properly fund the bank account.
 36. Checks issued by Administrator shall not be mailed until the Town has advised Administrator that the funds have been transferred into the bank account.
 37. All Indemnity payment checks shall be issued to the employee or Town based upon the lost-time and workers' compensation policy. If issued to the Town please mail to the Town's Risk Manager.
 38. Administrator must prepare, maintain, and file statistical data, records, or reports as required by excess insurance carriers, Town's actuaries, and the State of Florida.
 39. The Administrator must prepare, maintain and file statistical information required by the workers' compensation rating bureaus, including all data required for the promulgation of the Town's experience modification and state assessments.
 40. The Administrator will provide for the security of all Town claims data to include adequate provisions for protection from unauthorized access to the Town's claims

data. Any access to the Town's claims data by Administrator affiliates, the public or any person or any person or entity is strictly prohibited without the Town's prior written permission.

41. Administrator shall prepare 1099 forms in accordance with Federal and State laws for all vendors paid through the Administrator on behalf of the Town. A copy of each 1099 form shall be provided to the Town.

IV. TOWN'S RESPONSIBILITIES

The Town shall have and perform the following duties, obligations, and responsibilities:

1. The Town shall establish a bank account at a bank of the Town's choosing and this account will be used to process claim checks. The Town will be responsible for the proper funding of this account as well as all banking fees, bank interfaces and the bank reconciliations. Administrator shall use the funds deposited by the Town into the account to pay claim settlements as authorized by the Town, and to pay interim claim payments, indemnity payments, medical expenses and allocated expenses.
2. It is the Town's responsibility to establish and replenish the bank account with funds sufficient to cover all claim payments. The Town may, at its discretion, increase or decrease the minimum funding levels based on actual claim activity. The bank account shall remain in effect until all claims activity ceases under this Agreement.
3. Town shall be responsible for the funding of claims, losses, or liabilities, which fall under the established annual stop loss, self-insured retention and/or deductible to include but are not limited to: cost of medical and/or indemnity payments, outside investigation of claims, surveillance, vocational rehabilitation, on-site case management, legal fees, court or hearing costs, depositions, documents and exhibits, witness fees, photography and other incidental and special costs. Initial coverage costs shall be borne by the Town as normal claims related expenditures and shall be charged against the Town's account.

V. ADMINISTRATOR'S RESPONSIBILITY

1. Administrator shall indemnify and hold harmless the Town, its officers, and employees from liabilities, damages, losses and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Administrator and persons or entities employed or utilized by the Administrator in the performance of this agreement.

2. Administrator shall be liable for the recovery of claim processing errors arising from Administrator's performance pursuant to the terms of this Agreement, accepting liability for any such error that is reasonable, made in good faith, and within acceptable industry standards. Administrator shall use diligent efforts toward the recovery of any loss therefrom.
3. Town shall defend, indemnify and hold harmless Administrator and its successors, employees, agents and affiliates for all claims, demands, losses, costs, expenses, obligations, attorney's fees, court costs, interest, fines, penalties and damages arising out of (i) any work completed by any other entity prior to, or subsequent to Administrator's assumption of the Claims; (ii) Town's acts of gross negligence or willful misconduct or breach of this Service Agreement
4. It is understood and agreed that Administrator is and shall remain an independent contractor with respect to the services being performed by the Administrator pursuant to this Agreement and shall not for any purpose be deemed an employee of the Town, nor shall the relationship of the parties be deemed that of partners or joint ventures.
5. Administrator shall duly consider all written notices and recommendations made by Town relative to the administration of claims, including medical and litigation services with the understanding that the final authority rests with the Town. Administrator shall not be responsible or liable for any action or inaction of the Town, which is contrary to a lawful written recommendation or instruction by Administrator, applicable by law, and/or workers' compensation law that causes any claim to not be properly adjusted, administered, and/or processed.
6. During the performance of this Agreement, Administrator shall procure and maintain, for the life of this Agreement, General Liability coverage with limits not less than \$1,000,000 per occurrence/\$2,000,000 aggregate endorsing the Town of Palm Beach as an additional insured; Cyber liability with a limit of liability not less than \$1,000,000; Professional Liability/Errors & Omissions with a limit of liability not less than \$1,000,000; Workers' Compensation pursuant to Florida State Statue 440 and Employer's Liability coverage with limits of liability in the amount of \$500,000 each accident, \$500,000 disease (each employee) and \$500,000 disease (policy limit).
7. If the Town conducts a Request for Proposal during the Agreement period, Administrator shall fully cooperate and provide any and all documentation desired for the Request for Proposal.

VI. DEFAULT AND TERMINATION

1. This Agreement may be terminated or modified with or without cause. The failure of either party to comply with any provision of this Agreement will place that party in default. Prior to terminating the Agreement, the non-defaulting party will notify the defaulting party in writing. This notification will make specific reference to the

provision(s) the defaulting party failed to comply with, the exact nature of the default, and the action that needs to occur to correct the default. The non-defaulting party will give the defaulting party a minimum of ten (10) business days to correct the default. If the default is not corrected within the allotted time, the non-defaulting party shall be permitted to terminate this Agreement, effective upon the receipt by the defaulting party of a written termination notice. Should a party receive a second notice for the same item of failure or default, such party shall have no right of remedy and the Agreement may terminate upon written notice to the defaulting party.

2. Neither party shall, however, be excused from performance if non-performance is due to forces which are preventable, removable or remediable and which the non-performing party could have, with the exercise or reasonable diligence, prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.
3. It is understood and agreed that either party shall have the right to terminate this Agreement with or without cause:
 - (a) the Town giving Administrator not less than thirty (30) days advance written notice of termination.
 - (b) Administrator giving the TOWN not less than thirty (30) days advance written notice of termination.

VII. OWNERSHIP AND RETENTION OF CLAIM FILES

1. Administrator will retain electronic and hard detailed claim files during the time the Agreement is in effect. Electronic and hard detailed claim file data created pursuant to this Agreement is the ultimate property of the Town.
2. Upon termination of the Agreement, all hard copy detailed claim files will be provided to the Town by the Administrator and the Town will pay for an agreed upon cost for the transporting of these detailed claim files. All electronic detailed claim data will be provided to the Town in a transferrable and readable format as indicated by the TOWN's IT Manager.

VIII. NOTICE

Whenever written notice is required under the terms of this Agreement, it shall be delivered either in person or by registered mail, postage prepaid to the appropriate party. Notice by registered mail shall be addressed to both parties listed below in case of Town:

Karen Temme, ARM
Risk Manager

Carolyn Stone
Assistant Town Manager

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Notice by registered mail shall be addressed to the party listed below in case of Administrator:

Mr. Ron Warble, Vice President
Preferred Governmental Claim Solution
615 Crescent Executive Court, Suite 600
Lake Mary, FL 32746

The provisions of this Agreement supersede any prior Agreements or understandings.

IX. ENFORCEMENT

The Agreement shall be governed by the laws of the State of Florida. In the event that it becomes necessary for either party to employ counsel to collect their obligation or to enforce this Agreement, whether or not suit is brought, the prevailing party shall recover a reasonable attorney's fee, including fees on appeal. For all enforcement actions against Administrator or the Town, jurisdiction will be in Palm Beach County, FL and the Agreement will be interpreted according to the laws of the State of Florida.

X. DEFENSES

1. Administrator agrees to defend and hold the Town harmless:

- (a) for any penalty or fine the Town shall suffer that is solely the fault of Administrator;
- (b) for the recovery of claims processing errors arising from Administrator's performance, pursuant to the terms of this agreement, excepting liability for any such error that is reasonable, made in good faith, and within acceptable industry standards. Administrator shall use diligent efforts toward the recovery of any loss.
- (c) for any claims resulting from errors, omissions or negligence on the part of Administrator unless the actions of Administrator were taken at the direction of the Town or as the result of the Town's negligence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

Town of Palm Beach

Preferred Governmental Claim Solution

Kirk Blouin, Town Manager

Ron Warble, Vice President

Date

Date

Approved by Town Council on September 14, 2021.

ATTEST:

Queenester Nieves, CMC, Town Clerk

Corporate Seal

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 108-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Electronic Data Collection CPR in the Amount of \$46,700 to Support the Parking Ticket Management Software, Contingent upon FY22 Budget Authorization.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▢ **Memorandum Dated August 22, 2021, from Dean Mealy, Purchasing Manager**
- ▢ **Resolution No. 108-2021**
- ▢ **Proposal**

Information for Town Council Meeting on September 14, 2021

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 a Purchase Order to Electronic Data Collection CRP in the Amount of \$46,700 as a Sole Source Acquisition RFP 2013-43, to Support the Parking Ticket Management Software Utilized by the Town, Contingent Upon FY22 Budget Authorization, **Resolution No. 108-2021**

DATE: 22 August 2021

STAFF RECOMMENDATION

Staff recommends Town Council approval of Resolution No. 108-2021 approving a Purchase Order to Electronic Data Collection CRP in the Amount of \$46,700 as a Sole Source Acquisition RFP 2013-43, to Support the Parking Ticket Management Software Utilized by the Town, Contingent upon FY22 Budget Authorization.

SUMMARY EXPLANATION/BACKGROUND

The Town has utilized Electronic Data Collection CRP to support the Town's Parking Ticket Management Software. During the past five years, each respective purchase order was valued under the award authority of the Town Manager.

In a review of a cumulative total of expenditures since 2016, the Town has spent \$249,900. Since the commodity code and vendor is the same for the supply of the services, this Resolution is Administrative in nature to support continued use of the software and expenditure of requested funds for FY21 in the amount of \$46,700.

FISCAL IMPACT/FUNDING SOURCE

The funding will for this program is from the IT Operational Budget.

USER DEPARTMENT CONCURRENCE

IT is in full concurrence with this recommendation.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

CC: Andy Jadoo, IT Director
 Duke Basha, Assistant Purchasing Manager

RESOLUTION NO. 108-2021

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING
A PURCHASE ORDER TO ELECTRONIC DATA COLLECTION
CPR IN THE AMOUNT OF \$46,700 TO SUPPORT THE PARKING
TICKET MANAGEMENT SOFTWARE, CONTINGENT UPON FY22
BUDGET AUTHORIZATION**

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. 108-2021, approving a purchase order to Electronic Data Collection CPR in the amount of \$46,700 to support the Parking Ticket Management Software, contingent upon FY22 budget authorization.

Section 2. The Town Manager is hereby authorized to execute this agreement 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 14th day of September, 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk



Annual AIMS Support Quote
The Town of Palm Beach
July 22, 2021

Annual AIMS Support for the period 10/1/2021 through 9/30/2022

AIMS 10 User License	\$15,500.00
AIMS Web+ Support	\$ 5,000.00
AIS Digital Communications Software	\$ 2,000.00
AIMS Database API	\$ 3,000.00
AIMS Mobile Ticketer 8 @ \$650 each	\$ 5,200.00
AIMS Integrated LPR System Data	\$ 3,000.00
AIMS Enforcement API	\$ 3,000.00
Annual AIMS Hosting Services	\$10,000.00
Total Annual Support and Hosting	\$46,700.00



TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 109-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to MCCI, Laserfiche in the Amount of \$50,000 as a Sole Source Acquisition to Support the Town's Electronic Document Management System Used by the Town, Contingent Upon Budget Approval.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated August 22, 2021 from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 109-2021**
- ▣ **Proposal**

Information for Town Council Meeting on September 14, 2021

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 a Purchase Order to MCCI, Laserfiche in the Amount of \$50,000 as a Sole Source Acquisition to Support the Town's Electronic Document Management system used by the Town, Contingent upon FY22 Budget Authorization, **Resolution No. 109-2021**

DATE: 23 August 2021

STAFF RECOMMENDATION

Staff recommends Town Council approval of Resolution No. 109-2021, approving a Purchase Order to MCCI, Laserfiche in the Amount of \$50,000 as a Sole Source Acquisition to Support the Town's Electronic Document Management system used by the Town.

SUMMARY EXPLANATION/BACKGROUND

The Town has utilized MCCI Laserfiche to support the Town's Electronic Document Management. During the past five years, each respective purchase order was valued under the award authority of the Town Manager.

In a review of a cumulative total of expenditures since 2016, the Town has spent \$236,934. Since the commodity code and vendor is the same for the supply of the services, this Resolution is Administrative in nature to support continued use of the software and expenditure of requested funds for FY21 in the amount of \$50,000.

FISCAL IMPACT/FUNDING SOURCE

The funding will for this program is from the IT Operational Budget.

USER DEPARTMENT CONCURRENCE

IT 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. The review included conducting market research.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

CC: Andy Jadoo, IT Director
 Duke Basha, Assistant Purchasing Manager

RESOLUTION NO. 109-2021

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A PURCHASE ORDER TO MCCI, LASERFICHE
IN THE AMOUNT OF \$50,000 AS A SOLE SOURCE
ACQUISITION TO SUPPORT THE TOWN'S ELECTRONIC
DOCUMENT MANAGEMENT SYSTEM USED BY THE TOWN,
CONTINGENT UPON BUDGET APPROVAL**

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. 109-2021, approving a Purchase Order to MCCI, Laserfiche in the Amount of \$50,000 as a Sole Source Acquisition to Support the Town's Electronic Document Management system used by the Town.

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 14th day of *September* 2021

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

BUDGETARY NOTIFICATION

Client Name: Town of Palm Beach
 Estimate Number: 20723
 Estimate Type: Laserfiche Support Renewal

Estimate Date: July 26, 2021
 Support Period: 1/28/2022 - 1/27/2023

Product Description:

	Qty.	Unit Cost	NCPA 11-26	Annual Total
LASERFICHE ANNUAL SOFTWARE SUPPORT - BASIC				
☒ Laserfiche Avante Server for SQL Express with Workflow	1	\$315.00	\$300.00	\$300.00
☒ Laserfiche Avante Server for MS SQL with Workflow	1	\$1,050.00	\$1,000.00	\$1,000.00
☒ Laserfiche Avante Records Management Module	1	\$1,260.00	\$1,200.00	\$1,200.00
☒ Laserfiche Avante Additional Repository for MS SQL	1	\$210.00	\$200.00	\$200.00
☒ Laserfiche Avante Named Full User with Snapshot and Email	168	\$105.00	\$100.00	\$16,800.00
☒ Laserfiche Avante Web Client	168	\$21.00	\$20.00	\$3,360.00
☒ Laserfiche Avante Standard Audit Trail	168	\$15.75	\$15.00	\$2,520.00
☒ Laserfiche Avante Standard Public Portal <i>Includes WebLink and 25 Retrieval Connections.</i>	1	\$5,250.00	\$5,000.00	\$5,000.00
☒ Laserfiche Avante Quick Fields	2	\$126.00	\$120.00	\$240.00
☒ Laserfiche Avante Zone OCR and Validation Package <i>Includes Zone OCR and Pattern Matching.</i>	2	\$588.00	\$560.00	\$1,120.00
☒ Laserfiche Avante Import Agent	1	\$409.50	\$390.00	\$390.00
☒ Laserfiche Avante ScanConnect 5 Pack (Legacy)	1	\$138.60	\$132.00	\$132.00
Laserfiche Annual Recurring Software Support Subtotal				\$32,262.00

MCCi SOFTWARE SUPPORT

☒ OCR Scheduler for Laserfiche <i>Requires dedicated Full Named User.</i>	1	\$346.50	\$330.00	\$330.00
MCCi Annual Recurring Software Support Subtotal				\$330.00

MCCi SUPPLEMENTAL SUPPORT SERVICES SUBSCRIPTION

☒ Process Administration Support Services for Laserfiche, Level 2 <i>Client needs are estimated based on the current components provided herein: up to 40 hours that will expire at the end of your renewal term.</i>	1	\$9,810.00	\$9,810.00	\$9,810.00
MCCi Supplemental Support Services Annual Recurring Subscription Subtotal				\$9,810.00

GRAND TOTAL - RECURRING ANNUAL SUPPORT/SUBSCRIPTION

\$42,402.00

TOTAL SUPPORT COST

\$42,402.00

Note: The information presented in this document is based on the results of MCCi and Client's collaborative preliminary discovery thus far and merely serves as an estimate to be used for planning purposes. As planning and discovery continue, the project scope and costs may change to meet the Client's specific needs. MCCi will present a formal, detailed pricing proposal and project scope for approval before starting any project. This document is not a formal quote. MCCi cannot verify Renewal prices until October 2021 when Laserfiche applies 2022 changes to their quote system. Services will likely need to be included based on the required discovery session.

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 110-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Superion, LLC dba Central Square for Annual Purchase of Software Maintenance in an Amount Not To Exceed \$125,321 to Support Police Operational Requirements, Contingent Upon FY22 Budget Approval.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated August 26, 2021, from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 110-2021**
- ▣ **Proposal**

Information for Town Council Meeting on September 14, 2021

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 a Purchase Order to Superion, LLC, DBA Central Square for the Purchase of the Annual Software Maintenance Agreement to Support the Police Department in the Amount of \$125,321, Contingent upon FY22 Budget Approval, **Resolution No. 110-2021**

DATE: 26 August 2021

STAFF RECOMMENDATION

Staff recommends Town Council approval of Resolution No. 110-2021, approving a Purchase Order to Superion, LLC, DBA Central Square for the Annual Software Maintenance Agreement to support the Police Department in the Amount of \$125,321.

SUMMARY EXPLANATION/BACKGROUND

IT and the Police Department engaged Superion, LLC, DBA Central Square to provide the Annual Software Maintenance Agreement to support Police Operations related to Computer-Aided Dispatch System and related software applications.

The software utilized is considered as a single source and was recognized as such when presented in the FY19 Town Council Resolution No. 143-2018.

FISCAL IMPACT/FUNDING SOURCE

The funding will for this program is from the IT Operational Budget.

USER DEPARTMENT CONCURRENCE

IT and Police 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. The review included conducting market research.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

CC: Nicholas Caristo, Police Chief
 Andy Jadoo, IT Director
 Jim Palmer, Assistant IT Director
 Duke Basha, Assistant Purchasing Manager

RESOLUTION NO. 110-2021

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A PURCHASE ORDER TO SUPERION, LLC DBA
CENTRAL SQAURE FOR ANNUAL PURCHASE OF
SOFTWARE MAINTENANCE IN AN AMOUNT NOT TO
EXCEED \$125,321 TO SUPPORT POLICE OPERATIONAL
REQUIREMENTS, CONTINGENT UPON FY22 BUDGET
APPROVAL**

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. 110-2021, approving a Purchase Order to Superion, LLC, DBA CENTRAL SQAURE in the Not-to-Exceed Amount of \$125,321, Contingent upon FY 22 Budget Approval.

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 14th day of *September* 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

Renewal Order #: Q-60891
Start Date: October 1, 2021
End Date: September 30, 2022
Billing Frequency: Yearly

Renewal Order prepared for:
Jim Palmer, Assistant IT Manager
Palm Beach Police Department
360 South County Road
Palm Beach, FL 33480
(561) 227-6311

Thank you for your continued business. We at CentralSquare appreciate and value our relationship and look forward to serving you in the future. CentralSquare provides software that powers over 8,000 communities. More information about all of our products can be found at www.centralsquare.com.

WHAT SOFTWARE IS INCLUDED?

PRODUCT NAME	QUANTITY	UNIT PRICE	TOTAL
LexisNexis e-Crash Reports Annual Maintenance Fee	1	0.00 USD	0.00 USD
ONESolution Accident Annual Maintenance Fee	1	0.00 USD	893.07 USD
ONESolution Accident Wizard Annual Maintenance Fee	25	0.00 USD	837.00 USD
ONESolution Accident Wizard Base Server License Annual Maintenance Fee	1	0.00 USD	1,116.34 USD
ONESolution Alpha Numeric Paging Annual Maintenance Fee	1	0.00 USD	1,381.47 USD
ONESolution Barcoding Hand-Held Client License Annual Maintenance Fee	1	0.00 USD	355.84 USD
ONESolution Barcoding Server License Annual Maintenance Fee	1	0.00 USD	1,674.52 USD
ONESolution CAD Client AVL License Annual Maintenance Fee	5	0.00 USD	2,511.85 USD
ONESolution CAD Console License Annual Maintenance Fee	2	0.00 USD	1,959.18 USD

ONESolution CAD Map Display & Map Maintenance Software License Annual Maintenance Fee	1	0.00 USD	1,130.31 USD
ONESolution CAD Map Display & Map Maintenance Software License Annual Maintenance Fee	4	0.00 USD	1,507.08 USD
ONESolution CAD Resource Monitor Display License With Maps Annual Maintenance Fee	1	0.00 USD	251.17 USD
ONESolution CAD Resource Monitor Display License With Maps Annual Maintenance Fee	4	0.00 USD	1,004.68 USD
ONESolution CAD Resource Monitor Display License With Maps Annual Maintenance Fee	4	0.00 USD	1,004.68 USD
ONESolution CAD Resource Monitor Display License With Maps Annual Maintenance Fee	6	0.00 USD	2,009.28 USD
ONESolution Calls For Service Annual Maintenance Fee	1	0.00 USD	1,004.69 USD
ONESolution Computer-Aided Dispatch System Annual Maintenance Fee	1	0.00 USD	12,081.58 USD
ONESolution E911 Interface Annual Maintenance Fee	1	0.00 USD	1,381.47 USD
ONESolution Emergency Pro Export Annual Maintenance Fee	1	0.00 USD	1,381.47 USD
ONESolution Fire ProQA/Paramount Interface Annual Maintenance Fee	1	0.00 USD	1,381.47 USD
ONESolution LexisNexis Traffic Accident Interface Annual Maintenance Fee	1	0.00 USD	0.00 USD
ONESolution Link Analysis Annual Maintenance Fee	1	0.00 USD	2,790.86 USD

ONESolution MCT Client AVL License Annual Maintenance Fee	1	0.00 USD	8,791.18 USD
ONESolution MCT Client AVL License Annual Maintenance Fee	28	0.00 USD	937.44 USD
ONESolution MCT Client License for Message Switch Annual Maintenance Fee	10	0.00 USD	753.40 USD
ONESolution MCT Client-Digital Dispatch Annual Maintenance Fee	25	0.00 USD	5,553.50 USD
ONESolution MCT Client-Digital Dispatch Annual Maintenance Fee	13	0.00 USD	2,887.82 USD
ONESolution MCT Client-MAPS Annual Maintenance Fee	25	0.00 USD	1,116.50 USD
ONESolution MCT Client-MAPS Annual Maintenance Fee	13	0.00 USD	580.58 USD
ONESolution Medical ProQA/Paramount Interface Annual Maintenance Fee	1	0.00 USD	1,381.47 USD
ONESolution MFR Client Annual Maintenance Fee	25	0.00 USD	5,553.50 USD
ONESolution MFR Client-Accident Reporting Annual Maintenance Fee	25	0.00 USD	2,791.00 USD
ONESolution MFR Client-Arrest Affidavit Annual Maintenance Fee	25	0.00 USD	837.00 USD
ONESolution MFR Client-Arrest Annual Maintenance Fee	25	0.00 USD	1,674.75 USD
ONESolution MFR Client-Citation Annual Maintenance Fee	25	0.00 USD	2,791.00 USD
ONESolution MFR Client-MOBLAN Version Annual Maintenance Fee	5	0.00 USD	558.20 USD
ONESolution Mobile Field Reporting Server Annual Maintenance Fee	1	0.00 USD	2,790.86 USD

MORE INFORMATION AT CENTRALSQUARE.COM

ONESolution Mobile Server Software Annual Maintenance Fee	1	0.00 USD	3,139.70 USD
ONESolution Mobile Server Software Annual Maintenance Fee	1	0.00 USD	5,023.52 USD
ONESolution Notification Annual Maintenance Fee	1	0.00 USD	3,170.42 USD
ONESolution OpCenter for CAD Annual Maintenance Fee	1	0.00 USD	3,907.18 USD
ONESolution Pagegate Interface Annual Maintenance Fee	1	0.00 USD	251.17 USD
ONESolution Police-to-Police Annual Subscription Fee	1	0.00 USD	0.00 USD
ONESolution Property & Evidence Annual Maintenance Fee	1	0.00 USD	1,227.99 USD
ONESolution Quartermaster Annual Maintenance Fee	1	0.00 USD	1,227.99 USD
ONESolution Records Management System Annual Maintenance Fee	1	0.00 USD	18,129.36 USD
ONESolution Residential Security Watch Annual Maintenance Fee	1	0.00 USD	781.45 USD
ONESolution RMS Map Display & Pin Mapping License Annual Maintenance Fee	1	0.00 USD	2,232.67 USD
ONESolution RMS Training Module Annual Maintenance Fee	1	0.00 USD	781.45 USD
ONESolution State/NCIC Messaging Software Annual Maintenance Fee	1	0.00 USD	5,023.52 USD
OSSI CAD Custom Modifications Annual Maintenance Fee	1	0.00 USD	3,767.64 USD
Renewal Order Total:			125,320.27 USD

Billing Information

Fees will be payable within 30 days of invoicing.

Please note that the Unit Price shown above has been rounded to the nearest two decimal places for display purposes only. The actual price may include as many as five decimal places. For example, an actual price of \$21.37656 will be shown as a Unit Price of \$21.38. The Total for this quote has been calculated using the actual prices for the product and/or service, rather than the Unit Price displayed above.

Prices shown do not include any taxes that may apply. Any such taxes are the responsibility of the Customer. This is not an invoice.

For customers based in the United States or Canada, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on the Renewal Order Form.

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 111-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to GovConnection Inc. for the Purchase of Dell Laptops for Public Safety in the Amount of \$95,330.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated August 24, 2021, from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 111-2021**
- ▣ **Proposal**

Information for Town Council Meeting on September 14, 2021

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 a Purchase Order to GovConnection, Inc. in the Amount of \$95,330 for Replacement Dell Laptops for Public Safety, **Resolution No. 111-2021**

DATE: 24 August 2021

STAFF RECOMMENDATION

Staff recommends Town Council approval of Resolution No. 111-2021, approving a Purchase Order to GovConnection, Inc. in the amount of \$95,330 for Replacement Dell Laptops for Public Safety.

SUMMARY EXPLANATION/BACKGROUND

The Office of Information Technology is intending to replace the existing Getac F110 tablets currently installed in Public Safety vehicles and purchase new Dell Latitude 5424 laptops. The existing Getac tablets have reached their end of life expectancy, originally purchased in 2015. Information Technology, with guidance and assistance from Police and Fire, visited local agencies to obtain input on the “best of breed” in Public Safety hardware. An initial pilot purchase of 6 Dell Latitude 5424 laptops was procured and the devices were installed and tested in Police and Fire vehicles. Both Police and Fire responded favorably to this new hardware. This equipment refresh will increase Public Safety productivity by replacing the older, slower devices that are currently running on an unsupported operating system. In addition, new thermal printers are being purchased to replace the older devices currently in the Police vehicles. The hardware will be purchased under the OMNIA Partners/Region 4 ESC Contract #R210402, following Purchasing’s guidelines for purchases and to provide the best competitive pricing for this equipment.

FISCAL IMPACT/FUNDING SOURCE

This purchase will be funded from the FY21 Equipment Replacement Fund.

USER DEPARTMENT CONCURRENCE

IT is in full concurrence with this recommendation.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

CC: Andy Jadoo, IT Director
 Duke Basha, Assistant Purchasing Manager

RESOLUTION NO. 111-2021

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A PURCHASE ORDER TO GOVCONNECTION
INC. FOR THE PURCHASE OF DELL LAPTOPS FOR PUBLIC
SAFETY IN THE AMOUNT OF \$95,330**

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 a purchase order to GovConnection Inc., for the purchase of Dell Laptops in the amount of \$95,330.

Section 2. The Town Manager is hereby authorized to execute this agreement 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 14th day of September, 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

SALES QUOTE

GovConnection, Inc.
732 Milford Road
Merrimack, NH 03054

Account Executive: Joshua Richiron
Phone: (800) 800-0019 ext. 33628
Fax: (603) 683-1210
Email: joshua.richiron@connection.com

25230659.02

PLEASE REFER TO THE ABOVE
QUOTE # WHEN ORDERING

Account Manager:
Phone:
Fax:
Email:

Date: 8/19/2021
Valid Through: 9/18/2021
Account #: 5251425 # 640

Customer Contact: Jim Palmer
Email: jpalmer@townofpalmbeach.com

Phone: (561) 227-6311
Fax: (561) 835-4725

QUOTE PROVIDED TO: AB#: 4881226 TOWN OF PALM BEACH-FINANCE PURCHASING DEPT PO BOX 2029 PALM BEACH, FL 33480 (561) 838-5406	SHIP TO: AB#: 13978205 TOWN OF PALM BEACH KRIS KITTISUPT 360 S COUNTY ROAD, 3RD FLOOR PALM BEACH, FL 3348001 (561) 227-6317
---	--

DELIVERY	FOB	SHIP VIA	SHIP WEIGHT	TERMS	CONTRACT ID#
5-30 Days A/R/O	Destination	UPS Ground Commercial	431.00 lbs	Net 30	R210402

Important Notice: --- THIS QUOTATION IS SUBJECT TO THE FOLLOWING Terms of Sale: All purchases from GovConnection, Inc. are subject to the Terms and Conditions of our OMNIA Partners/Region 4 ESC Contract # R210402. Any Order accepted by GovConnection for the items included in this Quotation is expressly limited to those Terms and Conditions; any other terms and conditions referenced or appearing in your Purchase Order are considered null and void. No other terms and conditions shall apply without the written consent of GovConnection, Inc. Please refer to our Quote Number in your order.

* Line #	Qty	Item #	Mfg. Part #	Description	Mfg.	Price	Ext
1	8	35693804	RJ4230BL	RuggedJet RJ4320BL 4" Mobile Printer w / Battery Brother Mobile Solutions	Brother Mobile Solutions	\$ 604.34	\$ 4,834.72
2	8	41192456	PACR002A	RJ4200 Series Dock Station Brother Mobile Solutions	Brother Mobile Solutions	\$ 150.84	\$ 1,206.72
3	8	11015523	LB3603	Mobile USB Cable, 10ft Brother Mobile Solutions	Brother Mobile Solutions	\$ 10.84	\$ 86.72
4	8	8156026	LB3692	12V DC Car Adapter / Charger, 14ft, for PocketJet 3 / 3 Plus Brother Mobile Solutions	Brother Mobile Solutions	\$ 20.49	\$ 163.92
5	25	41298317	1001822786494	Cust. Town of Palm Beach Latitude 5424 Rugged Core i5-8350U 14" Touch 8 / 28 Dell Im Client Distribution	Dell Im Client Distribution	\$ 2,805.35	\$ 70,133.75
6	25	41241263	3000080794028.1	Cust.IM Havis Docking 4 / 10 Dell Im Client Distribution	Dell Im Client Distribution	\$ 601.75	\$ 15,043.75
7	25	34939753	LPS-137	90W Power Supply for Havis DS-Dell-40x Havis	Havis	\$ 154.38	\$ 3,859.50
						Subtotal	\$ 95,329.08
						Fee	\$ 0.00
						Shipping and Handling	\$ 0.00
						Tax	Exempt!
						Total	\$ 95,329.08



ORDERING INFORMATION
GovConnection, Inc. DBA Connection
OMNIA Partners/Region 4 ESC Contract #R210402
Contract Expiration: 31 May 2024

Please contact your account manager with any questions.

Ordering Address
GovConnection, Inc.
732 Milford Road
Merrimack, NH 03054

Remittance Address
GovConnection, Inc.
Box 536477
Pittsburgh, PA 15253-5906

Please reference the Contract # on all purchase orders.

TERMS & CONDITIONS

Payment Terms:	NET 30 (subject to approved credit)
FOB Point:	DESTINATION (within Continental US)
Maximum Order Limitation:	NONE
FEIN:	52-1837891
DUNS Number:	80-967-8782
CEC:	80-068888K
Cage Code:	OGTJ3
Business Size:	LARGE

WARRANTY: Manufacturer's Standard Commercial Warranty

NOTE: It is the end user's responsibility to review, understand and agree to the terms of any End User License Agreement (EULA).

Important Notice: --- THIS QUOTATION IS SUBJECT TO THE FOLLOWING Terms of Sale: All purchases from GovConnection, Inc. are subject to the Terms and Conditions of our OMNIA Partners/Region 4 ESC Contract #R210402. Any Order accepted by GovConnection for the items included in this Quotation is expressly limited to those Terms and Conditions; any other terms and conditions referenced or appearing in your Purchase Order are considered null and void. No other terms and conditions shall apply without the written consent of GovConnection, Inc. Please refer to our Quote Number in your order.

If you require a hard copy invoice for your credit card order, please visit the link below and click on the Proof of Purchase/Invoice link on the left side of the page to print one:
<https://www.govconnection.com/web/Shopping/ProofOfPurchase.htm>

Please forward your Contract or Purchase Order to:
SLEDOPS@connection.com

QUESTIONS: Call 800-800-0019

FAX: 603.683.0374

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 112-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Tyler Technologies, Inc. for Annual Software Support and Licensing in an Amount Not To Exceed \$95,000, Contingent Upon FY22 Budget Approval.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated August 25, 2021, from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 112-2021**
- ▣ **Proposal**

Information for Town Council Meeting on September 14, 2021

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 a Purchase Order to Tyler Technologies for Software Licenses and Support in the Amount of \$95,000, Contingent upon FY22 Budget Approval, **Resolution No. 112-2021**

DATE: 25 August 2021

STAFF RECOMMENDATION

Staff recommends Town Council approval of Resolution No. 112-2021 approving a Purchase Order to Tyler Technologies for annual licenses and support in the amount of \$95,000, contingent upon budget approval.

SUMMARY EXPLANATION/BACKGROUND

The Town utilizes Tyler Eden as their ERP System. As such, the Office of Information Technology has to renew the licensing, support and maintenance for the Eden software used by the Town. Tyler Eden is designated as a Sole Source Provider.

FISCAL IMPACT/FUNDING SOURCE

The funding will for this program is from the IT Operational Budget.

USER DEPARTMENT CONCURRENCE

The Office of Information Technology is in full concurrence with this recommendation.

TOWN ATTORNEY REVIEW

This format has been utilized by the Town in previous recommendations and was approved by the Town Attorney.

CC: Andy Jadoo, IT Director
Duke Basha, Assistant Purchasing Manager

RESOLUTION NO. 112-2021

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A PURCHASE ORDER TO TYLER
TECHNOLOGIES, INC. FOR ANNUAL SOFTWARE SUPPORT
AND LICENSING IN AN AMOUNT NOT TO EXCEED \$95,000,
CONTINGENT UPON FY22 BUDGET APPROVAL**

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 112-2021, approving a Purchase Order to Tyler Technologies Inc., in the Not-to-Exceed Amount of \$95,000, Contingent upon FY22 Budget Approval.

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 14th day of September, 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

**Remittance:**

Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

Invoice No	Date	Page
045-352120	09/01/2021	1 of 3

Questions:

Tyler Technologies - ERP & Schools
Phone: 1-800-772-2260 Press 2, then 1
Email: ar@tylertech.com



Bill To: Town of Palm Beach
Attn: Accounts Payable
360 S County Road
Palm Beach, FL 33480

Ship To: Town of Palm Beach
Attn: Accounts Payable
360 S County Road
Palm Beach, FL 33480

Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
5247 - MAIN - MAIN	161825		USD	NET30	10/01/2021

Date	Description	Units	Rate	Extended Price
Contract No.: PALM BEACH, TOWN OF				
	Interface Support	1	1,631.65	1,631.65
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Citizen Services Support-Code Enforcement-Inspections Hierachy	1	5,919.82	5,919.82
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Crystal Reports Site License Support	1	1,631.65	1,631.65
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	IVRS Support- (PI)	1	978.97	978.97
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Accounts Receivable Support	1	2,349.58	2,349.58
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Applicant Tracking Support	1	1,468.49	1,468.49
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Licensing Support Web	1	1,305.34	1,305.34
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Budget Preparation Support	1	1,468.49	1,468.49
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Forms Support	1	5,090.73	5,090.73
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Fixed Assets Support	1	2,349.58	2,349.58
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Annual Comprehensive Financial Report Support	1	4,111.75	4,111.75
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	GL/AP/PG Support	1	5,873.94	5,873.94
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Human Resources Support	1	2,936.95	2,936.95
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Human Resources Support Web	1	978.97	978.97
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Parcel Manager Support	1	1,957.98	1,957.98
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Payroll Support	1	7,831.90	7,831.90
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Permits & Inspections Support	1	6,852.91	6,852.91
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Position Budgeting Support	1	978.97	978.97
	9-14-21 TCM Backup			
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
				341

**Remittance:**

Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

<i>Invoice No</i>	<i>Date</i>	<i>Page</i>
045-352120	09/01/2021	2 of 3

Questions:

Tyler Technologies - ERP & Schools
Phone: 1-800-772-2260 Press 2, then 1
Email: ar@tylertech.com

Bill To: Town of Palm Beach
Attn: Accounts Payable
360 S County Road
Palm Beach, FL 33480

Ship To: Town of Palm Beach
Attn: Accounts Payable
360 S County Road
Palm Beach, FL 33480

<i>Cust No.-BillTo-ShipTo</i>	<i>Ord No</i>	<i>PO Number</i>	<i>Currency</i>	<i>Terms</i>	<i>Due Date</i>
5247 - MAIN - MAIN	161825		USD	NET30	10/01/2021

Date	Description	Units	Rate	Extended Price
	Project Accounting Support	1	4,111.75	4,111.75
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Requisitions Support	1	587.37	587.37
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	State Package Support	1	1,631.65	1,631.65
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Tyler Output Processing Support	1	2,284.30	2,284.30
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Report Views Support	1	1,631.65	1,631.65
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Accounts Payable Support Web	1	978.97	978.97
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Accounts Receivable Support Web	1	978.97	978.97
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Licensing Support	1	3,524.36	3,524.36
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Inventory Support	1	4,111.75	4,111.75
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Permits & Inspections Support Web	1	1,957.98	1,957.98
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	LaserFiche interface Support	1	3,551.91	3,551.91
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Benefits Enrollment Support Web	1	1,283.80	1,283.80
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Permits Mobile Extension Support Fee	1	1,489.22	1,489.22
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Tyler Cashiering Support	1	4,893.96	4,893.96
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Special Assessment Support	1	1,048.72	1,048.72
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Employee Training Support Web	1	1,165.23	1,165.23
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			
	Tyler Payments - Hosting Fee	1	2,428.95	2,428.95
	Maintenance: Start: 01/Oct/2021, End: 30/Sep/2022			

**Remittance:**

Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

Invoice No	Date	Page
045-352120	09/01/2021	3 of 3

Questions:

Tyler Technologies - ERP & Schools
Phone: 1-800-772-2260 Press 2, then 1
Email: ar@tylertech.com

Bill To: Town of Palm Beach
Attn: Accounts Payable
360 S County Road
Palm Beach, FL 33480

Ship To: Town of Palm Beach
Attn: Accounts Payable
360 S County Road
Palm Beach, FL 33480

Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
5247 - MAIN - MAIN	161825		USD	NET30	10/01/2021

Date	Description	Units	Rate	Extended Price
------	-------------	-------	------	----------------

****ATTENTION****

Order your checks and forms from
Tyler Business Forms at 877-749-2090 or
tylerbusinessforms.com to guarantee
100% compliance with your software.

9-14-21 TCM Backup

Subtotal 93,378.21

Sales Tax 0.00

Invoice Total 93,378.21

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 113-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to AEGION/Insituform Technologies LLC for Lining of Sewer Pipes Within the A6 Basin from the National Cooperative, Buyboard in the Amount of \$1,425,890 and Establish a Project Budget of \$1,641,773, Contingent upon FY22 Budget Approval.

Savings Were Noted in the Amount of \$566,470 by Re-Engineering Approach to the Award of the Contract

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated September 1, 2021, from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 113-2021**
- ▣ **Proposal**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

VIA: Jane Le Clainche, CPA Finance Director

FROM: Dean Mealy, CPPO Town Purchasing Manager

RE: Resolution to Approve the Award of a Purchase Order to AEGION/Insituform Technologies LLC for Lining of Sewer Pipes within the A6 Basins from the National Cooperative, BuyBoard in the Amount of \$1,425,890.30 and Establish a Project Budget of \$1,639,723; **Resolution No. 113-2021**

DATE: September 1, 2021

STAFF RECOMMENDATION

Town staff recommends that Town Council approve the award of a purchase order to AEGION/Insituform Technologies LLC for Lining of Sewer Pipes within the A6 Basins from the National Cooperative, BuyBoard in the amount of \$ 1,425,890.30 and establish a project budget of \$1,639,723.

GENERAL INFORMATION

Town Council approved Resolution No. 084-2021 at the August 10, 2021 Town Council Meeting for the A-5 Basin lining of pipes. As discussed at the August 2021 meeting, inspection and lining of sewer pipes is a priority objective of the Public Works Department and the Town.

The awarding of the next phase, A6 Basin will provide cost savings as the tasks will be synchronized with Phase 5 South Undergrounding. The savings will be noted from MOT duplications. Additionally, by engaging the cooperative contract for a greater volume of work, the Town can achieve cost savings of \$566,470 vs. just one basin at a time.

The Town has many miles of older clay sanitary sewer pipes. The pipe sections are not mechanically connected. Over time, the pipes joints can deflect and allow ground water to enter the pipes. This ground water is then sent to the regional sewer treatment plant and treated as sewage. Eliminating the inflow of ground water will substantially reduce the volume of effluent treated and therefore our pumping and treatment costs. Lining sewer pipes is a proven method to eliminate groundwater infiltration. Pipe lining is a much more cost effective approach than excavating and replacing old sanitary lines.

Sewer pipe lining is a process used for repairing and replacing cracked, leaking, backed up and damaged sewer lines. Using a “no dig” trenchless process to avoid yard excavation, sidewalk

destruction or digging up trees, sewer lining involves inserting new epoxy-saturated pipe tubing into existing pipes, inflating the tubing and curing it into place with hot air, steam or bluelight LED technology. This results in a new seal lining the walls of existing pipes, replacing broken piping with the potential to last for decades.

PROCUREMENT METHODOLOGY

Town Purchasing accessed a National Cooperative Contract to secure the requested services. The vendor, AEGION/Insituform Technologies LLC is a recognized contractor to provide this service and has outstanding references.

Town Purchasing, along with Public Works staff engaged the contractor to provide viable options for potential cost savings to the Town. As noted above, by awarding A-6 Basin with the previous award of A-5, the fact that a greater volume of work will be completed, an additional savings was noted of \$566,470.

The National Cooperative Contract provided for volume discounts.

FUNDING/FISCAL IMPACT

Funding for this award will be from the Capital Improvement Program. The Town intends to use funds for the Slip Lining from the American Rescue Action Act. The Slip Lining was identified for this program.

PUBLIC WORKS REVIEW

This item has been reviewed by the Public Works and approved as recommended.

cc: Paul Brazil, P.E. Public Works Director
Patricia Strayer, P.E., Town Engineer
Jason Debrincat, P.E., Senior Project Engineer
Brett Madison, Water Resource Division Manager

RESOLUTION NO. 113-2021

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A PURCHASE ORDER TO
AEGION/INSITUFORM TECHNOLOGIES LLC FOR LINING
OF SEWER PIPES WITHIN THE A6 BASIN FROM THE
NATIONAL COOPERATIVE, BUYBOARD IN THE AMOUNT
OF \$1,425,890 AND ESTABLISH A PROJECT BUDGET OF
\$1,641,773, CONTINGENT UPON FY22 BUDGET APPROVAL**

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 a purchase order to AEGION/Insituform Technologies LLC for Lining of Sewer Pipes within the A6 Basin from the National Cooperative, BuyBoard in the Amount of \$1,425,890 and establish a Project Budget of \$1,641,773.

Section 2. The Town Manager is hereby authorized to execute this agreement 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 14th day of September, 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

Item	Description	A5			A6			BuyBoard		BuyBoard		
		Unit	Quantity	Bid Price	Total	Price	Total	Quantity	Bid Price	Total	Price	Total
1	6" X 4.5mm	LF	720	\$36.00	\$25,920.00	\$40.00	\$28,800.00	116	\$40.00	\$4,640.00	\$40.00	\$4,640.00
2	8" X 6.0mm	LF	5633	\$30.00	\$168,990.00	\$35.00	\$197,155.00	21,110	\$25.60	\$540,416.00	\$35.00	\$738,850.00
3	10" X 6.0mm	LF	1646	\$35.00	\$57,610.00	\$40.00	\$65,840.00	8,521	\$29.20	\$248,813.20	\$40.00	\$340,840.00
4	12" X 6.0mm	LF	885	\$40.00	\$35,400.00	\$50.00	\$44,250.00	2,602	\$40.10	\$104,340.20	\$50.00	\$130,100.00
5	15" X 7.5mm	LF	482	\$60.00	\$28,920.00	\$60.00	\$28,920.00	1,503	\$52.10	\$78,306.30	\$60.00	\$90,180.00
6	18" X 9.0mm	LF			\$0.00	\$70.00	\$0.00	431	\$57.60	\$24,825.60	\$70.00	\$30,170.00
7	24" X 10.5mm	LF			\$0.00	\$115.00	\$0.00	192	\$104.90	\$20,140.80	\$115.00	\$22,080.00
8	6" Clean and TV	LF	720	\$5.00	\$3,600.00	\$6.00	\$4,320.00	116	\$5.40	\$626.40	\$6.00	\$696.00
9	8" Clean and TV	LF	5633	\$4.00	\$22,532.00	\$6.00	\$33,798.00	21,110	\$4.70	\$99,217.00	\$6.00	\$126,660.00
10	10" Clean and TV	LF	1646	\$4.00	\$6,584.00	\$7.00	\$11,522.00	8,521	\$4.70	\$40,048.70	\$7.00	\$59,647.00
11	12" Clean and TV	LF	885	\$6.00	\$5,310.00	\$8.00	\$7,080.00	2,602	\$4.70	\$12,229.40	\$8.00	\$20,816.00
12	15" Clean and TV	LF	482	\$7.00	\$3,374.00	\$10.00	\$4,820.00	1,503	\$6.60	\$9,919.80	\$10.00	\$15,030.00
13	18" Clean and TV	LF			\$0.00	\$12.00	\$0.00	431	\$10.10	\$4,353.10	\$12.00	\$5,172.00
14	24" Clean and TV	LF			\$0.00	\$15.00	\$0.00	192	\$10.10	\$1,939.20	\$15.00	\$2,880.00
15	Root/Grease removal 6" - 12"	LF	2221	\$4.00	\$8,884.00	\$5.00	\$11,105.00	8,087	\$1.60	\$12,939.20	\$5.00	\$40,435.00
16	Root/Grease removal 13" - 18"	LF	150	\$5.00	\$750.00	\$10.00	\$1,500.00	484	\$3.10	\$1,500.40	\$10.00	\$4,840.00
17	Root/Grease removal 18" - 24"	LF			\$0.00	\$15.00	\$0.00	100	\$3.10	\$310.00	\$15.00	\$1,500.00
18	Internal reconnects	EA	152	\$275.00	\$41,800.00	\$225.00	\$34,200.00	457	\$225.00	\$102,825.00	\$225.00	\$102,825.00
19	Traffic Control	DAY	26	\$1,000.00	\$26,000.00	\$1,000.00	\$26,000.00	60	\$1,000.00	\$60,000.00	\$1,000.00	\$60,000.00
Travel and Mobilization - States Other Than Texas												
20		LS	1	\$7,300.00	\$7,300.00	\$10,000.00	\$10,000.00	1	\$3,500.00	\$3,500.00	\$10,000.00	\$10,000.00
Bypass System Equip/pipe delivery, tear down, pick up 6"												
21		EA			\$0.00	\$0.00	\$0.00	8	\$6,000.00	\$48,000.00	\$20,000.00	\$160,000.00
Bypass System Equip/pipe delivery, tear down, pick up 8"												
22		EA			\$0.00	\$0.00	\$0.00	1	\$7,000.00	\$7,000.00	\$25,000.00	\$25,000.00
					\$442,974.00							\$1,425,890.30
												\$1,992,361.00

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 114-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Change Order to the Award of Bid No. 2019-30, Plans, Review, And Inspection Services in the Amount of \$60,000 for FY21 and a New Contract Amount of \$300,000 and to Approve a Change Order to the Remaining Three Years of the Contract Award from \$240,000 Annually to \$325,000 Annually, Contingent Upon Budget Approval.

Presenter

Dean Mealy, Purchasing Manager

ATTACHMENTS:

- ▣ **Memorandum Dated August 31, 2021, from Dean Mealy, Purchasing Manager**
- ▣ **Resolution No. 114-2021**

Information for Town Council Meeting on September 14, 2021

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 a Change Order to the Award of Bid No. 2019-30, Plans, Review, and Inspection Services in the amount of \$60,000 for FY21 for a new contract amount of \$300,000 and to approve a Change Order to the Remaining three years of the contract award from \$240,000 annually to \$325,000 annually Contingent upon Budget Approval; **Resolution No. 114-2021**

DATE: 31 August 2021

STAFF RECOMMENDATION

Town staff recommends approving a Change Order to the Award of Bid No. 2019-30, Plans, Review, and Inspection Services in the amount of \$60,000 for FY21 for a new contract amount of \$300,000 and to approve a Change Order to the Remaining three years of the contract award from \$240,000 annually to \$325,000 annually Contingent upon Budget Approval

SUMMARY EXPLANATION/BACKGROUND

Town Purchasing took Resolution 83-2019 for approval of Plans, Review and Inspection Services to the Town Council September 10, 2019. The award was to a potential of six (6) qualified firms for a total awarded amount of \$240,000 for all services provided on an annual basis.

During the first year of the Contract, the annual spend was under the cap of \$240,000. In FY21, the spend has increased by \$60,000 due to increased use of the approved vendors to provide the Plans, Review and Inspection Services due to high demand of services. In review of upcoming FY22, the Director of Planning, Zoning and Building has established that there will be a continued demand for the services provided. These services compliment resident's expectations.

During FY21, the purchase orders were issued to the following four (4) firms, C.A.P. Governmental Inc., Diversified Building Department Management, GFA International Inc., and Hy-Byrd Inspection Services.

The scope for the Bid was sought to enter into an agreement(s) with a qualified experienced individual, firm, or corporation to provide as-needed Building Plan Review Services and Building Inspection Services. Services will be provided in accordance with the requirements of Florida Statutes 468, Part XIII and Florida Building Code, Chapter 18 and Chapter 134 and any other

applicable Chapters of the Town of Palm Beach's Municipal Code of Ordinances. These services shall be provided on a full-time or as-needed basis, as determined by the Town.

FISCAL IMPACT/FUNDING SOURCE

The fiscal impact for the FY21 Change Order is \$60,000 for a new total award of \$300,000 and will be from the Building Enterprise Fund.

The remaining three years of the contract, FY22, FY23 and FY24 will be increased by \$85,000 annually for Awarded Contract values of \$325, 000 for each of the remaining years. The requested Change Orders will be funded from the Building Enterprise Fund.

USER DEPARTMENT CONCURRENCE

The Planning and Zoning 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.

CC: Wayne Bergman, Director, Planning, Zoning, and Building Department
Kelly Churney, Administrative Specialist
Duke Basha, Assistant Purchasing Manager

RESOLUTION NO. 114-2021

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PALM BEACH, PALM BEACH COUNTY, FLORIDA,
APPROVING A CHANGE ORDER TO THE AWARD OF BID NO.
2019-30, PLANS, REVIEW, AND INSPECTION SERVICES IN
THE AMOUNT OF \$60,000 FOR FY21 AND A NEW CONTRACT
AMOUNT OF \$300,000 AND TO APPROVE A CHANGE ORDER
TO THE REMAINING THREE YEARS OF THE CONTRACT
AWARD FROM \$240,000 ANNUALLY TO \$325,000 ANNUALLY,
CONTINGENT UPON BUDGET APPROVAL**

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 114-2021, approving a Change Order to the Award of Bid No. 2019-30, Plans, Review, and Inspection Services in the amount of \$60,000 for FY21 for a new contract amount of \$300,000 and to approve a Change Order to the Remaining three years of the contract award from \$240,000 annually to \$325,000 annually Contingent upon Budget Approval.

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 14th day of September, 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Consent - Other

Agenda Title

Health Insurance Rates for Calendar Year 2022

Presenter

Carolyn Stone, Assistant Town Manager

ATTACHMENTS:

- ▣ **Memorandum dated August 27, 2021, from Carolyn Stone, Assistant Town Manager**
- ▣ **Exhibit A - Calendar Year 2022 Medical Rates for Active Employees**
- ▣ **Exhibit B - Calendar Year 2022 Medical Rates for Retirees**
- ▣ **Exhibit C - Calendar Year 2022 Dental Rates for Active Employees**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 13, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Carolyn Stone, Assistant Town Manager

Re: Health Insurance Rates for Calendar Year 2022

Date: August 27, 2021

STAFF RECOMMENDATION

The information contained herein is provided to Town Council for review. No action is required.

GENERAL INFORMATION

The Town's Insurance Broker, The Gehring Group, has conducted a review of the claims experience for the medical, prescription and dental plans for employees and retirees. The review consisted of a 19-month trend analysis using a claims from June 2020 through May 2021.

For active employees, the claims analysis shows an increase of approximately 21.1% over FY21. This increase includes a 5% maturation factor used to account for claims that may result from illnesses gone untreated, or missed diagnosis due to COVID. Retiree medical claims however, show lower than average trend on medical claims, at 4.5% below the FY21 budgeted funding amount.

In order to get the complete and more accurate picture, Gehring Group combined the claims experience for both actives and retirees. This is done to make the claims experience credible as the two groups on their own do not provide credible claims (i.e. law-of-large-numbers) as well as F.S. 112.08 which requires the Town to charge the same premiums to retirees as they are for active employees. While claims for the same period show a higher than normal trend, the overall increase over the FY21 budget funding is 11.1%.

Despite the projected increase in claims, the FY22 budget for Health and OPEB will remain the same, and contributions will not increase for the Town or employees. Should additional funds be needed to cover expenses in FY22, the money will be transferred from the Health and OPEB reserves which are currently overfunded. Please refer to Exhibit A for the employee contribution rates and Exhibit B for the retiree sliding scale.

The Town's dental plan was also evaluated. Low administrative fees and claim expenses have allowed for premiums to remain flat during the past eight years. There will be no increase to contributions for

employees, retirees or the Town for plan year 2022. Refer to Exhibit C for the 2022 dental contribution rates.

FUNDING/FISCAL IMPACT

Sufficient funds exist in the FY22 Health Insurance fund and OPEB Trust to provide for the Town's share of expenses for the healthcare plan as proposed herein.

TOWN ATTORNEY REVIEW

It is not necessary for the Town Attorney to review for legal form and sufficiency.

TOWN OF PALM BEACH - MEDICAL CONTRIBUTION RATES FOR 2022

With Wellness Incentive

Plan	Tier	Total Monthly Premiums				Town of Palm Beach				Employee					
		Paid Monthly		Premium Difference		Paid Monthly		Town Contribution Difference		Paid Monthly		2022 Cost Sharing		Employee Contribution Difference	
		2022	2021	%	\$	2022	2021	2022 Cost Sharing	%	\$	2022	2021	2022 Cost Sharing	%	\$
Seabreeze OAP															
	Employee	\$522.15	\$522.15	0.0%	\$0.00	\$418.31	\$418.31	80.1%	0.0%	\$0.00	\$103.84	\$103.84	19.9%	0.0%	\$0.00
	1 Dependent	\$589.45	\$589.45	0.0%	\$0.00	\$351.83	\$351.83	59.7%	0.0%	\$0.00	\$237.62	\$237.62	40.3%	0.0%	\$0.00
	2 Dependents	\$1,178.91	\$1,178.91	0.0%	\$0.00	\$703.66	\$703.66	59.7%	0.0%	\$0.00	\$475.25	\$475.25	40.3%	0.0%	\$0.00
	3+ Dependents	\$1,768.35	\$1,768.35	0.0%	\$0.00	\$1,055.50	\$1,055.50	59.7%	0.0%	\$0.00	\$712.85	\$712.85	40.3%	0.0%	\$0.00
Seaview OAPIN															
	Employee	\$418.31	\$418.31	0.0%	\$0.00	\$418.31	\$418.31	100.0%	0.0%	\$0.00	\$0.00	\$0.00	0.0%	0.0%	\$0.00
	1 Dependent	\$473.32	\$473.32	0.0%	\$0.00	\$351.83	\$351.83	74.3%	0.0%	\$0.00	\$121.49	\$121.49	25.7%	0.0%	\$0.00
	2 Dependents	\$946.63	\$946.63	0.0%	\$0.00	\$703.66	\$703.66	74.3%	0.0%	\$0.00	\$242.97	\$242.97	25.7%	0.0%	\$0.00
	3+ Dependents	\$1,419.96	\$1,419.96	0.0%	\$0.00	\$1,055.50	\$1,055.50	74.3%	0.0%	\$0.00	\$364.46	\$364.46	25.7%	0.0%	\$0.00

Without Wellness Incentive

Plan	Tier	Total Monthly Premiums				Town of Palm Beach						Employee					
		Paid Monthly		Premium Difference		Paid Monthly		2022 Cost Sharing		Town Contribution Difference		Paid Monthly		2022 Cost Sharing		Employee Contribution Difference	
		2022	2021		%	\$	2022	2021		%	\$	2022	2021		%	\$	
Seabreeze OAP																	
	Employee		\$584.81	\$584.81	0.0%	\$0.00	\$418.31	\$418.31	71.5%	0.0%	\$0.00	\$166.50	\$166.50	28.5%	0.0%	\$0.00	
	1 Dependent		\$660.18	\$660.18	0.0%	\$0.00	\$351.83	\$351.83	53.3%	0.0%	\$0.00	\$308.35	\$308.35	46.7%	0.0%	\$0.00	
	2 Dependents		\$1,320.38	\$1,320.38	0.0%	\$0.00	\$703.66	\$703.66	53.3%	0.0%	\$0.00	\$616.72	\$616.72	46.7%	0.0%	\$0.00	
	3+ Dependents		\$1,980.55	\$1,980.55	0.0%	\$0.00	\$1,055.50	\$1,055.50	53.3%	0.0%	\$0.00	\$925.05	\$925.05	46.7%	0.0%	\$0.00	
Seaview OAPIN																	
	Employee		\$468.51	\$468.51	0.0%	\$0.00	\$418.31	\$418.31	89.3%	0.0%	\$0.00	\$50.20	\$50.20	10.7%	0.0%	\$0.00	
	1 Dependent		\$530.12	\$530.12	0.0%	\$0.00	\$351.83	\$351.83	66.4%	0.0%	\$0.00	\$178.29	\$178.29	33.6%	0.0%	\$0.00	
	2 Dependents		\$1,060.23	\$1,060.23	0.0%	\$0.00	\$703.66	\$703.66	66.4%	0.0%	\$0.00	\$356.57	\$356.57	33.6%	0.0%	\$0.00	
	3+ Dependents		\$1,590.36	\$1,590.36	0.0%	\$0.00	\$1,055.50	\$1,055.50	66.4%	0.0%	\$0.00	\$534.86	\$534.86	33.6%	0.0%	\$0.00	



OAP Seabreeze Plan

Retiree Sliding Scale Insurance Premium Rates 2022

Years of Service	Q1		Q2		Q3		Q4	
25 + years	50%		51%		52%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare
	Retiree +1 Dependent	\$ 618.63	\$ 305.24	\$ 631.00	\$ 311.34	\$ 643.37	\$ 317.45	\$ 665.24
	Retiree +2 Dependents	\$ 1,305.30	\$ 646.15	\$ 1,331.41	\$ 659.07	\$ 1,357.51	\$ 671.99	\$ 1,409.93
	Retiree +3 Dependents	\$ 1,662.06		\$ 1,695.30		\$ 1,728.54		\$ 1,977.22
20 - 24 years	50%		51%		52%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare
	Retiree +1 Dependent	\$ 618.63	\$ 305.24	\$ 631.00	\$ 311.34	\$ 643.37	\$ 317.45	\$ 665.24
	Retiree +2 Dependents	\$ 1,305.30	\$ 646.15	\$ 1,331.41	\$ 659.07	\$ 1,357.51	\$ 671.99	\$ 1,409.93
	Retiree +3 Dependents	\$ 1,662.06		\$ 1,695.30		\$ 1,728.54		\$ 1,977.22
15 - 19 years	50%		51%		52%		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare
	Retiree +1 Dependent	\$ 618.63	\$ 305.24	\$ 631.00	\$ 311.34	\$ 643.37	\$ 317.45	\$ 665.24
	Retiree +2 Dependents	\$ 1,305.30	\$ 646.15	\$ 1,331.41	\$ 659.07	\$ 1,357.51	\$ 671.99	\$ 1,409.93
	Retiree +3 Dependents	\$ 1,662.06		\$ 1,695.30		\$ 1,728.54		\$ 1,977.22
10 - 14 years	Maximum		Maximum		Maximum		Maximum	
	Retiree	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare
	Retiree +1 Dependent	\$ 665.24	\$ 328.24	\$ 665.24	\$ 328.24	\$ 665.24	\$ 328.24	\$ 665.24
	Retiree +2 Dependents	\$ 1,409.93	\$ 697.94	\$ 1,409.93	\$ 697.94	\$ 1,409.93	\$ 697.94	\$ 1,409.93
	Retiree +3 Dependents	\$ 1,977.22		\$ 1,977.22		\$ 1,977.22		\$ 1,977.22

Monthly Pension Earnings		
Quartile	Minimum	Maximum
Q1	\$ -	\$ 1,801.50
Q2	\$ 1,801.51	\$ 3,345.12
Q3	\$ 3,345.13	\$ 5,399.00
Q4	\$ 5,399.01	or greater

* Rates are base on the commingled experience of the retiree group with the claims experience of the active employees in accordance with F.S. 112.0801.

** Employees hired after October 1, 2009 will be charged the maximum allowable per state statute.



OAPIN - Seaview Plan **Retiree Sliding Scale Insurance Premium Rates 2022**

Years of Service	Q1		Q2		Q3		Q4	
	50%		51%		51%		Maximum	
	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare	Non-Medicare	Medicare
25 + years	Retiree	\$ 532.61	\$ 260.29	\$ 543.26	\$ 265.49	\$ 543.26	\$ 552.84	\$ 270.17
	Retiree +1 Dependent	\$ 1,124.82	\$ 551.73	\$ 1,147.32	\$ 562.76	\$ 1,147.32	\$ 1,172.76	\$ 575.24
	Retiree +2 Dependents	\$ 1,411.25		\$ 1,439.48		\$ 1,439.48	\$ 1,628.29	
	Retiree +3 Dependents	\$ 1,697.78		\$ 1,731.73		\$ 1,731.73	\$ 2,083.83	
20 - 24 years	Retiree	\$ 532.61	\$ 260.29	\$ 543.26	\$ 265.49	\$ 543.26	\$ 552.84	\$ 270.17
	Retiree +1 Dependent	\$ 1,124.82	\$ 551.73	\$ 1,147.32	\$ 562.76	\$ 1,147.32	\$ 1,172.76	\$ 575.24
	Retiree +2 Dependents	\$ 1,411.25		\$ 1,439.48		\$ 1,439.48	\$ 1,628.29	
	Retiree +3 Dependents	\$ 1,697.78		\$ 1,731.73		\$ 1,731.73	\$ 2,083.83	
15 - 19 years	Retiree	\$ 532.61	\$ 260.29	\$ 543.26	\$ 265.49	\$ 543.26	\$ 552.84	\$ 270.17
	Retiree +1 Dependent	\$ 1,124.82	\$ 551.73	\$ 1,147.32	\$ 562.76	\$ 1,147.32	\$ 1,172.76	\$ 575.24
	Retiree +2 Dependents	\$ 1,411.25		\$ 1,439.48		\$ 1,439.48	\$ 1,628.29	
	Retiree +3 Dependents	\$ 1,697.78		\$ 1,731.73		\$ 1,731.73	\$ 2,083.83	
10 - 14 years	Retiree	\$ 552.84	\$ 270.17	\$ 552.84	\$ 270.17	\$ 552.84	\$ 552.84	\$ 270.17
	Retiree +1 Dependent	\$ 1,172.76	\$ 575.24	\$ 1,172.76	\$ 575.24	\$ 1,172.76	\$ 1,172.76	\$ 575.24
	Retiree +2 Dependents	\$ 1,628.29		\$ 1,628.29		\$ 1,628.29	\$ 1,628.29	
	Retiree +3 Dependents	\$ 2,083.83		\$ 2,083.83		\$ 2,083.83	\$ 2,083.83	

Monthly Pension Earnings		
Quartile	Minimum	Maximum
Q1	\$ -	\$ 1,801.50
Q2	\$ 1,801.51	\$ 3,345.12
Q3	\$ 3,345.13	\$ 5,399.00
Q4	\$ 5,399.01	or greater

* Rates are base on the commingled experience of the retiree group with the claims experience of the active employees in accordance with F.S. 112.0801.
 ** Employees hired after October 1, 2009 will be charged the maximum allowable per state statute.

TOWN OF PALM BEACH - DENTAL CONTRIBUTION RATES FOR 2022

Plan	Tier	Total Monthly Premiums			Town of Palm Beach			Employee		
		Paid Monthly	Premium Difference		Paid Monthly	2022 Cost Sharing	Town Contribution Difference	Paid Monthly	2022 Cost Sharing	Employee Contribution Difference
		2022	2021	%	2022	2021	%	2022	2021	%
Employees										
	Employee	\$41.74	\$41.74	0.0%	\$41.74	\$41.74	100.0%	\$0.00	\$0.00	0.0%
	1 Dependent	\$36.57	\$36.57	0.0%	\$0.00	\$0.00	0.0%	\$36.57	\$36.57	100.0%
	2+ Dependents	\$60.39	\$60.39	0.0%	\$0.00	\$0.00	0.0%	\$60.39	\$60.39	100.0%
Retirees										
	Retiree	\$41.74	\$41.74	0.0%	\$0.00	\$0.00	0.0%	\$41.74	\$41.74	100.0%
	1 Dependent	\$36.57	\$36.57	0.0%	\$0.00	\$0.00	0.0%	\$36.57	\$36.57	100.0%
	2+ Dependents	\$60.39	\$60.39	0.0%	\$0.00	\$0.00	0.0%	\$60.39	\$60.39	100.0%

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Committee Reports

Agenda Title

Report of the Ordinances, Rules and Standards Committee Meeting Held on Thursday, July 1, 2021

Julie Araskog, Committee Chair

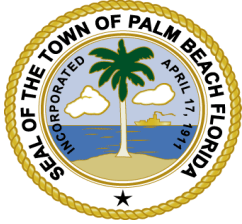
TIME CERTAIN: 11:00 AM

1. Recommendations Regarding Modifications to Construction Hours
Jay Boodheshwar, Deputy Town Manager
2. Recommendations Regarding Addition of Synthetic Turf Regulations in the Town Code
Wayne Bergman, Director of Planning, Zoning and Building
3. Discussion Regarding Application of Existing Regulations Pertaining to Native Plants
Wayne Bergman, Director of Planning, Zoning and Building

Presenter

ATTACHMENTS:

- ▣ **Report of the ORS Meeting of July 1, 2021**
- ▣ **1. Memorandum Dated September 6, 2021 From Jay Boodheshwar, Deputy Town Manager**
- ▣ **1a. Ordinance No. 03-2018- Environment**
- ▣ **2. Memorandum Dated September 3, 2021 From Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **3. Memorandum Dated September 3, 2021 From Wayne Bergman, Director of Planning, Zoning and Building**



TOWN OF PALM BEACH

Town Clerk's Office

REPORT OF THE ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING HELD ON THURSDAY, JULY 1, 2021

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules and Standards (ORS) Committee meeting was called to order on Thursday, July 1, 2021 at 9:30 a.m. in the Town Council Chambers. On roll call, all committee members were found to be present.

II. PLEDGE OF ALLEGIANCE

Chair Araskog led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Chair Araskog announced that due to Wayne Bergman, Director of Planning, Zoning and Building having to leave to attend an urgent meeting at 10:30 a.m., she would be switching the agenda around to begin with item no. V.A.2. Review Draft Language to Regulate the Use of Synthetic Turf and that item no. V.B.2. Discuss Possible Modifications to the Native Landscape Section in Chapter 66 of the Town Code would be heard next. She then suggested that item no. V.A.1. Review of Chapter 42 of the Town Code, Relative to Construction Hours would probably be heard at about 10:30 a.m.

Motion was made by Member Cooney and seconded by Chair Araskog to approve the agenda as amended. On roll call, the Motion passed unanimously.

IV. COMMUNICATIONS FROM CITIZENS

Brad Gary, 229 Onondaga Road, spoke regarding construction projects blocking driveway access and debris littering the streets and suggested creation of a construction code for new construction projects. **(Please see a more detailed account at the end of the report.)**

V. REGULAR AGENDA

A. Old Business

1.Review of Chapter 42 of the Town Code, Relative to Construction Hours

Jay Boodheshwar, Deputy Town Manager

Chair Araskog stated many residents who would like to see their weekends and weekdays returned to the former quiet enjoyment of their property. She also received an onslaught of phone calls asking for a complete moratorium on building.

She discussed many of the issues, including some residents who are selling or sold their homes because of all the construction noise. She discussed phone calls from residents pleading with her to make 8-9 AM on weekdays off season quiet work to make it the same as in season. Residents are tired of being awakened early and spending their days hearing loud construction and at times their rooms are shaking.

She expressed her appreciation for the construction industry representatives attending the meeting and understands that many are upset by the suggestion of cutting back on hours or eliminating Saturday hours, but stated that the overwhelming amount of construction is causing Town residents stress and discomfort. She relayed it is difficult to receive so many phone calls. She believes this Committee needs to think of the residents, their reasons for moving here and the money spent on their homes. She hoped a solution could be found to protect residents and hopefully not cause a tremendous impact on construction projects.

She discussed the Town's 68.7 age mean with a majority of retired residents who want to enjoy their homes, their yards and quiet enjoyment of their property. She explained later that because we are a retirement community unlike other places people do not get up at 7 a.m. to run to work, but are home, and she wished the Town had larger lots. She later explained this is not about construction workers or contractors doing anything wrong but is about the fact that people buy their homes to enjoy them. Current residents expressed to her that they do not think it is fair for people who are building homes in our Town to arrive after their homes are built having the benefit of escaping all the noise that they cause for residents who currently reside in their homes and often have for 10, 20, or 30 years.

Ms. Araskog stated that she was told that before the rules were changed by Peter Elwell, that only 13 applications were allowed to be presented to ARCOM, and that just last month there were 58 applications on the agenda. She does not believe a 12-mile Island can handle this pressure and that something must be done.

Jay Boodheshwar, Deputy Town Manager, clarified that the discussion is centered on Saturday construction hours. He reminded everyone that the ordinance was changed two years ago with the intent to have a more consistent schedule in terms of construction work year-round, specifically on Saturdays to be limited to as what we define as "quiet hours."

Mr. Boodheshwar discussed several options to limit Saturday construction hours. ***[For these options it is important to note that **Off Season** is currently May 1 to the Saturday before Thanksgiving; are 8 am to 6 pm Monday through Friday; and "quiet work" interior and exterior on Saturdays from 9 a.m. to 5 p.m.. There are

*exceptions if a waiver is granted by the building department for Saturdays. **In Season hours are the Monday before Thanksgiving thru April 30; “quiet work” from 8 a.m. to 9 a.m. on weekdays; “quiet work” interior only on Saturdays from 9 a.m. to 5 p.m.; Worth Avenue Hours: May 1 through October 31: 8 a.m. to 8 p.m. Monday through Saturday. Work is not prohibited throughout the Town on legal holidays and Sundays.]***

Additionally, Mr. Boodheshwar discussed Mr. Bergman’s suggestion that if hours on Saturdays were not permitted for the Season and/or Off-Season Construction Hours that an extension could be granted for construction permits to allow additional time for completion of projects to offset the hours of construction work lost. This would mean a longer construction project, but would provide for contractors and homeowners to get their projects completed. He discussed an additional suggestion to offset lost construction hours which was to add an "hour of interior quiet work" Monday through Friday Year- Round or just In Season.

- B. Mr. Boodheshwar Discussed the Following Options for Limiting Saturday Work:
Option 1: Year-Round: Eliminate all Saturday construction and add an additional hour of interior “quiet work” to the end of the day Monday through Friday for the entire year and add 20.5 days (one month) for the completion of construction for each project. This means that during the Off- Season Monday through Friday 8-9 a.m. and 6-7 p.m. is “quiet work” only inside and from 9 a.m. – 6 p.m. all construction is permitted; and In Season 8-9 a.m. and 5-6 p.m. “quiet hours” indoors only and 9a.m. -5 p.m. all construction work is allowed .

Option 2: In Season: add an additional hour of interior “quiet work” at the end of the construction hours only Monday through Friday and add 9 days (two weeks) for the completion of construction for each project. In Season would have “quiet work” inside only from 8 a.m. - 9 a.m. and 5 p.m. - 6 p.m. and all other construction would be permitted from 9 a.m. to 5 p.m. Off Season construction hours remains the same on Saturday with only inside and outside “quiet work” permitted. All construction Monday through Friday is permitted from 8 a.m. to 5 p.m.

Option 3: Year- round: Prohibit all Saturday work hours for the entire year but add an hour of interior “quiet work” only in Season Monday through Friday and add 38 days (7 weeks three days) for the completion for each project. (same hours as option (b) for Season and off-Season hours.)

Option 4 :Year- Round: Eliminate all Saturday “quiet work” (no change to the current weekday permitted hours) and add 52 days (10 weeks and 2 days) for the completion of construction for each project.

Public Comments

Desmond Keough, 241 El Dorado Lane, Owner and President, Haifa Limestone,

spoke regarding Saturday work. He lives in the North end and appreciates having peace and quiet on that seldom day he has off and gets it, but the implication of removing Saturdays is pretty big. His concern is that if Saturdays are eliminated, he will be unable to get his flooring work done and it would take longer to complete a project. He discussed his need for time without other trades present, so he can do flooring, finishings, grinding, sealing and polishing. He mentioned certain actions that can be taken by workers to reduce noise, traffic, crews sprawled on lawns and in driveways having lunch and making noise, radios on sites, etc. He believes an element of education is needed and stated that he liked the idea of the “Gold Star” club that was mentioned by Brad Gary.

George Ford, 14792 Palmwood Road, Palm Beach Gardens, Partner, Seabreeze Building and Owner, Leeds Custom Design, listed some projects they just completed, including 149 East Inlet, which he built in 18 months, 456 South Ocean Blvd (the Charlie’s Crab site), and Duck’s nest. He said he did not have a problem on any of those jobs despite being under a microscope and thinks that is the case with most builders on this Island. He advocated for continuing Saturday work. He stated that changing Saturday hours because of cheaters is not the way to go because we have a great town staff who will come out if a complaint is made. He suggested the Town should start with the cheaters and run with the current rules. He agrees with Brad Gary and Desmond. He thinks the overwhelming construction will pass.

Ms. Araskog explained the issue is not about cheaters or workers doing anything wrong, but as Mr. Boodheshwar discussed at the last meeting, there is noise that comes with non-noisy construction such as cars pulling in, doors closing, people coming and going or on their cell phones, and general noise that comes with an active site, which disrupts the neighbors. Ms. Araskog discussed seeing twenty cars on a site on a Saturday, which brings noise, and the issues that come with many small streets having two or more active construction sites on them.

Lynn George, Mockingbird Trail, spoke regarding two houses that are being torn down within 100 feet of her home. She has had many aggravations as they have had a lot of new construction and renovations on her street. She ran several people off who parked before they were allowed to and complained that trucks and workers constantly park within five feet of the stop sign, which creates a safety issue. The police tell people on North Lake Way to park on Mockingbird trail. She has had times when she could not even enter or exit her driveway due to the trucks. She expressed her frustration that people were parking on her street for North Lake Way projects and stated the police told them to park there. She added that with two people building on her street simultaneously she knows she will be calling a lot.

Benjamin Alma, Support Services Manager, Benjamin Alma, Support Services Manager, to answer Ms. George’s questions stated that residents should call 561-838-5454 at any time to report any code/parking issues and that construction parking locations for permits are assigned by the Building Department and it depends on the stage of the construction as to the number of trucks/cars permitted.

Public Comments (continued)

Susan Gary, 229 Onondaga Avenue, thanked the Committee for discussing Saturday construction work. She said residents are generally fed up with the massive amount of construction in the Town. Between the Undergrounding tearing up the streets with several years to go and all of this private construction- 500 building permits last year- the amount of construction is phenomenal, and the residents and she have had it. She is begging the elected representatives to start getting stricter on construction and to forthwith stop all Saturday construction to give residents some peace and quiet for two days per week. She explained she spent 25 years in the design and construction business for a major company in the United States and understands construction and is not unfamiliar with it or unsympathetic; but residents need some peace and quiet. All they are asking for: no Saturday hours.

She stated she was very pleased to speak with two representatives from construction companies today and welcomes the fact that they are willing to work with the Town and residents to make the construction better for everyone. She discussed her former small community in Rumson, New Jersey, where they started a voluntary program like the one her husband described earlier and hopes the industry and residents can work together to work things out. She stated she is very familiar with the industry, one she has high regard for, and volunteered to work with contractors, business owners and owners to help resolve some of the problems. She hoped maybe The Civic Association could step in or some other organization as well.

John Cassidy, 19000 Loxahatchee River Road, Jupiter, stated he moved out of Palm Beach three years ago after growing up on Seabreeze. His parents lived here for over 50 years. He completed several remodeling projects on the island. He said the Town makes these rules for people who break the rules and that's the problem. The people doing the right thing get penalized for the people that are doing the wrong thing. And this construction is going to pass, he stated and that property in Palm Beach is limited, and the building permits will decline. He advocated for not just making a blanket statement because of the few who don't follow the rules. He stated he has been in business for sixty years and does what is right. He makes sure his guys are quiet on Saturdays and believes the Town needs to think about it as a whole and not make a blanket statement or rule because of rule breakers.

Chair Araskog read a letter **Susan Watts** of 44 Cocoanut Row asked be read into the record advocating for an elimination of Saturday construction hours citing the "needs of residents to have two days a week when the noise, traffic, disruptions and confusion of endless construction projects do not impact the serenity of residents' lives in Palm Beach" and included the following from the Town's comprehensive plan: *'The Town of Palm Beach is essentially "built-out." This unique island community has grown and developed into a premier residential community of exceptional beauty. As a result, the future of the island will be focused on preserving and protecting this residential island community while maintaining the culture, serenity, and the unique character of the Town. '*

(Executive Summary 1-3). She “ask(s) the Town Council to remember that ‘the future of the island will be focused on preserving and protecting this residential island community.’ Palm Beach is a very special place. Your residents, taxpayers and voters are speaking loud and clear. ‘

John David Corey, 426 Australian Avenue, referred to his letter to the Editor (Shiny Sheet) regarding Saturday construction hours where he referenced his hometown of Boston where there is no Saturday construction work allowed. He stated he believes most condos on the Island do not allow Saturday hours because the residents do not want to be disturbed. He believes people moving to Palm Beach would be surprised, as he was, that you could build on a Saturday. It is his opinion that for a long time the lobbyists and the construction business have advocated for and successfully won construction on Saturdays, but he thinks the residents are clawing it back. He hopes we can gain Saturday back and if there is a compromise to have more time in the day maybe an earlier start time then so be it. Or else, like death and taxes, construction in Palm Beach never ends, You sell a house and right away they start doing kitchen and bathrooms, so I don’t think the idea of having construction projects finish sooner is any kind of incentive for Saturday work hours.

End of Public Comments

Responding to public comment, Ms. Araskog stated that she mentioned a moratorium to express resident frustration, but this was not being discussed today and that workers who have been breaking the rules and doing outside work on Saturdays is a Code Enforcement issue and not the reason for today’s discussion.

In response to a comment that this construction will pass, **she stated it is not going to pass for a long time because we just had 58 applications at ARCOM.** This is a point where until things change, we need to make some kind of effort for our residents to have their weekends off by not allowing Saturday work during the season and adding one hour of quiet work to the end of the day, which will add only 9 days. She would rather stop all Saturday work hours, but the problem is projects would be prolonged by 52 days- an added two and a half months.

She expressed her opinion that some effort needs to be made so the residents have the weekends free of construction not allowing Saturday work during the season, which adds 9 days to the out of season work, and adding one hour of quiet work at the end of the day for construction. She stated she would rather stop all Saturday work hours, but the project completion time would be prolonged for too long.

Mr. Boodheshwar responded to Member Cooney by presenting a historical review regarding construction hours and how we got to where we are currently. He referred to a spreadsheet showing the current construction hours for peak and summer seasons.

Mr. Cooney stated this is a complicated issue trying to balance the needs of

residents and their right to quiet enjoyment of their property with construction which is loud and disruptive and noisy and dirty. It feels like a constant cycle. He really feels for the residents who as soon as a job wraps up behind them, a job next to them starts going. Sometimes they are dealing with noise for an excess of five years, he said, so striking that balance when we have new residents and properties turning over and work that needs to get done and residents undertaking the work who understandably want it to be done efficiently. He does not know the right balance to strike here.

He appreciates that we are inching toward recognizing the community as becoming more of a year-round community and applauds the previous effort to switch Saturdays to quiet work in the summer, because there are many residents like him who are year-round. Sometimes it felt like year-round residents had to deal with the heavy load disruption and it did not always seem fair as the community has evolved with an increasing number of year-round residents. He is concerned that eliminating Saturdays year-round would be incredibly detrimental as far as moving projects along. He stated that quiet work is interior work, so if there is a rainy day, having Saturday hours does keep projects moving along as they deal with the disruptions of a storm coming or rain. It could prevent certain jobs from getting done.

Discussion ensued regarding eliminating Saturday work in season, adding one hour of quiet work during the Winter season and adding an additional 9 days (two weeks) to the project permit. Additionally, a discussion ensued on having quiet work only from 8-9 a.m. during the Summer Season.

The Committee agreed that this is one of the most intense times of construction. Ms. Araskog quoted Paul Brazil stating that construction is just booming in a way it has never boomed before and that when driving around Town she sees 2-3 construction sites on an overwhelming number of streets in Town. Mr. Cooney stated Sundays were his favorite day in Town because it is quieter and much safer to bike, walk, and run errands without trucks buzzing around and that on Sunday the Town feels like a different and much more livable place.

Some of the points made in regard to eliminating only in Season Saturday hours and adding an hour of quiet work during the day were that at least the residents would have 6 months of quiet weekends and that traffic and burdens on the residents is much worse in the Winter months. Mr. Cooney was concerned that while in concept the addition of an hour of quiet work at the end of the day was good, he is not a contractor and does not know if it would be useable time to advance a project. He was not certain that workers would stay until 6 p.m., which could create lingering, longer projects.

Mr. Boodheshwar pointed out certain pros and cons to the various decisions regarding the construction work-day.

Ms. Araskog suggested elimination of Saturday work during the peak season, an

additional hour to the weekdays in Season and conversion of 8-9 a.m. during the summer to interior quiet work only.

Mr. Cooney stated there is no easy solution. This has been disruptive to our residents' quality of life for quite a while. He wants to look out for the peace and quiet enjoyment, which can be tough to find when there is a lot going on around you, but he struggles because there are a lot of residents doing work on their own homes who want to get them done. Their representatives and contractors want to create the most efficient end to get residents into their home by season and all of those standard deadlines we know about in the community. He just does not know how to work with both.

Ms. Araskog discussed the residents who are complaining saying well of course they want to get into their homes quickly, because most are not in their house having to listen to and living through all the construction noise. Ms. Araskog is wondering if this extra hour would give contractors the time that they need or maybe they will become more efficient with their time.

Clarifying our Ordinance as to what an 8 a.m. start time should mean.

The last point of discussion was about clarifying in the ordinance as to what a start time of 8 a.m. means, because so many sites have been active at 7 am or 7:30 setting up, drinking coffee, and disturbing the neighbors. Ms. Araskog would like to look at implementing a three-strike rule for those who are starting earlier than 8 AM. Wayne Bergman stated we need enforcement. Mr. Alma agreed that they could check the sites in the morning and enforce it. He said they would do two weeks of warnings and then start citing them. It was stated that we do not currently state when contractors and subs can arrive or when they can start working.

Mr. Alma stated that a lot of the complaints were about construction workers arriving early and in 2020, it is because the workers are there having their morning coffee and making noise. It can be contractors with designers or owners or workers talking. Director Alma asked Skip if people had a constitutional right to be on the street or on the site having coffee or conversations. Skip stated that they do not as they are there for a business purpose. Skip advised that no construction workers can congregate at the site as they are gathering in anticipation of beginning work.

Ms. Araskog stated the intent was to stop all early activity until 8 a.m. We said people were tired of morning noise and there should be no noise until 8 a.m. She would like no cars before 7:30 and no activity on the site or on the street until 8 a.m.

Committee recommendations for Town Council Discussion:

- 1) Ms. Araskog preferred to eliminate Saturday hours In Season, add 9 days to the permit period and add an extra hour of indoor "quiet

work” Monday through Friday. Mr. Cooney would like it to remain as it is but expects a robust discussion.

- 2) Consensus of the Committee for off Season, 8-9 a.m. indoor quiet work only with the possibility of the addition of one hour of quiet work at the end of the day, from 6-7 PM, if necessary.
- 3) Consensus to look at the Landscape Ordinance to mirror the quiet hours during the week and on Saturdays.
- 4) Prohibit arrival to the construction site before 7:30 a.m. and no activity or being present on the site other than in their automobile before 8 a.m.

1. Review Draft Language to Regulate the Use of Synthetic Turf

Wayne Bergman, Director of Planning, Zoning and Building

Chair Araskog spoke regarding two applications that were presented at ARCOM’s last meeting. She mentioned no commissioner was in favor of synthetic turf due to aesthetics and environmental issues. She stated she agreed with the ARCOM Commissioners and believes a Variance should be required for its use. She feared if the proposed Ordinance is passed, it could be an impetus for people to install artificial turf as landscapers are already recommending residents cover large areas with artificial turf on a regular basis and fail to understand or know they must appear before the ARCOM or LPC to get a permit before installation. After mentioning issues regarding an onslaught of artificial turf in the neighborhood and the Town desiring to become green and environmentally friendly, she stated she was not in favor of allowing any artificial turf without a Variance.

Wayne Bergman, Director of Planning, Zoning and Building, stated that artificial turf is not directly regulated by the Town Zoning Code at this time, except that all site and landscaping plans must be approved by either ARCOM or LPC. After the last meeting, a review began of some Ordinances and Codes that regulate artificial turf by staff. Ms. Araskog requested that Mr. Bergman correct a mistake made in the paper and asked him to clarify what a resident must do if they would like to install artificial turf.

Mr. Bergman stated that if a resident wanted to install artificial turf, they would have to receive approval from either ARCOM approval as a minor project or LPC approval as a COA. Mr. Bergman confirmed it would be approved, deferred, or denied and the owner would need a permit as per an approval from ARCOM nor LPC to install the artificial turf.

Mr. Bergman stated that at the last committee meeting, staff was directed to draft an Ordinance, therefore they looked primarily at the Town of Ocean Ridge, the Village of Key Biscayne and the Town of Jupiter Inlet Colony. These municipalities have regulations for artificial turf. The draft Ordinance includes a definition for artificial turf; the approval process; locations in a yard where it could be considered;

standards for the material and manufacturing of artificial turf; installation, maintenance and repair of artificial turf and what to do with existing artificial turf that has already been installed.

Public Comments

Susan Lerner, Director of Horticulture, Preservation Foundation of Palm Beach, applauded the Chair's position on artificial turf. She stated that accepting the installation of synthetic turf is adding to the problem of extreme and irreparable damage to the planet. She spoke about issues regarding recycling the artificial turf after it has passed its useful life, drainage, destruction of the soil and the food web by the trapped heat of the blanket of plastic and the use of pervious vs. impervious materials. She stated that while trying to solve a small problem like grass will not grow under a shade tree that it creates a larger problem later and mentioned that there are ground covers that will happily grow under the shade trees and she could show them [to residents] in Pan's Garden.

Jorge Sanchez, 239 Southland Road, President, SMI Landscape Architecture, expressed his agreement with Chair Araskog that the issue should remain as it is on the books, as hardscape. He stated he did not see anything wrong with it in certain areas such as dog runs and does not support banning it completely but including it as part of the hardscape calculations. He stated he would not like to see it proliferated throughout the gardens. He expressed his agreement with Susan [Lerner] that there are a million types of groundcovers that can be used in shady areas, so it should be no excuse to use it and anyway that is sort of my feeling.

John David Corey, 426 Australian Avenue, thanked the Committee for hearing this item. He stated that one of his responsibilities when he got on ARCOM was to attend the University of Florida Master Gardener program. During that program they discussed artificial turf quite a bit. The consensus they were taught is like Mrs. Lerner was mentioning about the disposal problems, about the heat island problems, things of that sort. He understands Mr. Sanchez's comments about maybe using it in impervious areas, but he thinks that a lot of times with the sun baking it and the off gasing they used to talk about that he honestly just doesn't think there is any place in Palm Beach for it. He stated that our ARCOM ordinance is pretty clear on quality materials going into the landscapes and also the architecture and the built environment. He does not think we would advocate for PBC plastic trim or should be advocating for or endorsing plastic plants. It is his opinion that even without an ordinance, ARCOM can prohibit its use because it is not an actual material and is not fitting for the environment here. He said having it as a big NO would be helpful and just sort of closes the chapter on this item. He advocated for prohibiting it.

End of Public Comments

Chair Araskog stated at one time used artificial turf. She stated the turf got very hot, was too hot for her dogs or her to walk on and smelled like chemicals even though she used one that was pervious to let water through. She did not realize its

potential for holding onto bacteria or that it was killing everything underneath. She changed to grass and now has butterflies, frogs and birds. She stated this meeting also is to educate the public as some people did not seem to understand that you must apply to ARCOM or the LPC and receive a permit before installation. Regarding Mr. Sanchez's comments, she stated she would never use the artificial turf as a dog run after her experience with it.

Mr. Cooney stated that he was struggling with the concept because he had never cared for synthetic grass, but surprisingly had a lot of outreach from community members who like it and do not want it prohibited. He mentioned that he didn't know what the solution should be, but it is clear to him that there is a certain sector of the community who really likes the turf and does not want it to be prohibited. He is against it being visible from the right of way. He also stated he understood the environmental perspective. He believes people installed it not knowing they were breaking our code. He stated he would totally support the concept of codifying standards regarding the use of artificial turf.

Ms. Araskog stated that many of those residents probably do not know the questions or information in articles she has seen in regard to damage it may cause to their children or backyards. She mentioned the ordinances of Key Biscayne, which required a list of native plantings, and Ocean Ridge which set out the calculations for the percentage of the area to be covered. Ms. Araskog gave staff and Member Cooney a list of suggestions regarding this item to be added to the backup for the next committee meeting.

Ms. Araskog also asked Staff if a letter could be sent to all landscapers and residents alerting them to the code and the process and the rules for the installation of artificial turf to eliminate any confusion.

Mr. Cooney supports codifying minimum standards is very important for material quality and maintenance if this should go forward.

Public Comments

Steve West, Landscape Architect, Parker Unity Design Group, does a lot of work in Town. He stated that he has a few but not many residents requesting artificial turf, but primarily along driveway edges that have intricate paving patterns. Most times this is done to avoid constant maintenance for regular grass. He mentioned that he agrees with Mr. Sanchez that sometimes there are individual situations, like dog runs, for use of the artificial turf and those should be reviewed by ARCOM on a case-by-case basis. He stated that he is speaking on behalf of his clients.

Ms. Araskog agreed there may be times when between pavers could be acceptable and she believes Susan Lerner agrees. She discussed width regulations for between pavers that she found included in other ordinances. Mr. West thought that was a good idea, to add maximum widths, and that we study maximum square footage for

checkerboard patterns. He added that people suggested he use artificial turf in his backyard due to the low maintenance, but he did not want it in his entire backyard, so he went with a natural grass. He said he has a very sunny backyard, and that heat is an issue in big masses of artificial turf, but he does think there are small instances where it is appropriate and does not want a full ban.

Jorge Sanchez, SMI Landscape Architecture, commented on the layout of regular grass in driveways. He stated that many younger individuals can really tell when artificial turf is used and believes our current code is nearly perfect. He considers using it in driveways as part of the hardscape calculations and said some people have exceeded the percentages and installed it illegally, but that is a code issue.

Raymond Jungles, discussed artificial turf. He stated he is not a fan and does not like it visually, because it smothers the earth. He does not think it gives anything back to the environment or creates diversity. He thinks it get super hot in the sun, and super dirty, and does not renew itself. He stated that he understands the other Landscape architects concerns and when their clients want it. He stated the use of artificial turf should be reviewed on a case-by-case basis. As far as its use in a shady area where lawn will not grow, he believes it should be restricted and not pervasive.

End of Public Comments

Discussion ensued regarding requiring a variance for artificial turf; limiting it to certain spaces as ARCOM deems necessary on a case-by-case basis; restrictions of width for pavers; not having it count toward green space; prohibition for the front yard, corner lots, ocean front property and areas visible to the public; creating a policy or incorporating details in the ordinances such as height, color, materials, being lead-free, etc.; and how to proceed with people who illegally installed it, especially if they do not meet the 45% landscape requirement; and other specifics. The Committee will discuss specifics at the next ORS meeting.

The Committee recommended that artificial turf should be prohibited unless approved by ARCOM, LPC or staff, in limited circumstances, and must obtain a permit. It will not count towards landscape open space or hardscape.

Mr. Boodheshwar mentioned to the Committee that they should also take into account that synthetic T strips are used at the golf courses and some playgrounds have a synthetic turf surface.

B New Business

1. Review of Truck Study Report
Paul Brazil, Director of Public Works
This item was deferred to the next meeting to be held on August 9, 2021.
2. Discuss Possible Modifications to the Native Landscape Section in

Chapter 66 of the Town Code

Wayne Bergman, Director of Planning, Zoning and Building

Chair Araskog commented that she hoped the landscape architects listening today would present applications with a focus on native landscape trees, shrubs, ground cover and hedges until a comprehensive native ordinance is passed. She mentioned that she had seen certain landscape plans presented at ARCOM that were between 60% and 90% native. She hoped they will be an example for others.

Mr. Bergman stated that the Town Council had adopted Ordinance 21-2018 in early 2019 relating to vegetation changes to Chapter 66 Natural Resource Protection. This ordinance added, for the first time, a minimum requirement of 25% native plants for new landscape projects. He stated that native plants are defined as plants that naturally occur in this part of Florida, do not require direct human interaction to grow, are generally resistant to pests and require minimum irrigation to survive. They are good choices to minimize water usage and to avoid the use of chemicals. After adoption of the Ordinance, landscape designers provided the Town with landscape plans showing that they met or exceeded the 25% native requirement. It soon became clear that more work was required on the Code to provide the details of native landscape calculations and the type of plant material to be included. The new requirement began to raise questions, so this matter was brought to the Town Council who referred it to the ORS committee.

Director Bergman stated the four general areas for review as follows:

- 1) How to calculate the 25% requirement and what plant classes are to be included;**
- 2) Is the 25% requirement appropriate? ;**
- 3) The plant lists (five are mentioned in Chapter 66); and**
- 4) Review of Chapter 66 regarding native plantings, so it is consistent with other parts of the Code.**

He stated that staff examined native landscaping requirements from neighboring communities and several of the native plant lists from the Native Plant Landscape Ordinance Handbook produced by the Florida Native Plant Society. Local landscape professionals were consulted and provided their opinions on the questions above and ways to resolve conflicts with our regulations.

Regarding the first review area (1), how to calculate the 25% requirement, Mr. Bergman questioned whether it meant 25% of the landscaped area, number of plants and if it represents the coverage area, is it calculated at the time of the plant installation or at maturity? He stated that Susan Lerner of the Preservation Foundation of Palm Beach was very helpful in the preliminary stages of the process.

As to number (2), he stated that they reviewed 19 south and central Florida communities and their native landscape minimums. He reported that at 25% the

Town was the lowest of any community that was reviewed. He stated that some communities, such as Lee, Saint Lucie and Monroe Counties, set differing minimum requirements for different classes of plants. The Atlas of Florida Plants by the Institute for Systemic Botany was used as a reference to identify native plants by county in Florida. He mentioned there were just minor differences between the plant lists and. He mentioned various landscape architects who provided input in the discussions. He stated that Chapter 66 should be reviewed for compatibility

Third Review (3) is the lists. Mr. Bergman discussed our Town code and its reference of five different lists that are similar but do have minor differences. The first list is for Invasives that they call the pest plants. Then the code gets into other types of plants. The Atlas of Florida Plants by the Institute for Systemic Botany is used as a reference to identify native plants species by the County in Florida. Chapter 66 sec. 212 of the Town's code, Purpose and Intent, references the Florida Exotic Council's list of exotic species. Chapter 66, Section 285, mentions two other lists: the Xeriscape Guide by the South Florida Management District and an undefined County and Regional list. All lists were provided in the back-up. The lists have minor differences, but Mr. Bergman stated that it would be helpful if one list could be used by all designers and when the Town reviews plans. His opinion is that there is no wrong answer, but just what is best for Palm Beach.

Fourth Review (4) is of the native regulations throughout Chapter 66 for compatibility. Mr. Berman said that Susan Lerner helped Staff sort through these issues to find possible solutions and that Raymond and Amanda Jungles, Jorge Sanchez, Keith Williams, and Dustin Mizell gave input too.

Public Comments

Susan Lerner, Preservation Foundation of Palm Beach, applauded Mr. Bergman for his presentation. She spoke regarding the calculation of the percentage of native plants and referred to the Ordinance, especially in regard to the intent to encourage the presence of birds and wildlife. She explained that to accomplish this intent diversity of plant species is needed and is the key element. She prefers requirements in each category to accomplish diversity, in other words 25% for trees, 25% for shrubs, 25% of verbacious plants, etc. She stated that it is the diversity that meets the food needs for the young and adults, and shelter for nesting and from predators.

She stated that area coverage is problematic and gave the example that if you had a native Oak that had 6,000 square feet in coverage that no other natives would necessarily be required in that landscape. She discussed a similar issue of counting plants could be if one planted 100 Simpson Stoppers for a hedge, the requirement could be met with only one species, and you would lose food for butterflies and birds. She does not believe either example meets the intent of the ordinance. She made several points she hopes 25% could be seen as an opportunity and not a burden- an opportunity to learn about new plants, explore new ways to use natives

and to offer a high level of landscape stewardship. She stated that there are many handsome, elegant, and interesting plants in the palette for Palm Beach.

She detailed some of the issues she found when reviewing ARCOM applications with the native requirements. She said many were counting non-natives as natives- one example is many think oranges are native to Florida. There were also native plants that grow in the Panhandle specified on plans to be used in Palm Beach that are expensive but will not survive here. She stated that there were Category 2 invasive plants listed for use. It was clear the means for calculating the 25% needed to be resolved, and that accuracy checking is critical. Improperly specified native and invasives have probably already been planted on the Island.

What is the solution for this? Education is key. Education about natives and invasives. Requiring landscaping changes can be disruptive to a Landscape Architects' creative process, which is totally understandable as it is for any of us, she said, and therefore education is key. The Institute for Regional Conservation has a lot of information about habitat, growth patterns, soil preferences etc. Not all plants grow anywhere. She suggests that we include more than one resource while Landscape architects are getting used to natives and our requirements. She stated that when she is looking for native plants even she uses more than one resource. She looks at the IRC first but will look at the F&P website and at the Plant Atlas. She researches and sees where the samples were sourced- if she sees a plant was only sourced in dry areas, she will only put that plant in a dry area. She informed Mr. Bergman that the Model Landscape Brochure that he found is from 2007.

She encourages that we do not use the Water Wise document as a sole document as it is from 2003 and does not accurately list plants that are now considered invasive. For example, in 2003 there were 67 species of invasive plants listed and 59 species of category 2; in 2019 it jumped to 81 and 85, respectively. This kind of endeavor needs a living document. She stated that if the Town wants to put together a brochure or pamphlet for what are suitable natives that perhaps goes beyond what the Garden Club has done, they are more than willing to help. As the Landscape Architects start to use these tools, she said, they will become more comfortable.

Raymond Jungles, 3695 Stewart Avenue, Cocconut Grove, thanked the Committee for reviewing this important matter. He stated that the reason he became a landscape architect was because he was always a student of nature. He stated that our planet is in serious problems and what we do locally can really help restore some of the local ecosystems and create habitat. In his opinion that is accomplished with diversity. He agrees with everything that Susan and Wayne said.

Mr. Jungles stated that the focus at the University of Florida was how to design with nature and how it makes things easier for all the reasons that were already mentioned: the climate, the water conditions, the soil. In the future they will probably regulate irrigation and use of water and you do not want to create a landscape that is on life support systems.

He shared photos of his studio and stated that for his home, studio and his clients he plants 80% natives. He does this because he loves landscapes that are full of life. Full of birds, full of squirrels, hummingbirds, butterflies, and it makes being in the garden and communing with nature so much more pleasant versus just looking at a bunch of plant combinations that is sterile, need fertilization, extra maintenance, pest control and all those sorts of things.

He believes the percentage should be high. He would like to see landscape architects do it voluntarily because it is the right thing and use the appropriate plants for the area. He explained that wetland plants like more moisture than sand hill plants, so that is very important to understand and education is vital.

He said The Native Plant Society is there; IRC is there. He stated he is more than happy to help whenever he can. He discussed the demonstration project at Phipps Ocean Park that he believes will be very helpful for the community, and said he appreciates the opportunity. He stated that we live in a great state and there are some amazing plants that are here and why we have to always use plants from some other region, some other part of the world makes no sense whatsoever. He stated that there has been an awful lot of destruction in the wake of human development and what was there was beautiful and it sustained quite easily- the native flora and fauna. He stated that we reduced tremendously the areas that can be landscaped, and suggests we bring back some of the plants that were there.

He thinks Monroe County's requirement to remove invasive species to get a building permit and its requirement that 100% of the required parking lot material must be native- that is the screening of the parking as well as the canopy trees- is fantastic. He would like to see the Town increase its required percentage of native plants and stated that 50% would be a good start. He stated that we have a great resource in Susan Lerner and the Preservation Foundation. He thinks the willingness to work in the community to make things better is going to be great and maybe we will see less trucks rolling around full of dangerous chemicals and there will be a lot of birds back where they used to be. And he cannot say enough about reading "Nature's Best Hope" by Douglass Tallamy because it clearly states what we need to do to help our communities to become better for our children and their children and the future. He thanked us very much for the opportunity to speak (He shared a presentation regarding climate, water conditions, and soil and showed the use of native plants on several projects.)

Jorge Sanchez, 239 Southland Road, President, SMI Landscape Architecture, spoke regarding use of native plants; cost of maintenance and the type of experts being consulted. He stated that one of the first things Mr. Bergman mentioned was the reduced cost of maintenance that natives have, and the tremendous amount of buzzwords used today. He said his firm designed Pan's Garden, which was very controversial at the time because no one understood natives. At that time, he said the buzz word was the low water type of plants, the xeriscape, and he convinced

the Board of the Preservation Foundation to make it into xeriscape to the maximum and use natives. He stated that he is very knowledgeable on natives. He suggests there are many misperceptions about natives with one being that natives never have to be sprayed or require any chemicals. He stated that is just not true. He discussed that when white fly first came to Miami it was pathetic to see huge areas where native plants were actually covered in white fly. The other is the cost of maintenance.

Mr. Sanchez stated he is on the verge of being shocked that we want to compare ourselves with other communities. He expressed his sadness that we are the example of gardens of the entire nation and people come to Palm Beach to see that diversity and the variety of our gardens, incredible spots, and we want to homogenize it to one type of garden. To him that is inconceivable- he has always held the view that it is so odd that people want to move to a community because they feel that it is so incredible and yet the first thing that they want to do is change it. We must look around us and be a little bit more admirable of what we have.

End of Public Comments

Chair Araskog provided a brief review of the earlier discussion.

Member Cooney thanked all the parties involved for their input. He mentioned sustainable gardening demonstrated by the Garden Club and other green initiatives.

The Committee discussed the different items Mr. Bergman brought forward.

Chair Araskog expressed her embarrassment at how low the Town's 25% requirement was in comparison to other municipalities and expressed a desire for it to be increased to 50%, which seems to be the norm. She also discussed the need to focus in on comments from Mr. West to find the appropriate calculation comparison. She likes breaking up percentages for shrubs, trees, and ground cover.

Member Cooney expressed his thanks to all those who participated and to recognize that while we may be low there are a lot of communities that have nothing on their books, we have been making positive inroads both at the Government level and not-for-profit at advancing more sustainable gardening to be more responsible stewards of our Town, the environment, the world that we live in and in recognizing we are part of a greater ecosystem beyond our community. He stated that we have done that with the recent green initiatives.

The Committee discussed the questions and options.

Mr. Cooney stated that he would like us to have diversity; he is comfortable with staying at the 25%; he is encouraged at all the residents now asking for natives; he has no recommendation on the lists due his lack of knowledge on this subject; he would like diversity; he was intrigued by the point system especially for small lots that will have a harder time; and if the goal is creating change and diversity, it

should carry more weight if someone chooses something special.

Ms. Araskog believes we could bump it up to 35% but would like to go to 50%, citing other communities like Manalapan at 50% and Sanibel at 75%. She would like to think we could be as green. She stated that she has been so impressed by landscape architects who are presenting plans at ARCOM with 60 to 70% natives and are making it very pretty. She does think someone must be looking at the plans to be certain they are not putting in Category 1 and 2 invasives.

Mr. Cooney stated that the most pressing issue is figuring out the method to calculate percentages, to define them, to select a list for natives and invasives, and what is needed for staff to check the ARCOM plans. Ms. Araskog and Mr. Boodheshwar expressed that they remembered it was originally passed as 25% of the 45% landscape requirement by coverage at installation not maturity and could use that for now until we have finished the ordinance. Chair Araskog agreed. Mr. Cooney recommended the same.

The Committee decided the calculation presently is 25% of the 45% required landscape.

Discussion of the best native plant sources (lists)

Susan Lerner prefers using a more flexible list and that is from the Institute for Regional Conservation (IRC) and Raymond Jungle prefers this list too. She also recommends the Native Plant List. **Mr. Bergman recommended getting a landscape architect to check that applications for ARCOM and LPC meet the native requirements.**

The Committee decided that we need more information to decide on a list and will address it at the next meeting.

Susan Lerner recommended using the FLEPPC List of Invasive Plants species to identify Invasive Category 1 and 2 plants. She said not to use the Water Wise as it is outdated. She prefers the Institute for Regional Conservation and others, and said The Model Ordinance recommends creating individual lists for each community.

Ms. Araskog recommended we look at whether the Town should allow Category 1 and 2 Invasive species and whether we should use xeriscape. She would like more specification at the next meeting. She recommended having charts of different communities and what list is used, how they define it and how they calculate the percentages, and to add the recommendations from the landscapers. She suggested maybe including the different groups that we went to the last time for their recommendations, which were the Garden Club, Preservation Foundation, The Civic Association Beautification Committee, and a group of landscape architects.

Mr. Boodheshwar suggested there was enough feedback now to answer the questions posed by the Committee, which will be handled at the next meeting, to begin answering the questions and to have recommendations with options. They will focus in on the three questions.

The committee recommended the following changes to the Ordinance to be brought forward as a draft ordinance at the next ORS meeting:

- 1) Use 25% of 45% required native space at installation not at maturity until we have completed the new ordinance;

Public Comment

Steve West, Landscape Architect, Parker Design Group, specified that Palm Beach County requires 60% native plants. He stated that the Town's 25% of the 45% of open space actually is greener than the County's 60% of required trees. He also said he agreed with Mr. Sanchez that natives do not mean less pesticide sprays and chemicals, and gave some examples. He said he would like to see the native requirement stay in the Town and suggested that the Town carefully look at what the percentages mean when comparing ours to other municipalities.

Chair Araskog recommended Mr. West and the other Landscape Architects listening send in their recommendations and thanked Mr. West for his participation.

Jorge Sanchez, President, SMI Landscape Architecture, requested that landscape architects be given a list of the suggested plants that are being proposed, what experts are advising the Town and which communities we are trying to emulate. Ms. Araskog thanked Mr. Sanchez for his participation today.

End of Public Comment

3. Discuss Potential Height Limitations of Vegetation Adjacent to Neighboring Structures
Wayne Bergman, Director of Planning, Zoning and Building

This item was deferred to the next meeting to be held on August 9, 2021.

VI. ANY OTHER MATTERS

*** Public Comment heard in the beginning of the meeting with a proposal Chair Araskog asked Mr. Gary to bring to Town Council.

Brad Gary, 229 Onondaga Road, presented the idea of developing a voluntary construction code for all new construction projects due the increaser in major new construction on our small Island. He discussed the difficulty of walking through our neighborhoods without incurring new construction blocking access to pedestrians, driveway access and debris littering the street. With hundreds of new

construction permits issued each year, he believes it is time to restore a semblance of civil order to the Town of Palm Beach in regard to new construction.

Absent a full construction moratorium, which some residents prefer, the establishment of a voluntary construction code for Town contractors may be a realistic alternative. First, contractors would be required to adhere to several general principles to be voluntarily certified as a “Palm Beach Good Neighbor Code Member.” Requirements would be subject to negotiation between the Residents and the Contractor. If a contractor signed up, he would be deemed a “Palm Beach Good Neighbor Code Member” and would have actual signage at each of their properties bearing a gold star logo indicating code membership. Signage on the site would require a name and 24-hour telephone number for a responsible company executive. Examples of possible requirements could be no construction activity on the weekends, placement of portable toilets and one per job site, weekly clean out services required, dumpster requirements, noise limitations, trash receptacle requirements, rodent requirements, etc. We would like to see completion of construction activities within 18 months. Inside work completed within 2 years. Noise requirements at 50 decibels, especially when considering what North End residents are suffering from the construction.

This could be a citizen driven program to encourage our contractors to work closely with residents to improve the safety and appearance of our Town. He expects that most of the contractor community would join the program as responsible businesses to contribute to the health and welfare of Palm Beach. He asked that the Civic Association or the PB Chamber of Commerce be asked to staff the small administrative side of this to make presentations and most importantly to give awards to good contractors. He stated that The Palm Beach Voluntary Construction Code has great potential in addressing many of the critical construction building issues that now threaten to divide the Town and requested that we put a new system in place that advantages both residents and builders before the advocates of a zoning moratorium prevail in an election referendum.

Mr. Keogh agreed with Mr. Bradford Gary’s idea and hoped to create the organization himself. Mr. Ford also agreed with Mr. Gary and Mr. Keogh.

The next meeting of the ORS Committee is scheduled to be held on Monday, August 9, 2021 at 9:30 a.m.

VII. ADJOURNMENT

The ORS Committee meeting of July 1, 2021 was adjourned at 1:30 p.m.

APPROVED:

Julie Araskog, Chair

ATTEST:

Queenester Nieves, CMC, Town Clerk

Date

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Recommendations Regarding Modifications to Chapter 42 of the Town Code, Relative to Construction Hours

Date: September 6, 2021

STAFF RECOMMENDATION

Staff recommends the Town Council review the recommendations of the Ordinances, Standards and Rules Committee and provide direction to staff, relative to potential modifications to Chapter 42 of the Town Code to modify construction hours.

GENERAL INFORMATION

At the July 1, 2021, ORS Committee meeting, members of the committee, staff, and representatives of the construction industry had a robust discussion regarding the merits of modifying Chapter 42 of the Town Code, relative to construction hours.

At present, construction work is permitted Monday through Friday from 8:00 am to 5:00 pm (quiet work only from 8:00 am – 9:00 am) during the peak season (beginning on the Monday preceding Thanksgiving until April 30) and from 8:00 am to 6:00 pm during the summer season (May 1 until the Saturday preceding Thanksgiving). The Code also permits “quiet” construction work on Saturdays from 9:00 am to 5:00 pm on a year-round basis.

After much discussion, the committee advanced the following recommendations to the Town Council for consideration.

1. Require “quiet work” only from 8:00 am – 9:00 am on a year-round basis and not just during the peak season. This recommendation was unanimous.
2. Prohibit arrival to construction sites before 7:30 am and restrict any kind of site activity until 8:00 am on a year-round basis. This recommendation was unanimous.
3. Eliminate Saturday construction hours during the winter peak season and add an extra hour of quiet work at the end of each workday to partially offset the loss of Saturday quiet hours. An additional 9 days would also be added to the duration of the building permit to help offset the loss of Saturdays. Committee members were split on this recommendation.

These recommendations were originally scheduled for discussion at the August 10, 2021, Council meeting, but the item was deferred to the September 14, 2021, meeting.

As a related matter, at the August 10, 2021, Council meeting, ORS was asked to also review Chapter 42, Section 42-230 of the Town Code – Lawn Maintenance. At the September 2, 2021, ORS meeting, staff suggested that it should be understood that this section of the code is cross-referenced with Section 42-199, as lawn maintenance is subject to the same hours as construction, and leaf blowers use restrictions are consistent with heavy equipment use in said section. Attached to this memo is Ordinance No. 03-2018, which is inclusive of the related sections 42-199 and 42-230.

Staff would like direction from Town Council regarding the desired language for inclusion in an ordinance that would be presented for first reading in a subsequent Town Council meeting to codify changes you wish to make to Chapter 42.

Attachment

cc: Wayne Bergman, Director of Planning, Zoning and Building
Nick Caristo, Police Chief
James Murphy, Assistant Director of Planning, Zoning and Building
Ben Alma, Support Services Manager
John Randolph, Town Attorney

ORDINANCE NO. 03-2018

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, ENVIRONMENT, ARTICLE V, NOISE; AMENDING SECTION 42-198, RELATING TO THE OPERATION OF CERTAIN MACHINERY; EXPANDING THE PERIOD OF THE YEAR DURING WHICH THERE IS A PROHIBITION ON THE OPERATION OF SAID MACHINERY; PROVIDING FOR ADDITIONAL PROHIBITIONS; AMENDING SECTION 42-199, HOURS FOR CONSTRUCTION WORK, AT SUBSECTION (b) SO AS TO EXPAND THE LIMITATIONS ON THE MONTHS, DATES AND TIMES DURING WHICH CONSTRUCTION WORK MAY BE UNDERTAKEN; AMENDING SECTION 42-230, LAWN MAINTENANCE EQUIPMENT NOISE, SO AS TO PROVIDE THAT LAWN MAINTENANCE SHALL BE LIMITED TO THE HOURS OUTLINED FOR CONSTRUCTION WORK SET FORTH IN SECTION 42-199; PROVIDING EXCEPTIONS FOR THE OPERATION OF LAWN MAINTENANCE EQUIPMENT BY RESIDENTS, AND FOR GOLF COURSE MAINTENANCE EQUIPMENT; PROVIDING REGULATIONS RELATING TO THE OPERATION OF LEAF BLOWERS, AND PROHIBITING THE COMMENCEMENT OF LARGE SCALE LANDSCAPE INSTALLATION AT ANY TIME ON SATURDAYS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; 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. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 42, Environment, Division V, Noise, Section 42-198 to read as follows:

"Sec. 42-198. Operation of certain machinery during winter, Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving.

- (a) *Prohibited.* During the period of the year commencing on the Monday prior to Thanksgiving of each year no person shall operate or cause to be operated the following machinery or equipment within the town:
- (1) Dredges, whether used in making hydraulic fills, dry fills, piledriving or any other purpose.

- (2) Hammer-driven piledrivers, whether operated from water or land, or from motor truck or tractor, and whether stationary or moveable.
- (3) Gasoline, diesel and/or steam engines, operated in such a manner as to emit odors or noises offensive or disagreeable to the inhabitants of the town.
- (4) Dry sandblasting machines and jackhammers.
- (5) Any other class of machinery or appliance that in its operation would render the enjoyment of property within the town less agreeable than if such appliances or machinery were not operated.

(b) *Exceptions.*

- (1) It shall be within the discretion of the town council when, in its opinion, the operation of any of the prohibited machinery or appliances mentioned in subsection (a) of this section shall not be overly offensive to the residents or inhabitants of the town, in the vicinity of the equipment's operation, to grant an exception to this section.
- (2) The operation of equipment relating to essential services of the town and equipment operation during emergency conditions shall be exempt from subsection (a) of this section."

Section 2. Chapter 42, Article V, of the Town's Code of Ordinances is hereby amended at Section 42-199 to read as follows:

"Sec. 42-199. - Hours for construction work.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Construction work means work of a physical nature requiring a permit in accordance with the provisions of this Code and/or violates the conditions of section 42-198 and/or violates the conditions of this section, and/or causes excessive noise as defined by section 42-228.

- (b) *Limited.* Beginning on the Monday preceding Thanksgiving, and during the months of December, January, February, March, and April of each year, construction work not otherwise prohibited by Section 42-198 or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of

8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday, and legal holidays, when all construction work is prohibited. In no event shall heavy equipment or other construction-related noise be permitted before 9:00 a.m. At all other times such work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving, when all construction work is restricted or prohibited. Construction work is permissible on Saturdays from May through the Monday preceding Thanksgiving, but subject to the following restrictions: work shall not begin until the hour of 9:00 a.m. and shall cease at the hour of 5:00 p.m.; all work must be quiet in nature during which all of the noise and machinery prohibitions identified in Section 42-198 are applicable; material deliveries are prohibited in all cases unless the Building Official waives such restriction due to compelling circumstances; concrete pours and concrete sawing is prohibited unless the Building Official waives such restriction due to compelling circumstances; and the razing of buildings is prohibited, with the exception of non-mechanized debris clean-up. The permitted hours for construction work in the C-WA zoning district shall be from 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending on October 31, except Sundays and legal holidays, when all construction work is prohibited.

(c) *Exceptions.*

- (1) It shall be within the discretion of the town council when in its opinion the operation of any of the prohibited machinery or appliances mentioned in subsection 42-198(a) shall not be overly offensive to the residents or inhabitants of the town in the vicinity of the equipment's operation to grant an exception to this section.
- (2) The operation of equipment relating to essential services of the town and equipment operating during emergency conditions shall be exempted from subsection (a).
- (3) At the discretion of the director of planning, zoning and building, or his representative, emergency work for nontown related essential services may be authorized at any time during the year.
- (4) Interior work not resulting in noise tending to disturb people in the vicinity thereof, shall be allowed during the hours of 9:00 a.m. and 5:00 p.m. on Saturdays during the period commencing on the Monday preceding Thanksgiving and ending on April 30.
- (5) The town council, in its discretion, for the benefit of the health, safety and welfare of the residents of the town may,

by resolution, temporarily amend the hours for construction work referenced herein."

Section 3. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 42, Environment, Division V, Noise, Section 42-230, to read as follows:

"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 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 4. 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 5. 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.

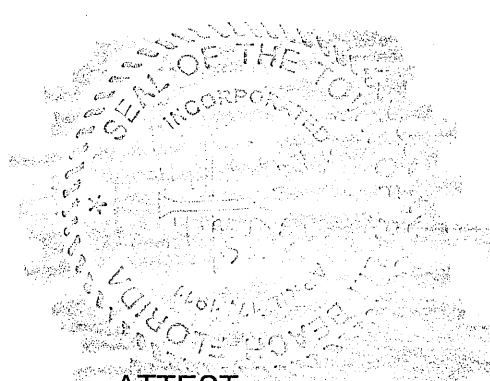
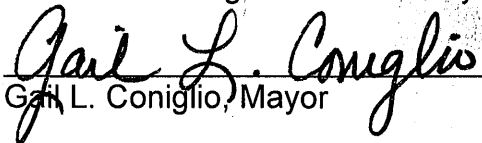
Section 6. Codification.

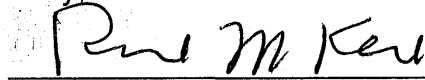
This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 7. Effective Date.

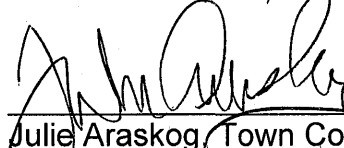
This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 9th day of January, 2018, and for second and final reading on this 13th day of February, 2018.



Gail L. Coniglio, Mayor

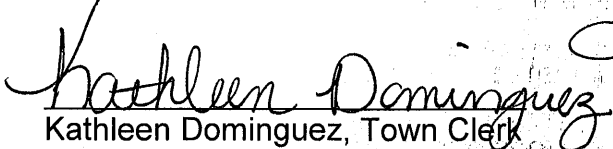

Richard M. Kleid, Town Council President

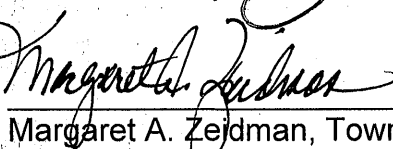

Danielle H. Moore, Council President Pro Tem


Julie Araskog, Town Council Member


Bobbie Lindsay, Town Council Member

ATTEST:


Kathleen Dominguez, Town Clerk


Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

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

Re: Proposed Language for Inclusion in Chapter 66 of the Town Code, Relative to Regulation of Artificial Turf

Date: September 3, 2021

STAFF RECOMMENDATION

Staff recommends the Town Council review the recommendations of the Ordinances, Standards and Rules Committee and provide direction to staff, relative to potential language related to the regulation of artificial turf for inclusion in Chapter 66 of the Town Code.

GENERAL INFORMATION

At the July 1, 2021, ORS meeting, committee members and staff engaged in a robust discussion regarding the potential regulation of artificial turf within the Town. After much discussion at the July 1 meeting, the committee directed staff to prepare language for inclusion in Chapter 66 of the Town Code of Ordinances. Staff drafted language to address the definition of artificial turf, allowed locations, the formal review and approval process, and some simple installation standards.

This language was reviewed by the ORS Committee at their meeting on September 2, 2021. The ORS Committee requested that two more sections be added to the draft language, along with an addition to the proposed standards to deal with lead content of the turf:

1. That an existing artificial turf, installed without Town knowledge in the past, be submitted by application to the appropriate design review commission, and if not approved by the design review commission, the artificial turf shall be removed.
2. That a penalty and fine section be added.
3. That “lead-free turf” be added to the section on standards.

Other comments from the ORS Committee were to have staff prepare a “path” for owners with existing unpermitted / unapproved artificial turf, that staff segregate any artificial turf violations and subsequent applications into major and minor categories (and deal with minor infractions differently and less severely), and that for a limited period of time owners could make these

applications for their unpermitted artificial turf without a fee. Finally, the ORS Committee requested that staff prepare a policy of recommended best practices for the selection of artificial turf that could be provided to the members of Arcom and Landmarks.

Suggested language after the September 2, 2021 ORS Committee meetings:

Sec. 66-2. – Definitions.

Add – “Artificial Turf - An artificial product manufactured from synthetic materials that simulates the appearance of natural turf, grass, sod or lawn.”

Sec. 66-313. – Artificial Turf - Locations.

In all zoning districts, artificial turf shall be reviewed and may be approved in accordance with the ARCOM Project Designation Manual, or Project Designation Guide for Landmarked and Historically Significant Building properties, and may be installed in only rear and side yards. Artificial turf shall not be installed in any front yard areas or in any area visible from the public right-of-way (regardless of whether it is in the rear or side yard). No artificial turf shall be installed in the public right-of-way.

Sec. 66-314. – Artificial Turf - Standards.

- A. Artificial turf installation shall be approved by either the Architectural Review Commission or the Landmarks Preservation Commission (depending upon the property designation) and all artificial turf installation requires a building permit.
- B. Artificial turf is calculated as impervious surface and shall not count towards landscape open space.
- C. Artificial turf material shall be lead-free.

Sec. 66-315. – Artificial Turf - Existing.

In all instances, where owners have installed artificial turf without Town approval or without permits, said owners shall make application to the appropriate design review commission (Architectural Review Commission or Landmarks Preservation Commission) for after-the fact approval. Any noncompliance with landscape open space requirements shall require correction, or shall require an application for a zoning variance. In reviewing the design review commission applications, staff shall designate the applications either major or minor, based upon the quantity of artificial turf and its location on the lot. The Town will not require Arcom or Landmarks application fees for a period of one year following the adoption of this ordinance.

Chapter 66 has a general section for Enforcement and Penalties (66-3) which provides for a wide range of punishment and prosecution, covering general Town penalties, Code Enforcement and Circuit Court actions. Staff believes that this section is sufficient to provide proper enforcement of the proposed code requirements for artificial turf.

cc: Jay Boodheshwar, Deputy Town Manager
James Murphy, Assistant Planning, Zoning and Building Director
John Randolph, Town Attorney

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

To: Mayor & Town Council

Via: Kirk Blouin, Town Manager

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

Re: Application of Existing Regulations Pertaining to Native Plants

Date: September 3, 2021

STAFF RECOMMENDATION

Staff recommends the Town Council review the recommendations of the Ordinances, Standards and Rules Committee and provide direction to staff, relative to the application of existing regulations and potential modifications.

GENERAL INFORMATION

Chapter 66, Natural Resource Protection, was updated in early 2019 to address the benefits of using native landscape. The update included a requirement for new landscape projects to include at least 25% native vegetation. Native landscape plants were identified by referencing a few different Florida plant lists and guides.

Since the adoption of the update, staff and applicants have questioned how the 25% requirement should be calculated and which plant list or guide was best to follow. These questions have remained unanswered for about a year and a half. Today's landscape plans show compliance with the 25% minimum, but there is no specificity on how the 25% is calculated and the plans usually do not show which list or guide was followed to delineate native versus non-native plants. These issues were presented to the Town Council last year and the matter was forwarded to the ORS Committee to review.

Staff provided a cover memo and substantial backup to the ORS Committee on July 1, 2021. The questions of how to calculate the 25%, which plant guide should be followed, and whether 25% was an appropriate amount of natives, were posed to a few landscape design professionals over the past year, and their responses were also provided to ORS. A lengthy discussion occurred at the meeting and options were reviewed, but ORS did not find answers to the questions raised by staff and others. As a result, the matter went back to Town Council on

August 10, 2021 to seek direction on how to resolve the open issues. The matter was deferred by the Town Council at that meeting until September 14, 2021. That delay provided an opportunity for ORS Committee consider and review the matter further at their September 2, 2021 meeting.

During their September 2, 2021, meeting, the ORS Committee again had a lengthy discussion on the native plant matter. Staff suggested some starting points for consideration, which included using the actual quantity of plants as the way to calculate the 25% native requirement and using the South Florida Water Management District (SFWMD) Water Wise Guide as the sole native landscape list for the Town. The Committee agreed to recommend the following to the Town Council:

- Calculate the native plant requirement based upon the quantity of plants, not by the plant coverage, in each category of plant materials.
- Increase to 35% the minimum amount of native plants in each of the following five categories: trees, palms, shrubs, ground cover and vines. Each of these categories would require a minimum of 35% native plants.
- Use the Institute for Regional Conservation (“IRC”), Natives for Your Neighborhood as the sole listing for native plants. This online list allows to filter by zip code.
- Use the Florida Invasive Plant Species Guide (“FLIP”) as the list for Category 1 and 2 invasive plants.

Other questions remain for the ORS Committee to review, including whether to consider if the proposed 35% native plant requirement is appropriate as an across the board percentage or if varying percentages should be used based on the five different categories of plant species. We will propose samples of minimum percentages for trees, palms and shrubs at the next ORS Committee meeting, which will be held on October 5, 2021. The Committee will also look at ways to encourage (or mandate) a diversity of plant selections to achieve compliance, as opposed to using just one or two types of plants.

Cc: Jay Boodheshwar, Deputy Town Manager
James Murphy, Assistant Planning, Zoning and Building Director
John Randolph, Town Attorney

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Regular Agenda - Old Business

Agenda Title

COVID-19 Update

Kirk W. Blouin, Town Manager

a. COVID-19 Monthly Report

Darrel Donatto, Fire Rescue Chief

b. Discussion Regarding Board, Commission, and Committee Meeting Format
and Participation For Upcoming Meetings

Margaret A. Zeidman, Council President

c. RESOLUTION NO. 115-2021 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 October 12, 2021, 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:

▣ **c. Resolution No. 115-2021**

RESOLUTION NO. 115-2021

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 OCTOBER 12, 2021, 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. 093-2021 on August 10, 2021, granting the Chief of Police's request that the declaration of emergency be extended to September 14, 2021; and

WHEREAS, the Chief of Police has requested that the time limit for the declaration of emergency be extended again to October 12, 2021, 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 October 12, 2021, 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 14th day of September, 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Request for Direction Regarding Completion of Retail Study

Presenter

Wayne Bergman, Director of Planning, Zoning and Building

ATTACHMENTS:

- **Memorandum Dated August 17, 2021, from Wayne Bergman, Director of Planning, Zoning and Building**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager & Jay Boodheshwar, Deputy Town Manager

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

Re: Request for Direction Regarding Completion of Retail Study - Continued

Date: August 17, 2021

STAFF RECOMMENDATION

Staff recommends the Town Council review the information contained within, relative to the previously approved Resolution 025-2021, Retail Study for the Town of Palm Beach, and provide direction to staff.

GENERAL BACKGROUND

At your August 10, 2021 meeting, you heard from staff that the possibility existed to include the retail study scope of work in the new RFP for the code reform professional planner. Staff indicated that before finalizing the new planning RFP, there was interest in reviewing the matter with the Town Council to see if there existed the option of rolling in most or all of the retail study scope of work into the code reform RFP. This could result in one larger project instead to two separate, smaller efforts. After the presentation and discussion, the Council deferred the matter to the September 14, 2021, meeting and also referred the matter to the Planning and Zoning Commission for their input on this possible change.

At the August 17, 2021 Planning & Zoning Commission meeting, staff presented the background to the Commission and mentioned some possible options for their consideration:

- 1) Keep the current Yard & Company scope of work for the retail study and create a full scope of work for the code reform planner; or
- 2) Scale back the Yard & Company retail study, basically reduce the scope of work for the retail study; or
- 3) Cancel the Yard & Company work and roll all of the retail study scope into the new code reform RFP; or
- 4) Cancel the retail study work completely.

The Commission had a thorough discussion of the matter. There were mixed opinions on the need for the retail study and the proposed scope of work, with comments summarized below:

- Cancel the retail study – 1 member
- Defer the start of the retail study – 5 members
- Scale down the retail study scope of work – 2 members
- Refine the retail study scope of work – 2 members
- Move forward now with the retail study – 3 members

At the end of the discussion, the Commission voted 4-3 in favor in recommending to defer the start of the retail study to a later date (not starting the study this coming fall or winter). Staff requests final direction from Council on this matter.

FUNDING/FISCAL IMPACT

A total of \$100,000 was previously appropriated from the FY2021 contingency budget at the February 10, 2021, Town Council meeting fund Resolution No. 025-2021.

cc: Jay Boodheshwar, Deputy Town Manager
James Murphy, Assistant Director, Planning, Zoning, and Building
Jane Le Clainche, Director of Finance
Dean Mealy, Purchasing Manager

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

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. 116-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Dedicate Two (2) Easements Between the Town of Palm Beach and Florida Power and Light (FPL) at 202 Plantation Road for Access and Maintenance of FPL Equipment.

c. RESOLUTION NO. 117-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Town Manager to Dedicate Two (2) Easements Between the Town of Palm Beach and Florida Power and Light (FPL) at 226 Via Las Brisas and 244 Via Las Brisas for Access and Maintenance of FPL Equipment.

Presenter

ATTACHMENTS:

- ▣ **a. Review of Project and Dashboard, Summary of Project Status**
- ▣ **b. Memorandum dated August 20, 2021, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **b. Resolution No. 116-2021**
- ▣ **b. Map**
- ▣ **c. Memorandum dated August 23, 2021, from H. Paul Brazil, P.E., Director of Public Works**
- ▣ **c. Resolution No. 117-2021**
- ▣ **c. Attachments**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

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: August 27, 2021

I. COMMUNICATIONS:

A. Community Meetings:

Coffee with the Crew meetings are suspended again until further notice. When the meetings are rescheduled, the meetings for Phases 4 and 5 North will take place at Palmo Park on the first Monday of the month. The meetings for Phases 2, 3, 4, and 5 South will take place at Town Hall Square on the second Monday of the month.

B. Significant Postal Mail or E-mail

Staff sent a 3rd mailing for easement requests to residents in 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.

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 73% complete.

Phase 3 North Construction:

From Osceola Way to the north-side of La Puerta Way

- Paving will be completed September 10, 2021

Phase 3 South:

From S. Ocean Blvd & S. County Road to the alleyway south of Worth Ave.

- Phase 3 South construction is 21% complete.

Phase 4 North:

From south-side of La Puerta Way to north-side of List Road

- Construction for Phase 4 North is 44% 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.
- All right-of-way equipment locations were marked the first week in April.
- Notice to Proceed issued September 1, 2021.

Phase 5 North:

From Country Club Road to Southland Road

- Design is 95% complete.
- 74 of 84 (88%) easements are recorded or verbally approved.
- Bids were received and award is scheduled for August Town Council.
- Start of construction planned for September 2021.

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 96% complete.
- 73 of 78 (94%) easements are recorded or verbally approved.
- Bids were received and award is scheduled for August Town Council.
- Start of construction planned for September 2021.

Phase 6 North:

From Chateaux Drive & Kawama Lane to the south-side of Plantation Road

- Design is 42% complete and on schedule.
- 12 of 52 (17%) easements approved.

Phase 6 South:

Seaspray Ave. to the south of Royal Poinciana Way

- Design is 37% complete and on schedule.
- 15 of 102 (15%) easements approved.

Phase 7 North:

Palm Beach Country Club north to the south side of List Road

- Design is 19% complete and on schedule.
- Easement acquisition has not started.

Phase 7 South:

Atlantic Ave. north to Via Los Incas & Sanford Ave.

- Design is 19% complete and on schedule.
- Easement acquisition has not started.

Phase 8:

Royal Poinciana Way north to Everglade Ave.

- Design is 15% 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
August 31, 2021

Expenditures	Original OPC	Dec 2019 OPC	Budget	Actual	% Expended
Phase 1	\$ 12,620,000	\$ 12,910,000	\$ 12,824,617	\$ 12,890,445	100.5%
Phase 2	\$ 9,170,000	\$ 13,470,000	\$ 12,907,271	\$ 9,876,605	76.5%
Phase 3	\$ 10,910,000	\$ 15,400,000	\$ 16,016,430	\$ 7,178,376	44.8%
Phase 4	\$ 10,370,000	\$ 15,220,000	\$ 16,023,476	\$ 3,232,942	20.2%
Phase 5 (Includes \$8.5 Million FEMA Grant Offset)	\$ 14,090,000	\$ 11,694,645	\$ 17,496,311	\$ 1,557,160	8.9%
Phase 6	\$ 16,820,000	\$ 20,800,000	\$ 1,905,794	\$ 789,719	41.4%
Phase 7	\$ 11,730,000	\$ 15,910,000	\$ 1,619,090	\$ 354,814	21.9%
Phase 8	\$ 12,300,000	\$ 14,500,000	\$ 1,378,643	\$ 274,424	19.9%
Total Project Costs To Date	\$ 98,010,000	\$ 119,904,645	\$ 80,171,633	\$ 36,154,487	45.1%
Other Costs Associated Directly with the Project (Page 8)	\$ 570,000	\$ 1,005,390	\$ 1,005,390	\$ 955,957	95.1%
Grand Total of Costs Related to Project	\$ 98,580,000	\$ 120,910,035	\$ 81,177,023	\$ 37,110,444	45.7%
Debt Service and Related Debt Issuance Costs (Page 8)			\$ 10,187,640	\$ 10,498,923	103.1%
Total Other Costs Outside Underground Budget (Page 8)			\$ 1,343,876	\$ 2,254,644	167.8%
Grand Total of All Costs Related to the Project	\$ 98,580,000	\$ 120,910,035	\$ 82,520,899	\$ 39,365,088	47.7%

Total Project Budget - Opinion of cost for construction	\$ 120,910,035
% Budgeted/Encumbered To Date Project Costs	67.14%
% Spent to Date - Project Costs	30.69%

Project Revenues Received

Revenues	Budget	Actual	% of Budget
Revenues			
Prepaid Assessments	\$ -	\$ 18,330,518	0.0%
Assessment Revenue	\$ 17,580,000	\$ 17,269,043	98.2%
Commercial Paper	\$ -	\$ -	0.0%
Town Owned Property Prepaid Assessments	\$ 2,797,291	\$ 2,797,291	100.0%
Interest on Assessment Escrow	\$ -	\$ 396,389	0.0%
Interest	\$ 1,312,000	\$ 2,384,132	181.7%
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	\$ 2,458,333	49.2%
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 (001) General Fund - PM Salary	\$ 574,450	\$ 560,700	97.6%
Total Project Revenues	\$ 106,272,087	\$ 115,189,796	108.4%

Underground Utility Project Budget
Phase 1 Project Costs
August 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	117,749	448.2%
Change Order for AT&T and Comcast Conduit			\$ 371,201	371,201	100.0%
Other Change orders			\$ 130,415	130,415	100.0%
Utility Design Costs			\$ 15,595	15,595	100.0%
Utility Construction Costs (FPL, Comcast, AT&T)			\$ 476,776	483,548	101.4%
Construction Engineering (KH)			\$ 230,532	205,818	89.3%
	\$ 4,210,000	\$ 4,930,000	\$ 4,868,657	\$ 4,942,190	101.5%
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%
Other Approved Change Orders			\$ 12,749	12,749	100.0%
Utility Design Costs			\$ 33,013	33,013	100.0%
Utility Construction Costs (FPL, Comcast, AT&T)			\$ 1,374,193	1,362,028	99.1%
Construction Engineering (KH)			\$ 316,498	316,396	100.0%
	\$ 6,800,000	\$ 6,350,000	\$ 6,334,777	\$ 6,322,510	99.8%
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	8,256	100.0%
Total Phase 1 Costs	\$ 12,620,000	\$ 12,910,000	\$ 12,824,617	\$ 12,890,445	100.5%

Underground Utility Project Budget
Phase 2 Project Costs
August 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	\$ 129,348	94.7%
Total Phase 2 Design	\$ 735,000	\$ 807,000	\$ 806,513	\$ 799,244	99.1%
Construction Costs					
Phase 2 North Construction					
Preconstruction			\$ 35,000	31,970	91.3%
Burkhardt Construction			\$ 4,015,865	4,013,700	99.9%
Approved Change Orders			\$ -	-	
FPL Design Cost			\$ 11,759	1,350	11.5%
ATT Design Cost			\$ 5,000	\$ 5,000	100.0%
Comcast Design Cost				\$ 4,582	
Utility Costs (FPL, Comcast, AT&T)			\$ 496,307	\$ 496,307	100.0%
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	\$ 4,873,260	100.9%
Phase 2 South Construction	-				
Preconstruction			\$ 35,000	33,400	95.4%
Burkhardt Construction			\$ 6,494,596	3,540,974	54.5%
Approved Change Orders			\$ -		
FPL Design Cost			\$ 13,330	14,200	106.5%
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%
Construction Engineering (KH)	-		\$ 282,973	\$ 248,935	88.0%
Total Phase 2 South Construction	4,435,000	7,424,000	\$ 7,055,899	\$ 3,990,307	56.6%
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	\$ 19,939	91.8%
Advertising				\$ 1,101	
Jones Foster - Legal			\$ 25,000	\$ 23,933	95.7%
Postage			\$ -	\$ 544	
Recording Costs			\$ 3,605	\$ 3,359	93.2%
Easement Abandonment			\$ 6,870	\$ 8,496	123.7%
Total Easement Acquisition Costs	200,000	219,000	\$ 213,622	\$ 213,794	100.1%
Total Phase 2 Costs	\$ 9,170,000	\$ 13,470,000	\$ 12,907,271	\$ 9,876,605	76.5%

Underground Utility Project Budget
Phase 3 Project Costs
August 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			\$ 4,042,171	\$ 3,665,850	90.7%
Approved Change Orders					
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	\$ 4,249	100.0%
Utility Costs (Comcast & ATT)			\$ 409,387	\$ 409,387	100.0%
Construction Engineering (KH)			\$ 236,976	\$ 221,803	93.6%
Daniella Construction - Nightingale/LaPuerta - Townwide portion			\$ 243,470	\$ 243,470	100.0%
FPL Nightingale/LaPuerta - Townwide Portion			\$ 74,900	\$ 74,900	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%
Total Phase 3 North Construction	\$ 3,700,000	\$ 5,300,000	\$ 5,183,252	\$ 4,780,257	92.2%
Phase 3 South Construction	\$ 6,090,000	\$ 8,875,000			
Preconstruction					
Construction			\$ 8,029,385	507,250	6.3%
Approved Change Orders					
FPL Construction			\$ 562,000	562,905	100.2%
FPL Design Cost			\$ 11,359	6,950	61.2%
FPL - 101 El Brillo				10,875	
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	60,418	18.7%
Total Phase 3 South Construction	\$ 6,090,000	\$ 8,875,000	\$ 9,545,412	\$ 1,156,525	12.1%
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%
Legal Advertising				\$ 1,076	
Easement Amendment			\$ 49,285	\$ 49,198	99.8%
<i>Surveys</i>					
Task Legal Sketch South			\$ 37,436		0.0%
Jones Foster - Legal			\$ 25,000	\$ 21,018	84.1%
Recording Costs				\$ 4,929	
Easement Abandonment			\$ 8,150	\$ 1,244	
Total Easement Acquisition Costs	\$ 260,000	\$ 330,000	\$ 393,261	\$ 347,884	88.5%
Total Phase 3 Costs	\$10,910,000	\$15,400,000	\$ 16,016,430	\$ 7,178,376	44.8%

Underground Utility Project Budget
Phase 4 Project Costs
August 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			\$ 5,043,010	1,702,442	33.8%
Approved Change Orders					
FPL BCE			\$ 91,543	91,543	100.0%
FPL Design Cost			\$ 12,757		
ATT Design Cost				5,000	
Comcast Design Cost				3,128	
Utility Costs (FPL, Comcast, AT&T)					
Construction Engineering (KH)			\$ 324,309	46,382	14.3%
Total Phase 4 North Construction	\$ 4,605,000	\$ 6,275,000	\$ 5,493,889	1,870,764	34.1%
Phase 4 South Construction	4,710,000	7,640,000			
Preconstruction			\$ 34,800	34,800	100.0%
Construction			\$ 8,803,506		
Approved Change Orders					
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)					
Construction Engineering (KH)			\$ 333,659		
Total Phase 4 South Construction	\$ 4,710,000	\$ 7,640,000	\$ 9,185,125	44,278	0.5%
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	33,335	56.1%
<i>Surveys</i>					
Legal Sketch			\$ 38,230	38,092	99.6%
Legal Sketch - Switches			\$ 4,967		
Jones Foster - Legal					
Recording Costs				5,637	
Easement Abandonment					
Total Easement Acquisition Costs	\$ 240,000	\$ 411,000	\$ 450,583	424,549	94.2%
Total Phase 4 Costs	\$ 10,370,000	\$ 15,220,000	\$16,023,476	3,232,942	20.2%

Underground Utility Project Budget
Phase 5 Project Costs
August 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	\$ 399,705	88.0%
Task 1.2 Phase 5 South Design	\$ 600,000		\$ 606,951	\$ 534,117	88.0%
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	\$ 77,537	99.5%
Total Phase 5 Design	\$ 1,120,000	\$ 1,195,000	\$ 1,194,071	\$ 1,066,358	89.3%
Construction Costs					
Phase 5 North Construction	\$ 5,890,000	\$ 8,055,000			
Preconstruction			\$ 59,100	59,100	100.0%
Construction			\$ 6,416,942		
Construction Manager			\$ 940,702		
Utility Costs (FPL, Comcast, AT&T)					
AT&T Design			\$ 5,000	5,000	100.0%
FPL Design Costs			\$ 16,223	17,573	108.3%
Construction Engineering (KH)			\$ 334,157		
Total Phase 5 North Construction	\$ 5,890,000	\$ 8,055,000	\$ 7,772,124	\$ 81,673	1.1%
Phase 5 South Construction	\$ 6,750,000	\$ 10,545,000			
Preconstruction			\$ 59,100	59,100	100.0%
Construction			\$ 6,629,361		
Infrastructure from Phase 4 south bid			\$ 163,350		
Construction Manager			\$ 979,098		
Utility Costs (FPL, Comcast, AT&T)					
AT&T Design			\$ 5,000	5,000	100.0%
FPL Design Costs			\$ 19,283	20,633	107.0%
Construction Engineering (KH)			\$ 334,159		
Total Phase 5 South Construction	\$ 6,750,000	\$ 10,545,000	\$ 8,189,351	\$ 84,733	1.0%
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	\$ 71,871	88.6%
<i>Surveys</i>					
Legal Sketch			\$ 41,080	\$ 31,565	76.8%
Jones Foster - Legal					
Recording Costs				\$ 2,424	
Easement Abandonment				\$ 1,804	
Total Easement Acquisition Costs	\$ 330,000	\$ 365,000	\$ 340,766	\$ 324,397	95.2%
FEMA Grant		\$ (8,465,355)			
Total Phase 5 Costs	\$14,090,000	\$11,694,645	\$ 17,496,311	\$1,557,160	8.9%

Underground Utility Project Budget
Phase 6 Project Costs
August 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	\$ 232,758	49.0%
Task 1.2 Phase 6 South Design	\$ 940,000		\$ 826,551	\$ 289,293	35.0%
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	\$ 56,651	66.8%
Total Phase 6 Design	\$ 1,360,000	\$ 1,440,000	\$ 1,439,993	\$ 578,702	40.2%
Utility and Construction Costs					
Phase 6 North Construction	\$ 4,790,000	\$ 6,615,000			
Preconstruction					
Construction					
Approved Change Orders					
FPL Design Cost			\$ 15,868	15,868	100.0%
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	\$ 15,868	\$ 15,868	100.0%
Phase 6 South Construction	\$ 10,270,000	\$ 12,298,000			
Preconstruction					
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	\$ 39,924	\$ 39,924	100.0%
Easement Acquisition/Abandonment	\$ 400,000	\$ 447,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 351,594	\$ 149,572	42.5%
<i>Surveys</i>					
Legal Sketch			\$ 58,415	\$ 5,013	8.6%
Jones Foster - Legal					
Recording Costs				\$ 640	
Easement Abandonment				\$ -	
Total Easement Acquisition Costs	\$ 400,000	\$ 447,000	\$ 410,009	\$ 155,225	37.9%
Total Phase 6 Costs	\$ 16,820,000	\$ 20,800,000	\$ 1,905,794	\$ 789,719	41.4%

Underground Utility Project Budget
Phase 7 Project Costs
August 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	\$ 172,371	35.0%
Task 1.2 Phase 7 South Design	\$ 480,000		\$ 630,830	\$ 138,783	22.0%
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	\$ 311,846	25.2%
Utility and Construction Costs					
Phase 7 North Construction	\$ 5,140,000	\$ 7,005,000			
Preconstruction					
Construction					
Approved Change Orders					
FPL Design Cost			\$ 15,806	15,806	
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	\$ 15,806	0.0%
Phase 7 South Construction	\$ 5,380,000	\$ 7,320,000			
Preconstruction					
Construction					
Approved Change Orders					
FPL Design Cost			\$ 19,953	19,953	
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	0.0%
Easement Acquisition/Abandonment	\$ 280,000	\$ 348,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 346,459	\$ 6,890	2.0%
Surveys					
Legal Sketch					
Jones Foster - Legal					
American Acquisition Group					
Temp Services					
Recording Costs				\$ 319	
Total Easement Acquisition Costs	\$ 280,000	\$ 348,000	\$ 346,459	\$ 7,209	2.1%
Total Phase 7 Costs	\$ 11,730,000	\$ 15,910,000	\$ 1,619,090	\$ 354,814	21.9%

Underground Utility Project Budget
Phase 8 Project Costs
August 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	\$ 164,643	16.0%
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	\$ 164,989	14.3%
Utility and Construction Costs					
Phase 8 Construction	\$ 10,990,000	\$ 13,107,000			
Preconstruction					
Construction					
Approved Change Orders					
FPL Design Cost					
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	\$ -	\$ -	0.0%
Easement Acquisition/Abandonment	\$ 300,000	\$ 242,000			
<i>Kimley Horn Easement Assistance</i>					
Easement Assistance			\$ 227,724	\$ 109,383	48.0%
Surveys					
Legal Sketch					
Jones Foster - Legal					
American Acquisition Group					
Temp Services					
Recording Costs				\$ 53	
Total Easement Acquisition Costs	\$ 300,000	\$ 242,000	\$ 227,724	\$ 109,435	48.1%
Total Phase 8 Costs	\$ 12,300,000	\$ 14,500,000	\$ 1,378,643	\$ 274,424	19.9%

Underground Utility Project Budget
Other Project Costs
August 31, 2021

Master Plan	Budget	Actual	% Expended
Task 1.1 - Data Collection & GIS Base Mapping	\$ 88,021	\$ 88,021	100.0%
Tash 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	
General Easement Assistance	\$ 24,976	\$ 24,976	
Community Outreach	\$ 282,519	\$ 221,083	78.3%
Peer Review Study - Patterson & Dewar (\$50,000 Offsetting Revenue)	\$ 100,000	\$ 100,000	100.0%
Total Other Project Costs	\$ 1,005,390	\$ 955,957	95.1%

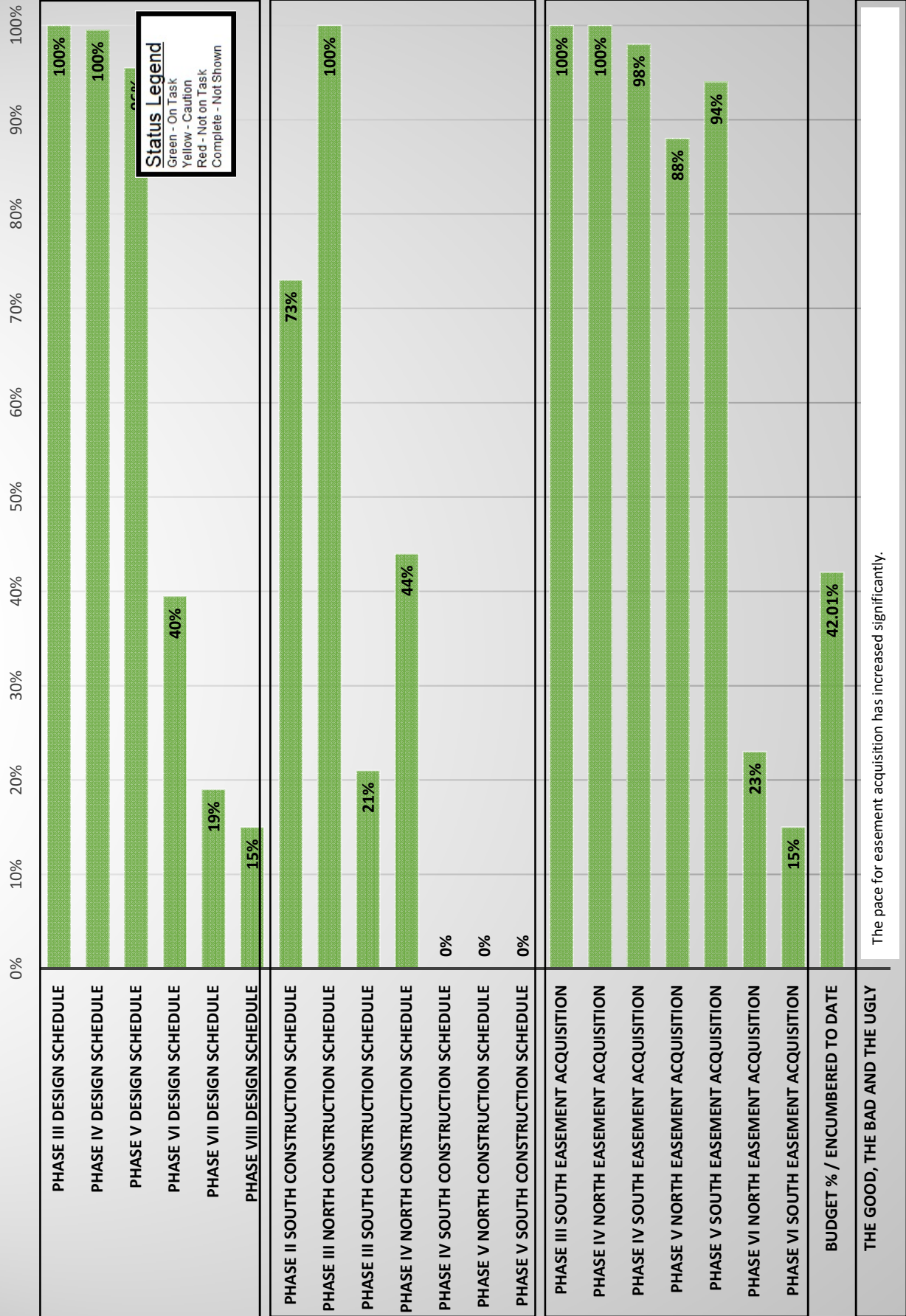
Debt Service and Related Debt Issuance Costs

	Budget	Actual	% Expended
Commercial Paper Issuance Cost		\$ 195,366	
Commercial Paper Fees		\$ 52,252	
Commercial Paper Interest		\$ 243,096	
GO Bond Closing Costs 2018	\$ 488,271	\$ 488,271	
GO Bond Closing Costs 2021	\$ 202,169	\$ 202,380	100.1%
GO Bond Debt Service	\$ 9,497,200	\$ 9,317,559	98.1%
Total Debt Service and Related Debt Issuance Costs	\$ 10,187,640	\$ 10,498,923	103.1%

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	
Temp Services - Easement acquisition	\$ 80,000	\$ 105,646	132.1%
Project Manager -Pay and benefits	\$ 599,707	\$ 509,657	85.0%
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	\$ 1,343,876	\$ 2,254,644	167.8%

Town of Palm Beach - Underground Utility Project Dashboard - August 2021



TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

TO: Mayor and Town Council

VIA: Kirk Blouin, Town Manager

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

RE: Authorization to Dedicate Two (2) Easements at 202 Plantation Road to Florida Power & Light as Part of the Town-Wide Overhead Utility Undergrounding Project - Phase 5 North
Resolution No. 116-2021

DATE: August 20, 2021

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 116-2021 dedicating two (2) easements to Florida Power & Light (FPL) on Town owned land immediately adjacent to 202 Plantation Road along the eastern property line.

GENERAL INFORMATION

The property owner of 202 Plantation Road has granted a utility easement for the Phase 5 North Undergrounding Project for the installation of a splice box for FPL. While preparing the easement document, staff discovered the Town owned property located between 202 Plantation Road and North County Road's right-of-way. Staff is recommending utilizing this Town owned property to install a second splice box which is flush with the ground. The attached exhibit depicting the proposed easement is provided by Mock Roos Consulting Engineers. If approved by Town Council, a sketch and legal description will be provided to the Town Manager for execution.

FUNDING/FISCAL IMPACT

There is no funding/fiscal impact related to this item.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed this Resolution and approved it for legal form and sufficiency.

Attachment

cc: Patricia Strayer, P.E., Town Engineer
Jason Debrincat, P.E., Senior Project Engineer
Michael Roach, P.E., Project Engineer
Lee Hudson, Easement Acquisition Manager

RESOLUTION NUMBER 116-2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO DEDICATE TWO (2) EASEMENTS BETWEEN THE TOWN OF PALM BEACH AND FLORIDA POWER AND LIGHT (FPL) AT 202 PLANTATION ROAD FOR ACCESS AND MAINTENANCE OF FPL EQUIPMENT.

WHEREAS, the Town is constructing and operating a Florida Power & Light (FPL) transformer/equipment at the 202 Plantation Road property; and

WHEREAS, FPL has requested that the Town of Palm Beach grant two (2) easements to FPL to access and maintain the transformer equipment that services 202 Plantation Road; and

WHEREAS, the installation of the conduit, wires, and equipment are necessary to operate and provide power to 202 Plantation Road.

NOW, THEREFORE, 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. Town Manager is hereby authorized to execute two (2) easements between the Town of Palm Beach and Florida Power and Light Company.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 14th day of September 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

TO: Mayor and Town Council

VIA: Kirk Blouin, Town Manager

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

RE: Authorization to Dedicate Two (2) Easements at the Northeast Corner of Kawama Lane and North Lake Way and the Northwest Corner of Kawama Lane and North County Road to Florida Power & Light as Part of the Town-Wide Overhead Utility Undergrounding - Phase 6-North
Resolution No. 117-2021

DATE: August 23, 2021

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 117-2021 dedicating two (2) easements to Florida Power & Light (FPL) on Town owned land located at the northeast corner of Kawama Lane and North Lake Way and the northwest corner of Kawama Lane and North County Road.

GENERAL INFORMATION

The property requested is a strip of Town owned land north of Kawama Lane and south of the property lines of 226 Via Las Brisas and 244 Via Las Brisas. The proposed easements are 15' x 41' and 15' x 31' respectively. These easements would expedite the development of the design for the feeder loop that would be constructed concurrently with Phase 5 North, and avoiding an install of the feeder tie-in that would be abandoned after Phase 6 North is completed, therefore, saving the Town approximately \$120,000. The attached exhibits depicting the proposed easements were provided by Mock Roos Consulting Engineers. If approved by Town Council, a sketch and legal description will be provided to the Town Manager for execution.

FUNDING/FISCAL IMPACT

There is no funding/fiscal impact related to this item.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed this Resolution and approved it for legal form and sufficiency.

Attachment

cc: Patricia Strayer, P.E., Town Engineer
Jason Debrincat, P.E., Senior Project Engineer
Michael Roach, P.E., Project Engineer
Lee Hudson, Easement Acquisition Manager

RESOLUTION NUMBER 117-2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO DEDICATE TWO (2) EASEMENTS BETWEEN THE TOWN OF PALM BEACH AND FLORIDA POWER AND LIGHT (FPL) AT 226 VIA LAS BRISAS AND 244 VIA LAS BRISAS FOR ACCESS AND MAINTENANCE OF FPL EQUIPMENT.

WHEREAS, the Town is constructing and operating a Florida Power & Light (FPL) transformer/equipment at the 226 Via Las Brisas and 244 Via Las Brisas property; and

WHEREAS, FPL has requested that the Town of Palm Beach grant an easement to FPL to access and maintain the switch equipment that services Phase 6 North; and

WHEREAS, the installation of the conduit, wires, and equipment are necessary to operate and provide power to Phase 6 North.

NOW, THEREFORE, 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. Town Manager is hereby authorized to execute two (2) easements between the Town of Palm Beach and Florida Power and Light.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 14th day of September 2021.

Danielle H. Moore, Mayor

ATTEST:

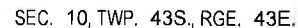
Queenester Nieves, CMC, Town Clerk

DWG: F:\horthorund\CADD\DWG\EASEMENTS.dwg PLOT DATE: Aug 17, 2021 - 10:28am
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SEC. 10, TWP. 43S., RGE. 43E.

SCALE: AS SHOWN	FL. E.B. NO. 48	FL. L.B. NO. 48	TOWN OF PALM BEACH UNDERGROUNDING PHASE 6 NORTH EASEMENT EXHIBIT PALM BEACH COUNTY, FL	DATE: 2021
FIELD:	MOCK • ROOS CONSULTING ENGINEERS 5720 Corporate Way, West Palm Beach, Florida 33407 (561) 683-3113, fax 478-7248			P.A. NO. B5040.60
DRAWN: SMR				DR. NO.
APPR: SMR				ADD: KAWAMA LANE

424



DOROTHY JACKS
CFA, AAS
Palm Beach County Property Appraiser
We Value What You Value

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[View Property Record](#)

Owners

PALM BEACH TOWN OF

Property Detail

Location

Municipality PALM BEACH
Parcel No. 50434314290070000
Subdivision PHIPPS ESTATES
Book 08691 Page 0327
Sale Date APR-1995
PO BOX 2029
Mailing Address PALM BEACH FL 33480 2029
Use Type 8900 - MUNICIPAL
Total Square Feet 0

Sales Information

Sales Date Price

APR-1995 100

Appraisals

Tax Year 2021 P

Improvement Value \$0
Land Value \$100
Total Market Value \$100

P = Preliminary All values are as of January 1st each year

Assessed/Taxable values

Tax Year 2021 P

Assessed Value \$100
Exemption Amount \$100
Taxable Value \$0

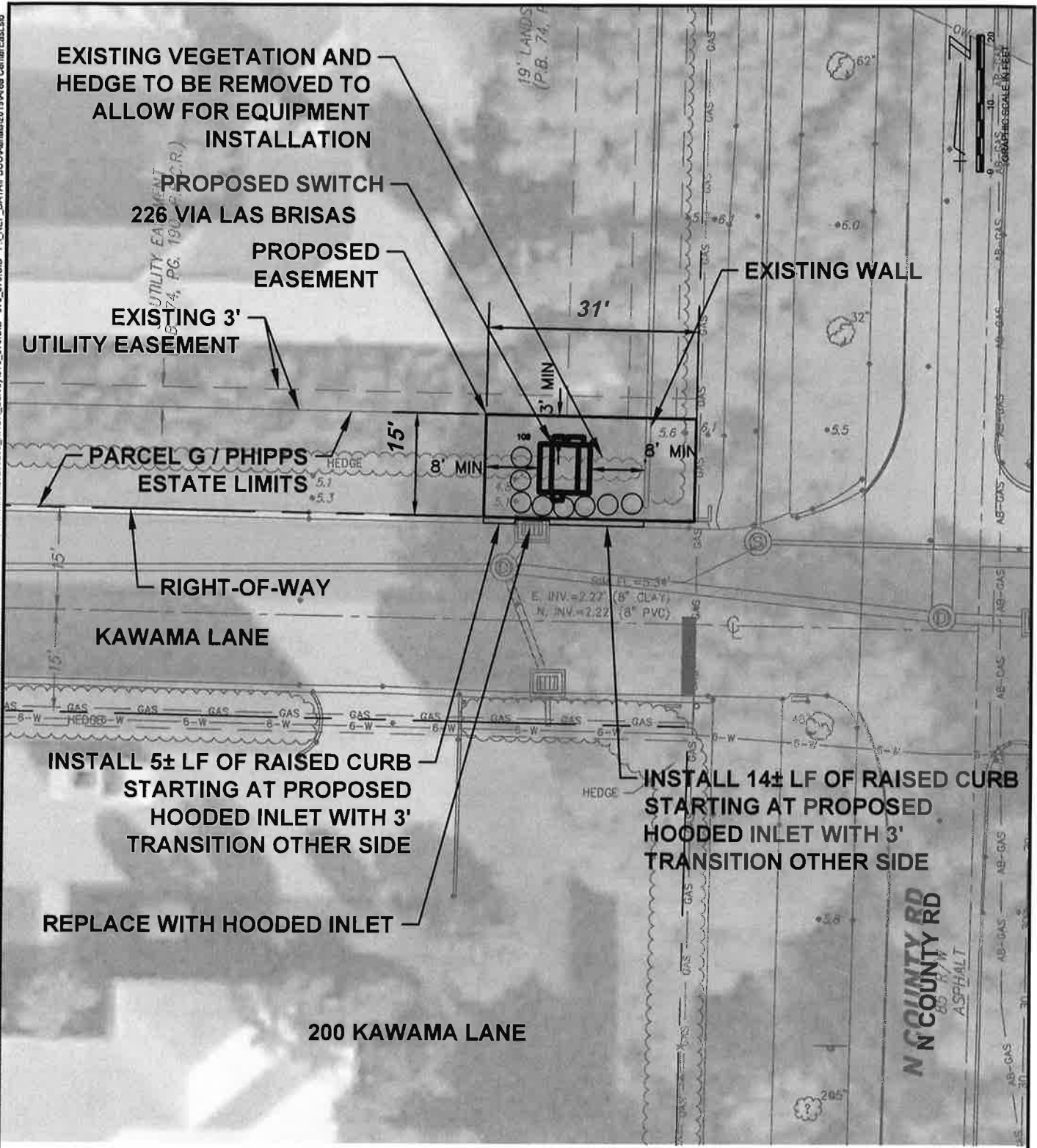
Taxes

Tax Year 2021 P

Ad Valorem \$0
Non Ad Valorem \$0
Total tax \$0



DWG: F:\work\kharu\6CAD\DWG\EASEMENTS.dwg PLOT DATE: Aug 19, 2021 - 10:14am
XREFS: UNDCS01_UT01.dwg UNDCS01_md01.dwg UNDCS01_BM01.dwg IMAGES: F:\REF_DATA\PCO\Aerials\2019A\Area CenterEast.dwg
L:\TRAN\INCOMING\20200206_KHOR_Survey\970_870 SID 970_870 SID F:\REF_DATA\PCO\Aerials\2019A\Area CenterEast.dwg



SEC. 10, TWP. 43S, RGE. 43E.

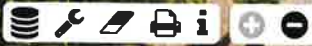
SCALE: AS SHOWN	FL. E.B. NO. 48	FL. L.B. NO. 48	TOWN OF PALM BEACH UNDERGROUNDING PHASE 6 NORTH EASEMENT EXHIBIT PALM BEACH COUNTY, FL	DATE: 2021
FIELD: ---	MOCK • ROOS CONSULTING ENGINEERS 5720 Corporate Way, West Palm Beach, Florida 33407 (561) 683-3113, fax 478-7248			P.A. NO. B5040.60
DRAWN: SMR				DR. NO. ---
APPR: SMR				ADD: KAWAMA SWITCH 2



DOROTHY JACKS
CFA, AAS
Palm Beach County Property Appraiser
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Search by Owner, Address or Parcel


[View Property Record](#)

Owners

PALM BEACH TOWN OF

Property Detail

Location

Municipality PALM BEACH
Parcel No. 50434314290070000
Subdivision PHIPPS ESTATES
Book 08691 Page 0327
Sale Date APR-1995
Mailing Address PO BOX 2029
PALM BEACH FL 33480
2029
Use Type 8900 - MUNICIPAL
Total Square Feet 0

Sales Information

Sales Date	Price
APR-1995	100

Appraisals

Tax Year	2021 P
----------	--------

Improvement Value	\$0
Land Value	\$100
Total Market Value	\$100

P = Preliminary All values are as of January 1st each year

Assessed/Taxable values

Tax Year	2021 P
----------	--------

Assessed Value	\$100
Exemption Amount	\$100
Taxable Value	\$0

Taxes

Tax Year	2021 P
----------	--------

Ad Valorem	\$0
Non Ad Valorem	\$0
Total tax	\$0



TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Coastal Update:

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

a. RESOLUTION NO. 118-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing State Grant of Florida Department of Environmental Protection Contract No. 22PB8, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach Under the Florida Beach Management Funding Assistance Program, Specifically Reimbursement for Phipps Ocean Park Beach Nourishment Project Monitoring, in the Amount of \$19,500, and Authorizing the Mayor to Execute Same on Behalf of the Town.

b. RESOLUTION NO. 119-2021 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing State Grant of Florida Department of Environmental Protection Contract No. 22PB12, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach Under the Florida Beach Management Funding Assistance Program, Specifically Reimbursement for Lake Worth Inlet Management Plan/Beach Management Agreement Monitoring, in the Amount of \$324,500, and Authorizing the Mayor to Execute Same on Behalf of the Town.

c. Woods Hole Group Coastal Resiliency Implementation Plan Presentation
TIME CERTAIN 1:00 P.M.

Presenter

ATTACHMENTS:

a. Memorandum dated August 19, 2021, from H. Paul Brazil, P.E.,

- ▣ **Director of Public Works**
- ▣ **a. Resolution No. 118-2021**
- ▣ **a. FDEP Agreement 22PB8**
- ▣ **b. Memorandum dated August 19, 2021, from H. Paul Brazil, P.E.,
Director of Public Works**
- ▣ **b. Resolution No. 119-2021**
- ▣ **b. FDEP Agreement 22PB12**
- ▣ **c. Memorandum dated August 19, 2021, from H. Paul Brazil, P.E.,
Director of Public Works**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

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

RE: Authorization for State Grant No. 22PB8
Phipps Ocean Park Beach Nourishment
Resolution No. 118-2021

DATE: August 19, 2021

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 118-2021 authorizing the Mayor to sign the Florida Department of Environmental Protection (FDEP) Agreement 22PB8 for State cost sharing participation in the amount of \$19,500 for reimbursement of the 2020-2021 Phipps Ocean Park Beach Nourishment Project-related monitoring.

GENERAL INFORMATION

Each year the Town provides a Local Government Funding Request (LGFR) to the FDEP for projects that are eligible for State cost sharing. The LGFR includes specific project details that are each assigned scores. The scores are tallied and the projects are ranked in competition with other statewide requested projects. Florida Legislature determines the size of the annual appropriation that is assigned to projects on the ranked list. The Phipps Ocean Park Beach Nourishment Project sufficiently scored on the ranked list to be included for reimbursement within the FY 2021-2022 approved State budget.

During the past two (2) annual request cycles, the Town has received more than \$1 million in reimbursement from FDEP for construction and monitoring cost-sharing of the recently completed Phipps Ocean Park Beach Nourishment Project, which was also cost-shared by FEMA at 75% total project costs. After FEMA and FDEP cost-sharing, the nearly \$9 million Reach 7 sand placement project had a net cost to the Town of just over \$1 million.

FUNDING/FISCAL IMPACT

State funds will reimburse the Town \$19,500 for eligible costs associated with monitoring of the 2020-2021 Phipps Ocean Park Beach Nourishment Project.

TOWN ATTORNEY REVIEW

This Resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency. In addition, the Town's Attorney will review the FDEP contract and approve for legal form and sufficiency prior to execution.

Attachments

cc: Shore Protection Board
Jane Le Clainche, Director of Finance
Dean Mealy, Purchasing Manager
Robert Weber, Coastal Program Manager

RESOLUTION NO. 118-2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING STATE GRANT OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION CONTRACT NO. 22PB8, BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE TOWN OF PALM BEACH UNDER THE FLORIDA BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM, SPECIFICALLY REIMBURSEMENT FOR PHIPPS OCEAN PARK BEACH NOURISHMENT PROJECT MONITORING, IN THE AMOUNT OF \$19,500, AND AUTHORIZING THE MAYOR TO EXECUTE SAME ON BEHALF OF THE TOWN.

* * * * *

WHEREAS, the Town of Palm Beach (Town) and the Florida Department of Environmental Protection (FDEP), have worked cooperatively by executing cost-sharing agreements related to implementing the Town's Comprehensive Coastal Management Plan; and

WHEREAS, the FDEP has agreed to a cost-share on eligible project elements related to the Phipps Ocean Park Beach Nourishment 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 Department of Environmental Protection (FDEP) Contract No. 22PB8, to reimburse the Town with eligible costs associated with monitoring of the 2020-2021 Phipps Ocean Park Beach Nourishment Project in the amount of \$19,500.

Section 3. The Mayor is hereby authorized to execute FDEP Contract No. 22PB8, on behalf of the Town.

Section 5. This Resolution shall be provided to the FDEP, at 3900 Commonwealth Blvd., Mail Station 3601, Tallahassee, Florida 32399-3000, in accompaniment with an executed original of FDEP Contract No. 21PB8.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 14th day of September 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Standard Grant Agreement**

This Agreement is entered into between the Parties named below, pursuant to Section 215.971, Florida Statutes:

1. Project Title (Project): Phipps Ocean Park Beach Nourishment	Agreement Number: 22PB8
2. Parties State of Florida Department of Environmental Protection, 3900 Commonwealth Boulevard Tallahassee, Florida 32399-3000 (Department)	
Grantee Name: Town of Palm Beach	Entity Type: Local Government
Grantee Address: 951 Okeechobee Road, Suite A, West Palm Beach, Florida 33401	FEID: 59-6000402 (Grantee)

3. Agreement Begin Date: 7/1/2021	Date of Expiration: 12/31/2024
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4. Project Number: <i>(If different from Agreement Number)</i>	Project Location(s): Palm Beach County
Project Description: The Project consists of monitoring.	

5. Total Amount of Funding: \$19,500.00	Funding Source? ☒ State ☐ Federal ☐ State ☐ Federal ☐ Grantee Match	Award #s or Line Item Appropriations: FY 21-22 GAA Line Item #1647	Amount per Source(s): \$19,500.00
Total Amount of Funding + Grantee Match, if any:			\$19,500.00

6. Department's Grant Manager Name: Karen Milicic or successor Address: Beach Management Funding Assistance 2600 Blair Stone Road, MS #3601 Tallahassee, Florida 32399 Phone: 850-245-8355 Email: Karen.Milicic@FloridaDEP.gov	Grantee's Grant Manager Name: Robert Weber or successor Address: Town of Palm Beach 951 Okeechobee Road, Suite A West Palm Beach, Florida 33401 Phone: 561-838-5440 Email: rweber@townofpalmbeach.com
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7. The Parties agree to comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated by reference:

☒ Attachment 1: Standard Terms and Conditions Applicable to All Grants Agreements
☒ Attachment 2: Special Terms and Conditions
☒ Attachment 3: Grant Work Plan
☒ Attachment 4: Public Records Requirements
☒ Attachment 5: Special Audit Requirements
☐ Attachment 6: Program-Specific Requirements
☐ Attachment 7: Grant Award Terms (Federal) *Copy available at https://facts.fldfs.com , in accordance with §215.985, F.S.
☐ Attachment 8: Federal Regulations and Terms (Federal)
☐ Additional Attachments (if necessary):
☒ Exhibit A: Progress Report Form
☐ Exhibit B: Property Reporting Form
☒ Exhibit C: Payment Request Summary Form
☐ Exhibit D: Quality Assurance Requirements for Grants
☐ Exhibit E: Advance Payment Terms and Interest Earned Memo
☐ Additional Exhibits (if necessary):

22PB8

8. The following information applies to Federal Grants only and is identified in accordance with 2 CFR 200.331(a)(1):

Federal Award Identification Number(s) (FAIN):	
Federal Award Date to Department:	
Total Federal Funds Obligated by this Agreement:	
Federal Awarding Agency:	
Award R&D?	☐ Yes ☐ N/A

IN WITNESS WHEREOF, this Agreement shall be effective on the date indicated by the Agreement Begin Date above or the last date signed below, whichever is later.

Town of Palm Beach

GRANTEE

Grantee Name

By _____
(Authorized Signature) Date Signed

Print Name and Title of Person Signing

State of Florida Department of Environmental Protection

DEPARTMENT

By _____
Secretary or Designee Date Signed

Print Name and Title of Person Signing

☒ Additional signatures attached on separate page.

ORCP Additional Signatures

DEP Grant Manager

DEP QC Reviewer

Local Sponsor may add additional signatures if needed below.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD TERMS AND CONDITIONS
APPLICABLE TO GRANT AGREEMENTS**

ATTACHMENT 1

1. Entire Agreement.

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

2. Grant Administration.

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
 - i. Standard Grant Agreement
 - ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
 - iii. Attachment 1, Standard Terms and Conditions
 - iv. The Exhibits in the order designated in the Standard Grant Agreement
- b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.
- c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.
- d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
 - (1) an increase or decrease in the Agreement funding amount;
 - (2) a change in Grantee's match requirements;
 - (3) a change in the expiration date of the Agreement; and/or
 - (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.A change order to this Agreement may be used when:
 - (1) task timelines within the current authorized Agreement period change;
 - (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
 - (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
 - (4) fund transfers between budget categories for the purposes of meeting match requirements.This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
- e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

4. Deliverables.

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

5. Performance Measures.

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

6. Acceptance of Deliverables.

- a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

- a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.
- b. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.
 - i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.
 - ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement

the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

- iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

8. Payment.

- a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with Section 215.422, Florida Statutes (F.S.).
- b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.
- d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address:
<https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.
- e. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.
- f. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.
- g. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.
- h. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.
- i. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to:
www.myfloridacfo.com/Division/AA/Vendors/default.htm.
- j. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

9. Documentation Required for Cost Reimbursement Grant Agreements and Match.

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

- a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.

- b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
- c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
 - i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.
 - ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
- d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with Section 112.061, F.S.
- e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing \$5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form.
- f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
- g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.
- h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting

acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form, to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

11. Retainage.

The following provisions apply if Department withholds retainage under this Agreement:

- a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
- b. If Grantee fails to perform the requested work, or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
- c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.
- d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage *prior to* performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

13. Termination.

- a. Termination for Convenience. When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.
- b. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other

obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

- c. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
- d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
- e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

15. Events of Default.

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
- b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
- c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
- d. Failure to honor any term of the Agreement;
- e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
- f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;
- g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
- h. Failure to maintain the insurance required by this Agreement;
- i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
 - i. Entry of an order for relief under Title 11 of the United States Code;
 - ii. The making by Grantee of a general assignment for the benefit of creditors;
 - iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or
 - iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

16. Suspension of Work.

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

17. Force Majeure.

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Grantee shall perform at no increased cost, unless Department determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate Agreement in whole or in part.

18. Indemnification.

- a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
 - i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
 - ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.
- b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
- c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.
- d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or

otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of \$100,000.

20. Remedies.

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

21. Waiver.

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

- a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to Sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
 - i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
 - ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
 - iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.
 - iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

- a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Scrutinized Companies.

- a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- c. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

25. Lobbying and Integrity.

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to Section 216.347, F.S., except that pursuant to the requirements of Section 287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with Sections 11.062 and 216.347, F.S.

26. Record Keeping.

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee's integrity or responsibility. Such information may include, but shall not be limited to, Grantee's business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).

27. Audits.

- a. Inspector General. The Grantee understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
- b. Physical Access and Inspection. Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
 - i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;

- ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
 - iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
- c. Special Audit Requirements. The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.330 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: <https://apps.fldfs.com/fsaa>.
- d. Proof of Transactions. In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.
- e. No Commingling of Funds. The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
 - i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.
 - ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.
 - iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

28. Conflict of Interest.

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

29. Independent Contractor.

The Grantee is an independent contractor and is not an employee or agent of Department.

30. Subcontracting.

- a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.
- b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.

- c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.
- e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.
- f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

31. Guarantee of Parent Company.

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

32. Survival.

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

33. Third Parties.

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

34. Severability.

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

35. Grantee's Employees, Subcontractors and Agents.

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

36. Assignment.

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

37. Compensation Report.

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual

reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

38. Execution in Counterparts and Authority to Sign.

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Terms and Conditions
AGREEMENT NO. 22PB8**

ATTACHMENT 2

These Special Terms and Conditions shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, these more specific terms shall apply.

1. Scope of Work.

The Project funded under this Agreement is Phipps Ocean Park Beach Nourishment. The Project is defined in more detail in Attachment 3, Grant Work Plan.

2. Duration.

- a. Reimbursement Period. The reimbursement period for this Agreement is the same as the term of the Agreement.
- b. Extensions. There are extensions available for this Project.
- c. Service Periods. Additional service periods are not authorized under this Agreement.

3. Payment Provisions.

- a. Compensation. This is a cost reimbursement Agreement. The Grantee shall be compensated under this Agreement as described in Attachment 3.
- b. Invoicing. Invoicing will occur as indicated in Attachment 3.
- c. Advance Pay. Advance Pay is not authorized under this Agreement.

4. Cost Eligible for Reimbursement or Matching Requirements.

Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated:

<u>Reimbursement</u>	<u>Match</u>	<u>Category</u>
☐	☐	Salaries/Wages
		Overhead/Indirect/General and Administrative Costs:
☐	☐	a. Fringe Benefits, N/A.
☐	☐	b. Indirect Costs, N/A.
☒	☐	Contractual (Subcontractors)
☐	☐	Travel, in accordance with Section 112, F.S.
☐	☐	Equipment
☐	☐	Rental/Lease of Equipment
☐	☐	Miscellaneous/Other Expenses
☐	☐	Land Acquisition

5. Equipment Purchase.

No Equipment purchases shall be funded under this Agreement.

6. Land Acquisition.

There will be no Land Acquisitions funded under this Agreement.

7. Match Requirements

See Attachment 3, Grant Work Plan.

8. Insurance Requirements

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the

Agreement. Grantee shall provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Comprehensive General Liability Insurance.

The Grantee shall provide adequate comprehensive general liability insurance coverage and hold such liability insurance at all times during the Agreement. The minimum limits shall be \$200,000 for each person and \$300,000 per occurrence.

b. Commercial Automobile Insurance.

If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The minimum limits shall be as follows:

\$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
\$200,000/300,000	Hired and Non-owned Automobile Liability Coverage

c. Workers' Compensation.

The Grantee shall comply with the workers' compensation requirements of Chapter 440, F.S.

d. Other Insurance. None.

9. Quality Assurance Requirements.

There are no special Quality Assurance requirements under this Agreement.

10. Retainage.

Retainage is permitted under this Agreement. Retainage may be up to a maximum of 10% of the total amount of the Agreement.

11. Subcontracting.

The Grantee may subcontract work under this Agreement without the prior written consent of the Department's Grant Manager except for certain fixed-price subcontracts pursuant to this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

12. State-owned Land.

The Board of Trustees of the Internal Improvement Trust Fund must be listed as additional insured to general liability insurance required by the Agreement and, if the Grantee is a non-governmental entity, indemnified by the Grantee.

13. Office of Policy and Budget Reporting.

There are no special Office of Policy and Budget reporting requirements for this Agreement.

14. Additional Terms.

None.

ATTACHMENT 3 GRANT WORK PLAN

PROJECT TITLE: Phipps Ocean Park Beach Nourishment Project

PROJECT LOCATION: The Project is located between Department of Environmental Protection (Department or DEP) reference monuments R118.7 and R126 along the Atlantic Ocean, in the Town of Palm Beach in Palm Beach County, Florida.

PROJECT BACKGROUND: The Phipps Ocean Park Beach Nourishment Project includes 1.4 miles of shoreline in Palm Beach County. In 2004, a 3.1-acre mitigation reef was constructed to compensate for impacts to hardbottom resources in advance of the 2006 restoration. A FEMA dune nourishment was completed in 2011 to repair damages sustained during Tropical Storm Fay. The Project is included in the 2013 Palm Beach Island Beach Management Agreement Pilot Project. An interim dune nourishment was completed in 2015 in coordination with the Mid-Town Beach Nourishment Project. A full nourishment was completed in April 2016, with an expansion of the project limit. The next nourishment is scheduled for 2021. Post-construction monitoring is ongoing.

PROJECT DESCRIPTION: The Project consists of monitoring.

PROJECT ELIGIBILITY: The Department has determined that 77.12 percent of the non-federal Project cost is eligible for state cost sharing. Therefore, the Department's financial obligation shall not exceed the sum of \$19,500.00 for this Project or up to 38.56 percent of the non-federal Project cost, if applicable, for the specific eligible Project items listed, whichever is less. Any indicated federal cost sharing percentage is an estimate and shall not affect the cost sharing percentages of the non-federal share. The parties agree that eligibility for cost sharing purposes will be maintained pursuant to 62B-36, Florida Administrative Code (F.A.C.).

The Local Sponsor will be responsible for auditing all travel reimbursement expenses based on the travel limits established in Section 112.061, Florida Statute (F.S.).

Pursuant to Sections 161.091 - 161.161, F.S., the Department provides financial assistance to eligible governmental entities for beach erosion control and inlet management activities under the Florida Beach Management Funding Assistance Program.

Pursuant to 62B-36.005(1)(d), F.A.C., the Local Sponsor has resolved to support and serve as local sponsor, has demonstrated a financial commitment, and has demonstrated the ability to perform the tasks associated with the beach erosion control project as described herein.

The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at:

<https://floridadep.gov/sites/default/files/PhysicalMonitoringStandards.pdf>

One (1) electronic copy of all written reports developed under this Agreement shall be forwarded to the Department, unless otherwise specified.

Acronyms:

DEP – Florida Department of Environmental Protection
F.A.C. – Florida Administrative Code
F.S. – Florida Statutes
FEMA – Federal Emergency Management Agency
FWC – Florida Fish and Wildlife Conservation Commission

TASKS and DELIVERABLES:

The Local Sponsor will provide detailed scopes of work or a letter requesting advance payment if authorized by Attachment 2, for all tasks identified below, which shall include a narrative description of work to be completed, a corresponding cost estimate and a proposed schedule of completion for the proposed work and associated deliverables. Each scope of work shall be approved in writing by the DEP Project Manager to be included into this work plan for reimbursement.

Task 1: Monitoring

State and federal monitoring required by permit is eligible for reimbursement pursuant to program statute and rule. In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with Section 287.057(17)(a)(1), F.S., all monitoring data and statistical analysis must be provided directly and concurrently from the monitoring contractor to the Department/Local Sponsor permittee/engineering consultant. The Local Sponsor's engineering consultant must provide an adequate mitigation plan, consistent with Section 287.057(17)(a)(1), F.S., including a description of organizational, physical, and electronic barriers to be used by the Local Sponsor's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for Project engineering and post-construction environmental monitoring services, or when the Project engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources. Department approval of the consultant's mitigation plan will be required prior to execution of this Agreement. If at any time the Local Sponsor and/or its engineering consultant fails to comply with this provision, the Local Sponsor agrees to reimburse the Department all funds provided by the Department associated with environmental monitoring for the Project listed.

Task Description: This task includes activities associated with permit-required monitoring conducted in accordance with the conditions specified by state or federal regulatory agencies. All monitoring tasks must be located within or adjacent to the Project area and follow the Department's Regional Coastal Monitoring Program and FWC's marine turtle and shorebird monitoring programs. Guidance for monitoring of nearshore resources is available in the Department's Standard Operation Procedures For Nearshore Hardbottom Monitoring Of Beach Nourishment Projects. The Local Sponsor must submit work products directly to the appropriate state or federal regulatory agencies in accordance with permit conditions to be eligible for reimbursement under this task, unless otherwise directed.

Deliverable: For each interim or final payment, the Local Sponsor will provide a Task Summary Report signed by Local Sponsor containing; 1) An itemized listing of all monitoring activities completed or in progress during the payment request period and, 2) Documentation of submittal to state and federal regulatory agencies of completed monitoring data, surveys and final reports for permit-required work under this task description.

Performance Standard: The DEP Project Manager will review the task deliverable and any associated work products as necessary to verify they meet the specifications in the Grant Work Plan and this task description.

Payment Request Schedule: Payment requests may be submitted after the deliverable is received and accepted and may be submitted no more frequently than quarterly.

Estimated Eligible Project Cost

Task #	Eligible Project Tasks	State Cost Share (%)	Federal Estimated Project Costs	DEP	Local	Total
1	Monitoring	38.56%		\$19,500.00	\$31,070.54	\$50,570.54
	TOTAL PROJECT COSTS			\$19,500.00	\$31,070.54	\$50,570.54

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by, and all deliverables received by, the corresponding deliverable due date.

Task No.	Task Title	Budget Category	Budget Amount	Task Start Date	Deliverable Due Date
1	Monitoring	Contractual Services	\$19,500.00	07/01/2021	09/30/2024
Total:			\$19,500.00		

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements**

Attachment 4

1. Public Records.

- a. If the Agreement exceeds \$35,000.00, and if Grantee is acting on behalf of Department in its performance of services under the Agreement, Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if Grantee refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term “contract” means the “Agreement.” If Grantee is a “contractor” as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

- a. Keep and maintain Public Records required by Department to perform the service.
- b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. 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 contractor does not transfer the Public Records to Department.
- e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department’s custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

- f. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT’S CUSTODIAN OF PUBLIC RECORDS AT:**

Telephone: (850) 245-2118
Email: public.services@floridadep.gov
Mailing Address: Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Audit Requirements
(State and Federal Financial Assistance)**

Attachment 5

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at www.cfda.gov

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

- B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program A	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	
Federal Program B	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:					
State Program A	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	State Appropriation Category
Original	Florida Department of Environmental Protection	21-22	37.003	Beach Management Funding Assistance	140126
State Program B	State Awarding Agency	State Fiscal Year ²	CSFA Number	CSFA Title or Funding Source Description	State Appropriation Category

Total Award	\$19,500.00
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Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [www.cfda.gov] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

¹ Subject to change by Change Order.

² Subject to change by Change Order.

EXHIBIT A

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT – PART III
QUARTERLY PROJECT PROGRESS REPORT**

Name of Project: _____

Local Sponsor: _____

DEP Agreement Number: _____

Report Year: _____ **Report Period (select one):**

☐ Q1: Jan – Mar 31 ☐ Q2: Apr – Jun 30 ☐ Q3: Jul – Sep 30 ☐ Q4: Oct – Dec 31

For each task, include the following information: Describe the work performed during the reporting period (including percent of task completed to date), problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. *(Use additional pages, if needed).*

Task 1: _____

Task 2: _____

Task 3: _____

Task 4: _____

EXHIBIT C

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM REQUEST FOR PAYMENT PART I – PAYMENT SUMMARY

Name of Project: Phipps Ocean Park Beach Nourishment

Local Sponsor: Town of Palm Beach

DEP Agreement Number: 22PB8

Remittance Mailing Address: _____

Billing Number: _____

Billing Type: ☐ Interim Billing ☐ Final Billing

Costs Incurred This Payment Request:

Federal Share*	State Share	Local Share	Total
\$ _____	\$ _____	\$ _____	\$ _____
*if applicable			

Cost Summary:

State Funds Obligated
\$ _____

Local Funds Obligated
\$ _____

Less Advance Pay
\$ _____

Less Advance Pay
\$ _____

Less Previous Payment
\$ _____

Less Previous Credits
\$ _____

Less Previous Retained
\$ _____

Less This Credit
\$ _____

Less This Payment
\$ _____

Local Funds Remaining
\$ _____

Less This Retainage
\$ _____

State Funds Remaining
\$ _____

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART II – REIMBURSEMENT DETAIL**

TEP Agreement Number: _____
 Name of Project: _____
 Bidding Number: _____
 Bidding Period (1): _____
 Bidding Period (2): _____
 Individual Completing Form (2): _____
 Phone Number (2): _____

REIMBURSEMENT DETAIL

Item #	Vendor Name	Invoice Number	Invoice Date	Check Number	Task Number (3)	SOW Number (3)	Invoice Amount (4)	Eligible Amount (5)	% Fed Share (6)	Federal Share of Eligible Amount (7)	Non-Federal Share (8)	% State Share (9)	State Share (10)	Local Share (11)	Requested Retainage Payment (12)	Withheld Retainage (13)	State Payment (14)
										-	-		\$0.00	0.00		0.00	0.00
								-		Totals	-		-			-	-

Total Due to Local Sponsor (15)

Form Instructions:

1. Billing Period: Period when services were conducted (beginning date: earliest date of services conducted; end date: latest date of services conducted).
2. Person responsible for completing this form: Name and phone number if contact is needed.
3. Task #/SOW #: Insert a Task #/SOW # for each invoice. If invoice covers multiple Task#/SOW#, then that invoice should be listed multiple times, a line item for each deliverable.
4. Invoice amount: Full amount of invoice.
5. Eligible Amount: Invoice amount paid by Local Sponsor less ineligible cost for line item deliverable only.
6. % Federal Share: If applicable, the federal cost share percentage listed in Agreement.
7. Federal Share of Eligible Amount: If applicable, Local Sponsor will multiply Eligible Amount (5) by % Federal Share (6).
8. Non-Federal Share: Eligible Amount (5) minus Federal Share of Eligible Amount (7).
9. % State Share: The state cost share percentage listed in Agreement.
10. State Share: Multiply Non-Federal Share (8) by % State Share (9).
11. Local Share: Subtract State Share (10) from Non-Federal Share (8).
12. Requested Retainage Payment: Requires separate line for each completed Task, Sub-Task and or Deliverable that retainage is being requested.
13. Withheld Retainage: Multiply State Share (10) by 10%.
14. State Payment: Subtract Withheld Retainage (13) from State Share (10).
15. Total Due to Local Sponsor: Add Retainage Payment Total (12) to State Payment Total (14).

Please redact all sensitive financial information from the invoices and other supporting documentation to be submitted with this Payment Request Form.
****For questions or concerns regarding this form please contact: Janice Simmons, Fiscal Administrator, 850-245-7620, Janice.L.Simmons@FloridaDEP.gov**

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART III – INVOICE REPORT**

Name of Project: Phipps Ocean Park Beach Nourishment

Local Sponsor: Town of Palm Beach

DEP Agreement Number: 22PB8

Billing Number: _____

Invoice Report Period: _____

(Describe progress accomplished during the invoice report period, including statement(s) regarding percent of task completed to date.). **NOTE:** Use as many pages as necessary to cover all tasks in the Grant Work Plan.

The following format should be followed:

Task 1:

Progress for this invoice billing period:

Identify any delays or problems encountered:

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART IV – CERITIFICATION OF DISBURSEMENT REQUEST**

Name of Project: Phipps Ocean Park Beach Nourishment

Local Sponsor: Town of Palm Beach

DEP Agreement Number: 22PB8

Billing Number: _____

Certification: I certify that this billing is correct and is based upon actual obligations of record by the Local Sponsor; that payment from the State Government has not been received; that the work and/or services are in accordance with the Department of Environmental Protection, Beach Management Funding Assistance Program's approved Project Agreement including any amendments thereto; and that progress of the work and/or services are satisfactory and are consistent with the amount billed. The disbursement amount requested on Page 1 of this form is for allowable costs for the project described in the Attachment 3, Grant Work Plan.

I certify that the purchases noted were used in accomplishing the project; and that invoices, check vouchers, copies of checks, and other purchasing documentation are maintained as required to support the cost reported above and are available for audit upon request.

Name of Project Administrator

Signature of Project Administrator

Date

Name of Project Financial Officer

Signature of Project Financial Officer

Date

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FLORIDA BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART V – COMPLETION CERTIFICATION**

Name of Project: Phipps Ocean Park Beach Nourishment

Local Sponsor: Town of Palm Beach

DEP Agreement Number: 22PB8

Task Completion ☐ (List Tasks) _____

Agreement Completion ☐

*I hereby certify that the above mentioned project task(s) has been completed in accordance with the Project Agreement, including any amendments thereto, between the DEPARTMENT and LOCAL SPONSOR, and all funds expended for the project were expended pursuant to this Agreement. All unused funds and interest accrued on any unused portion of advanced funds which have not been remitted to the DEPARTMENT, have been returned to the DEPARTMENT, or will be returned to the DEPARTMENT within sixty (60) days of the completion of construction portion of this PROJECT. Unused funds advanced to the United States Army Corps of Engineers through LOCAL SPONSORS will be due sixty (60) days after the final federal accounting has been completed.

Name of Project Manager

Signature of Project Manager

Date

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public

Works RE: Authorization for State Grant No. 22PB12
Lake Worth Inlet Management Plan/Beach Management Agreement
Resolution No. 119-2021

DATE: August 19, 2021

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 119-2021 authorizing the Mayor to sign the Florida Department of Environmental Protection (FDEP) Agreement 22PB12 for State cost sharing participation in the amount of \$324,500 for reimbursement of Lake Worth Inlet/Beach Management Agreement annual monitoring.

GENERAL INFORMATION

Each year the Town provides a Local Government Funding Request (LGFR) to the FDEP for projects that are eligible for State cost sharing. The LGFR includes specific project details that are each assigned scores. The scores are tallied and the projects are ranked in competition with other statewide requested projects. Florida Legislature determines the size of the annual appropriation that is assigned to projects on the ranked list. The Lake Worth Inlet Management Plan/Beach Management Agreement monitoring sufficiently scored on the ranked list to be included for reimbursement within the FY 2021-2022 approved State budget.

FUNDING/FISCAL IMPACT

State funds will reimburse the Town \$324,500 for eligible costs associated with Lake Worth Inlet Management Plan/Beach Management Agreement annual monitoring. This reimbursement amount covers half of the total cost for the annual physical, biological, and sea turtle nesting monitoring for last year.

TOWN ATTORNEY REVIEW

This Resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency. In addition, the Town's Attorney will review the FDEP contract and approve it for legal form and sufficiency prior to execution.

Attachments

cc: Shore Protection Board
Jane Le Clainche, Director of Finance
Dean Mealy, Purchasing Manager
Robert Weber, Coastal Program Manager

RESOLUTION NO. 119-2021

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING STATE GRANT OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION CONTRACT NO. 22PB12, BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE TOWN OF PALM BEACH UNDER THE FLORIDA BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM, SPECIFICALLY REIMBURSEMENT FOR LAKE WORTH INLET MANAGEMENT PLAN/BEACH MANAGEMENT AGREEMENT MONITORING, IN THE AMOUNT OF \$324,500, AND AUTHORIZING THE MAYOR TO EXECUTE SAME ON BEHALF OF THE TOWN.

* * * * *

WHEREAS, the Town of Palm Beach (Town) and the Florida Department of Environmental Protection (FDEP), have worked cooperatively by executing cost-sharing agreements related to implementing the Town's Comprehensive Coastal Management Plan; and

WHEREAS, the FDEP has agreed to a cost-share on eligible project elements related to the Lake Worth Inlet Management Plan/Beach Management Agreement 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 Department of Environmental Protection (FDEP) Contract No. 22PB12, to reimburse the Town with eligible costs associated with Lake Worth Inlet Management Plan/Beach Management Agreement monitoring.

Section 3. The Mayor is hereby authorized to execute FDEP Contract No. 22PB12, on behalf of the Town.

Section 5. This Resolution shall be provided to the FDEP, at 3900 Commonwealth Blvd., Mail Station 3601, Tallahassee, Florida 32399-3000, in accompaniment with an executed original of FDEP Contract No. 22PB8.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 14th day of September 2021.

Danielle H. Moore, Mayor

ATTEST:

Queenester Nieves, CMC, Town Clerk

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Standard Grant Agreement**

This Agreement is entered into between the Parties named below, pursuant to Section 215.971, Florida Statutes:

1. Project Title (Project): **Lake Worth IMP Implementation** Agreement Number: **22PB12**
2. Parties **State of Florida Department of Environmental Protection,
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000** (Department)
- Grantee Name: **Town of Palm Beach** Entity Type: **Local Government**
- Grantee Address: **951 Okeechobee Road, Suite A, West Palm Beach, Florida 33401** FEID: **59-6000402** (Grantee)
3. Agreement Begin Date: **7/1/2021** Date of Expiration: **12/31/2024**
4. Project Number: **(If different from Agreement Number)** Project Location(s): **Palm Beach County** 
- Project Description: **The project consists of monitoring.**

5. Total Amount of Funding:	Funding Source?	Award #s or Line Item Appropriations:	Amount per Source(s):
\$324,500.00	☒ State ☐ Federal	FY 21-22 GAA Line Item #1647	\$324,500.00
	☐ State ☐ Federal		
	☐ Grantee Match		
Total Amount of Funding + Grantee Match, if any:			\$324,500.00

6. Department's Grant Manager Name: **Karen Milicic** or successor Address: **Beach Management Funding Assistance
2600 Blair Stone Road, MS #3601
Tallahassee, Florida 32399** Phone: **850-245-8355** Email: **Karen.Milicic@FloridaDEP.gov**
- Grantee's Grant Manager Name: **Robert Weber** or successor Address: **Town of Palm Beach
951 Okeechobee Road, Suite A
West Palm Beach, Florida 33401** Phone: **561-838-5440** Email: **rweber@townofpalmbeach.com**

7. The Parties agree to comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated by reference:

☒ Attachment 1: Standard Terms and Conditions Applicable to All Grants Agreements
☒ Attachment 2: Special Terms and Conditions
☒ Attachment 3: Grant Work Plan
☒ Attachment 4: Public Records Requirements
☒ Attachment 5: Special Audit Requirements
☐ Attachment 6: Program-Specific Requirements
☐ Attachment 7: Grant Award Terms (Federal) *Copy available at https://facts.fldfs.com , in accordance with §215.985, F.S.
☐ Attachment 8: Federal Regulations and Terms (Federal)
☐ Additional Attachments (if necessary):
☒ Exhibit A: Progress Report Form
☐ Exhibit B: Property Reporting Form
☒ Exhibit C: Payment Request Summary Form
☐ Exhibit D: Quality Assurance Requirements for Grants
☐ Exhibit E: Advance Payment Terms and Interest Earned Memo
☐ Additional Exhibits (if necessary):

8. The following information applies to Federal Grants only and is identified in accordance with 2 CFR 200.331(a)(1):

Federal Award Identification Number(s) (FAIN):	
Federal Award Date to Department:	
Total Federal Funds Obligated by this Agreement:	
Federal Awarding Agency:	
Award R&D?	☐ Yes ☐ N/A

IN WITNESS WHEREOF, this Agreement shall be effective on the date indicated by the Agreement Begin Date above or the last date signed below, whichever is later.

Town of Palm Beach

GRANTEE

Grantee Name

By

(Authorized Signature)

Date Signed

Print Name and Title of Person Signing

State of Florida Department of Environmental Protection

DEPARTMENT

By

Secretary or Designee

Date Signed

Print Name and Title of Person Signing

☒ Additional signatures attached on separate page.

ORCP Additional Signatures

DEP Grant Manager

DEP QC Reviewer

Local Sponsor may add additional signatures if needed below.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD TERMS AND CONDITIONS
APPLICABLE TO GRANT AGREEMENTS**

ATTACHMENT 1

1. Entire Agreement.

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

2. Grant Administration.

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
- i. Standard Grant Agreement
 - ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
 - iii. Attachment 1, Standard Terms and Conditions
 - iv. The Exhibits in the order designated in the Standard Grant Agreement
- b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.
- c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.
- d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
- (1) an increase or decrease in the Agreement funding amount;
 - (2) a change in Grantee's match requirements;
 - (3) a change in the expiration date of the Agreement; and/or
 - (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.
- A change order to this Agreement may be used when:
- (1) task timelines within the current authorized Agreement period change;
 - (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
 - (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
 - (4) fund transfers between budget categories for the purposes of meeting match requirements.
- This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
- e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

Attachment 1

1 of 12

4. Deliverables.

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

5. Performance Measures.

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

6. Acceptance of Deliverables.

- a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

- a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.
- b. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.
 - i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.
 - ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement

the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

- iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

8. Payment.

- a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with Section 215.422, Florida Statutes (F.S.).
- b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.
- d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address:
<https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.
- e. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.
- f. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.
- g. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.
- h. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.
- i. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to:
www.myfloridacfo.com/Division/AA/Vendors/default.htm.
- j. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

9. Documentation Required for Cost Reimbursement Grant Agreements and Match.

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

- a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.

Attachment 1

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- b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
- c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
 - i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.
 - ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
- d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with Section 112.061, F.S.
- e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing \$5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form.
- f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
- g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.
- h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting

acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form, to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

11. Retainage.

The following provisions apply if Department withholds retainage under this Agreement:

- a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
- b. If Grantee fails to perform the requested work, or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
- c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.
- d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage *prior to* performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

13. Termination.

- a. Termination for Convenience. When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.
- b. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other

obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

- c. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
- d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
- e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

15. Events of Default.

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
- b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
- c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
- d. Failure to honor any term of the Agreement;
- e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
- f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;
- g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
- h. Failure to maintain the insurance required by this Agreement;
- i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
 - i. Entry of an order for relief under Title 11 of the United States Code;
 - ii. The making by Grantee of a general assignment for the benefit of creditors;
 - iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or
 - iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

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16. Suspension of Work.

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

17. Force Majeure.

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Grantee shall perform at no increased cost, unless Department determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate Agreement in whole or in part.

18. Indemnification.

- a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
 - i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
 - ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.
- b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
- c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.
- d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or

otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of \$100,000.

20. Remedies.

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

21. Waiver.

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

- a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to Sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
 - i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
 - ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
 - iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.
 - iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

- a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Scrutinized Companies.

- a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- c. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

25. Lobbying and Integrity.

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to Section 216.347, F.S., except that pursuant to the requirements of Section 287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with Sections 11.062 and 216.347, F.S.

26. Record Keeping.

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee's integrity or responsibility. Such information may include, but shall not be limited to, Grantee's business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).

27. Audits.

- a. Inspector General. The Grantee understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
- b. Physical Access and Inspection. Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
 - i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;

- ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
- iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
- c. **Special Audit Requirements.** The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.330 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: <https://apps.fldfs.com/fsaa>.
- d. **Proof of Transactions.** In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.
- e. **No Commingling of Funds.** The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
 - i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.
 - ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.
 - iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

28. Conflict of Interest.

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

29. Independent Contractor.

The Grantee is an independent contractor and is not an employee or agent of Department.

30. Subcontracting.

- a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.
- b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.

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- c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.
- e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.
- f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

31. Guarantee of Parent Company.

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

32. Survival.

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

33. Third Parties.

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

34. Severability.

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

35. Grantee's Employees, Subcontractors and Agents.

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

36. Assignment.

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

37. Compensation Report.

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual

reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

38. Execution in Counterparts and Authority to Sign.

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Terms and Conditions
AGREEMENT NO. 22PB12**

ATTACHMENT 2

These Special Terms and Conditions shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, these more specific terms shall apply.

1. Scope of Work.

The Project funded under this Agreement is the Lake Worth IMP Implementation. The Project is defined in more detail in Attachment 3, Grant Work Plan.

2. Duration.

- a. Reimbursement Period. The reimbursement period for this Agreement is the same as the term of the Agreement.
- b. Extensions. There are extensions available for this Project.
- c. Service Periods. Additional service periods are not authorized under this Agreement.

3. Payment Provisions.

- a. Compensation. This is a cost reimbursement Agreement. The Grantee shall be compensated under this Agreement as described in Attachment 3.
- b. Invoicing. Invoicing will occur as indicated in Attachment 3.
- c. Advance Pay. Advance Pay is not authorized under this Agreement.

4. Cost Eligible for Reimbursement or Matching Requirements.

Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated:

<u>Reimbursement</u>	<u>Match</u>	<u>Category</u>
☐	☐	Salaries/Wages
		Overhead/Indirect/General and Administrative Costs:
☐	☐	a. Fringe Benefits, N/A.
☐	☐	b. Indirect Costs, N/A.
☒	☐	Contractual (Subcontractors)
☐	☐	Travel, in accordance with Section 112, F.S.
☐	☐	Equipment
☐	☐	Rental/Lease of Equipment
☐	☐	Miscellaneous/Other Expenses
☐	☐	Land Acquisition

5. Equipment Purchase.

No Equipment purchases shall be funded under this Agreement.

6. Land Acquisition.

There will be no Land Acquisitions funded under this Agreement.

7. Match Requirements

See Attachment 3, Grant Work Plan.

8. Insurance Requirements

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the

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Agreement. Grantee shall provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Comprehensive General Liability Insurance.

The Grantee shall provide adequate comprehensive general liability insurance coverage and hold such liability insurance at all times during the Agreement. The minimum limits shall be \$200,000 for each person and \$300,000 per occurrence.

b. Commercial Automobile Insurance.

If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The minimum limits shall be as follows:

\$200,000/300,000

Automobile Liability for Company-Owned Vehicles, if applicable

\$200,000/300,000

Hired and Non-owned Automobile Liability Coverage

c. Workers' Compensation.

The Grantee shall comply with the workers' compensation requirements of Chapter 440, F.S.

d. Other Insurance. None.

9. Quality Assurance Requirements.

There are no special Quality Assurance requirements under this Agreement.

10. Retainage.

Retainage is permitted under this Agreement. Retainage may be up to a maximum of 10% of the total amount of the Agreement.

11. Subcontracting.

The Grantee may subcontract work under this Agreement without the prior written consent of the Department's Grant Manager except for certain fixed-price subcontracts pursuant to this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

12. State-owned Land.

The Board of Trustees of the Internal Improvement Trust Fund must be listed as additional insured to general liability insurance required by the Agreement and, if the Grantee is a non-governmental entity, indemnified by the Grantee.

13. Office of Policy and Budget Reporting.

There are no special Office of Policy and Budget reporting requirements for this Agreement.

14. Additional Terms.

None.

ATTACHMENT 3 GRANT WORK PLAN

PROJECT TITLE: Lake Worth IMP Implementation

PROJECT LOCATION: The Project is located between Department of Environmental Protection (Department or DEP) reference monuments R75 and R76 along the Atlantic Ocean in the Town of Palm Beach in Palm Beach County, Florida.

PROJECT BACKGROUND: The Project is a federally-authorized and maintained inlet located in Palm Beach County. A fixed sand transfer plant (STP) was constructed on the north jetty in 1958. The Lake Worth Inlet Management Plan was adopted in 1996. A subsequent sediment budget study was completed in 2000, recommending an annual bypassing objective of 202,000 cubic yards of sand. The STP was reconstructed in 2010, replacing the diesel-powered pump with an electric pump. Federal maintenance dredging occurs every year to maintain required navigational clearances with placement of beach-compatible material on downdrift beaches when possible. Sand forepassing of inlet-dredged sand to dunes between R78 and R82.2 in Reach 2 is to be conducted after the next dredging event. Annual monitoring is conducted as required in the Palm Beach Island Beach Management Agreement.

PROJECT DESCRIPTION: The Project consists of monitoring.

PROJECT ELIGIBILITY: The Department has determined that 100 percent of the non-federal Project cost is eligible for state cost sharing. Therefore, the Department's financial obligation shall not exceed the sum of \$324,500.00 for this Project or up to 50 percent of the non-federal Project cost, if applicable, for the specific eligible Project items listed, whichever is less. Any indicated federal cost sharing percentage is an estimate and shall not affect the cost sharing percentages of the non-federal share. The parties agree that eligibility for cost sharing purposes will be maintained pursuant to 62B-36, Florida Administrative Code (F.A.C.).

The Local Sponsor will be responsible for auditing all travel reimbursement expenses based on the travel limits established in Section 112.061, Florida Statute (F.S.).

Pursuant to Sections 161.091 - 161.161, F.S., the Department provides financial assistance to eligible governmental entities for beach erosion control and inlet management activities under the Florida Beach Management Funding Assistance Program.

Pursuant to 62B-36.005(2)(d), F.A.C., the Local Sponsor has resolved to support and serve as local sponsor, has demonstrated a financial commitment, and has demonstrated the ability to perform the tasks associated with the beach erosion control project as described herein.

The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at:

<https://floridadep.gov/sites/default/files/PhysicalMonitoringStandards.pdf>

One (1) electronic copy of all written reports developed under this Agreement shall be forwarded to the Department, unless otherwise specified.

Acronyms:

DEP – Florida Department of Environmental Protection
F.A.C. – Florida Administrative Code
F.S. – Florida Statutes
FWC – Florida Fish and Wildlife Conservation Commission
IMP – Inlet Management Plan
STP – Sand Transfer Plant

TASKS and DELIVERABLES:

The Local Sponsor will provide detailed scopes of work or a letter requesting advance payment if authorized by Attachment 2, for all tasks identified below, which shall include a narrative description of work to be completed, a corresponding cost estimate and a proposed schedule of completion for the proposed work and associated deliverables. Each scope of work shall be approved in writing by the DEP Project Manager to be included into this work plan for reimbursement.

Task 1: Monitoring

State and federal monitoring required by permit is eligible for reimbursement pursuant to program statute and rule. In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with Section 287.057(17)(a)(1), F.S., all monitoring data and statistical analysis must be provided directly and concurrently from the monitoring contractor to the Department/Local Sponsor permittee/engineering consultant. The Local Sponsor's engineering consultant must provide an adequate mitigation plan, consistent with Section 287.057(17)(a)(1), F.S., including a description of organizational, physical, and electronic barriers to be used by the Local Sponsor's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for Project engineering and post-construction environmental monitoring services, or when the Project engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources. Department approval of the consultant's mitigation plan will be required prior to execution of this Agreement. If at any time the Local Sponsor and/or its engineering consultant fails to comply with this provision, the Local Sponsor agrees to reimburse the Department all funds provided by the Department associated with environmental monitoring for the Project listed.

Task Description: This task includes activities associated with permit-required monitoring conducted in accordance with the conditions specified by state or federal regulatory agencies. All monitoring tasks must be located within or adjacent to the Project area and follow the Department's Regional Coastal Monitoring Program and FWC's marine turtle and shorebird monitoring programs. Guidance for monitoring of nearshore resources is available in the Department's Standard Operation Procedures For Nearshore Hardbottom Monitoring Of Beach Nourishment Projects. The Local Sponsor must submit work products directly to the appropriate state or federal regulatory agencies in accordance with permit conditions to be eligible for reimbursement under this task, unless otherwise directed.

Deliverable: For each interim or final payment, the Local Sponsor will provide a Task Summary Report signed by Local Sponsor containing; 1) An itemized listing of all monitoring activities completed or in progress during the payment request period and, 2) Documentation of submittal to state and federal regulatory agencies of completed monitoring data, surveys and final reports for permit-required work under this task description.

Performance Standard: The DEP Project Manager will review the task deliverable and any associated work products as necessary to verify they meet the specifications in the Grant Work Plan and this task description.

Payment Request Schedule: Payment requests may be submitted after the deliverable is received and accepted and may be submitted no more frequently than quarterly.

Estimated Eligible Project Cost

Task #	Eligible Project Tasks	State Cost Share (%)	Federal Estimated Project Costs	DEP	Local	Total
1	Monitoring	50.00%		\$324,500.00	\$324,500.00	\$649,000.00
	TOTAL PROJECT COSTS			\$324,500.00	\$324,500.00	\$649,000.00

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by, and all deliverables received by, the corresponding deliverable due date.

Task No.	Task Title	Budget Category	Budget Amount	Task Start Date	Deliverable Due Date
1	Monitoring	Contractual Services	\$324,500.00	07/01/2021	09/30/2024
Total:			\$324,500.00		

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements**

Attachment 4

1. Public Records.

- a. If the Agreement exceeds \$35,000.00, and if Grantee is acting on behalf of Department in its performance of services under the Agreement, Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if Grantee refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term "contract" means the "Agreement." If Grantee is a "contractor" as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

- a. Keep and maintain Public Records required by Department to perform the service.
- b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. 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 contractor does not transfer the Public Records to Department.
- e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department's custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

- f. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT:**

Telephone: (850) 245-2118

Email: public.services@floridadep.gov

Mailing Address: Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

Attachment 4

1 of 1

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Audit Requirements
(State and Federal Financial Assistance)**

Attachment 5

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at www.cfda.gov

Attachment 5

1 of 6

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

Attachment 5

2 of 6

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director
Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

- B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director
Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Attachment 5

3 of 6

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program A	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	
Federal Program B	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program A	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original	Florida Department of Environmental Protection	21-22	37.003	Beach Management Funding Assistance	324,500.00	140126
State Program B	State Awarding Agency	State Fiscal Year ²	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award	\$324,500.00
-------------	--------------

Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [www.cfda.gov] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

¹ Subject to change by Change Order.

² Subject to change by Change Order.

EXHIBIT A

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT – PART III
QUARTERLY PROJECT PROGRESS REPORT

Name of Project: _____

Local Sponsor: _____

DEP Agreement Number: _____

Report Year: _____

Report Period (select one):

☐ Q1: Jan – Mar 31 ☐ Q2: Apr – Jun 30 ☐ Q3: Jul – Sep 30 ☐ Q4: Oct – Dec 31

For each task, include the following information: Describe the work performed during the reporting period (including percent of task completed to date), problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. (*Use additional pages, if needed*).

Task 1: _____

Task 2: _____

Task 3: _____

Task 4: _____

EXHIBIT C

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART I – PAYMENT SUMMARY

Name of Project: Lake Worth IMP Implementation

Local Sponsor: Town of Palm Beach

DEP Agreement Number: 22PB12

Remittance Mailing Address: _____

Billing Number: _____

Billing Type: ☐ Interim Billing ☐ Final Billing

Costs Incurred This Payment Request:

Federal Share*	State Share	Local Share	Total
\$ _____	\$ _____	\$ _____	\$ _____

*if applicable

Cost Summary:

State Funds Obligated
\$ _____

Local Funds Obligated
\$ _____

Less Advance Pay
\$ _____

Less Advance Pay
\$ _____

Less Previous Payment
\$ _____

Less Previous Credits
\$ _____

Less Previous Retained
\$ _____

Less This Credit
\$ _____

Less This Payment
\$ _____

Local Funds Remaining
\$ _____

Less This Retainage
\$ _____

State Funds Remaining
\$ _____

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART II – REIMBURSEMENT DETAIL**

DEP Agreement Number: _____
Name of Project: _____
Billing Number: _____
Billing Period (1): _____

Individual Completing Form (2): _____
Phone Number (2): _____

REIMBURSEMENT DETAIL

Item #	Vendor Name	Invoice Number	Invoice Date	Check Number	Task Number (3)	SOW Number (3)	Invoice Amount (4)	Eligible Amount (5)	% Fed Share (6)	Federal Share of Eligible Amount (7)	Non-Federal Share (8)	% State Share (9)	State Share (10)	Local Share (11)	Requested Retainage Payment (12)	Withheld Retainage (13)	State Payment (14)
										-	-		\$0.00	0.00		0.00	0.00
									-	Totals	-		-	-	-	-	-

Total Due to Local Sponsor (15) _____

Form Instructions:

1. Billing Period: Period when services were conducted (beginning date: earliest date of services conducted; end date: latest date of services conducted).
2. Person responsible for completing this form: Name and phone number if contact is needed.
3. Task #/SOW #: Insert a Task #/SOW # for each invoice. If invoice covers multiple Task#/SOW#, then that invoice should be listed multiple times, a line item for each deliverable.
4. Invoice amount: Full amount of invoice.
5. Eligible Amount: Invoice amount paid by Local Sponsor less ineligible cost for line item deliverable only.
6. % Federal Share: If applicable, the federal cost share percentage listed in Agreement.
7. Federal Share of Eligible Amount: If applicable, Local Sponsor will multiply Eligible Amount (5) by % Federal Share (6).
8. Non-Federal Share: Eligible Amount (5) minus Federal Share of Eligible Amount (7).
9. % State Share: The state cost share percentage listed in Agreement.
10. State Share: Multiply Non-Federal Share (8) by % State Share (9).
11. Local Share: Subtract State Share (10) from Non-Federal Share (8).
12. Requested Retainage Payment: Requires separate line for each completed Task, Sub-Task and or Deliverable that retainage is being requested.
13. Withheld Retainage: Multiply State Share (10) by 10%.
14. State Payment: Subtract Withheld Retainage (13) from State Share (10).
15. Total Due to Local Sponsor: Add Retainage Payment Total (12) to State Payment Total (14).

Please redact all sensitive financial information from the invoices and other supporting documentation to be submitted with this Payment Request Form.
**For questions or concerns regarding this form please contact: Janice Simmons, Fiscal Administrator, 850-245-7620, Janice.L.Simmons@FloridaDEP.gov

DEP Agreement No. 22PB12, Exhibit C, Page 2 of 5

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART III – INVOICE REPORT**

Name of Project: Lake Worth IMP Implementation

Local Sponsor: Town of Palm Beach

DEP Agreement Number: 22PB12

Billing Number: _____

Invoice Report Period: _____

(Describe progress accomplished during the invoice report period, including statement(s) regarding percent of task completed to date.). **NOTE:** Use as many pages as necessary to cover all tasks in the Grant Work Plan.

The following format should be followed:

Task 1:

Progress for this invoice billing period:

Identify any delays or problems encountered:

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART IV – CERTIFICATION OF DISBURSEMENT REQUEST**

Name of Project: Lake Worth IMP Implementation

Local Sponsor: Town of Palm Beach

DEP Agreement Number: 22PB12

Billing Number: _____

Certification: I certify that this billing is correct and is based upon actual obligations of record by the Local Sponsor; that payment from the State Government has not been received; that the work and/or services are in accordance with the Department of Environmental Protection, Beach Management Funding Assistance Program's approved Project Agreement including any amendments thereto; and that progress of the work and/or services are satisfactory and are consistent with the amount billed. The disbursement amount requested on Page 1 of this form is for allowable costs for the project described in the Attachment 3, Grant Work Plan.

I certify that the purchases noted were used in accomplishing the project; and that invoices, check vouchers, copies of checks, and other purchasing documentation are maintained as required to support the cost reported above and are available for audit upon request.

Name of Project Administrator

Signature of Project Administrator

Date

Name of Project Financial Officer

Signature of Project Financial Officer

Date

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FLORIDA BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT
PART V – COMPLETION CERTIFICATION**

Name of Project: Lake Worth IMP Implementation

Local Sponsor: Town of Palm Beach

DEP Agreement Number: 22PB12

Task Completion ☐ (List Tasks) _____

Agreement Completion ☐

*I hereby certify that the above mentioned project task(s) has been completed in accordance with the Project Agreement, including any amendments thereto, between the DEPARTMENT and LOCAL SPONSOR, and all funds expended for the project were expended pursuant to this Agreement. All unused funds and interest accrued on any unused portion of advanced funds which have not been remitted to the DEPARTMENT, have been returned to the DEPARTMENT, or will be returned to the DEPARTMENT within sixty (60) days of the completion of construction portion of this PROJECT. Unused funds advanced to the United States Army Corps of Engineers through LOCAL SPONSORS will be due sixty (60) days after the final federal accounting has been completed.

Name of Project Manager

Signature of Project Manager

Date

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

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

RE: Coastal Resiliency Implementation Plan

DATE: August 19, 2021

STAFF RECOMMENDATION

Woods Hole Group (WHG) will be making a presentation of their draft final report and will request any final input from both Town Council and the public. Town staff requests the Town Council provide any additional input on the report as deemed necessary and provide direction to staff regarding next steps.

GENERAL INFORMATION

In 2013, WHG completed a technical review of the proposed Coastal Management Program and provided input directly to Town Council prior to Town Council's adoption of the 10-Year plan. While their report identified recommended projects for each respective reach along the shoreline, the report also included island-wide recommendations that extended through multiple reaches.

One of the island-wide recommendations was to perform a flooding vulnerability assessment. The purpose of the assessment was to supplement the Town's Comprehensive Coastal Management Plan (CCMP) with the identification of areas presently at high risk of storm damage and flood, and areas potentially more at risk in the future.

Following a unanimous recommendation from the Shore Protection Board (SPB) on October 27, 2016, Town Council awarded a contract to WHG in December 2016 to perform a Coastal Vulnerability Assessment. WHG presented the results of the study at the January 24, 2019 SPB meeting. Following input from both the SPB and Town Council, the Town's Coastal Flood Vulnerability Assessment report was published in July 2019. The report includes tables of ranked Town assets potentially at risk and maps of present and future flood risk probability. In December 2019, Town Council awarded a contract to WHG to develop this implementation plan. WHG has worked with Town staff, and consulted with both Florida Division of Emergency Management and FDEP, since 2019, to ensure that the implementation plan is consistent with FEMA floodplain mapping and FDEP adaptation planning guidelines.

Bob Hamilton, President, and Nasser Brahim, Senior Climate Resiliency Specialist of WHG, will present their draft final implementation plan during the September 14, 2021 regular Town Council meeting and will solicit any final comments from both Town Council and the public. Following input from Town Council and the public on September 14, WHG will finalize the draft report and submit the final report to the Town. Attached is the draft final report.

The implementation plan includes several recommended actions for Town Council to consider in the near- and medium-term. These next steps may include:

ITEM	STAFF RECOMMENDATION
(1) Make applicable adaptations to capital improvement projects	Recommend that Town Council sends this to the Public Works Committee for review and recommendations to Town Council.
(2) Make adjustments to add recommended resiliency features to applicable project and program budgets starting with FY 2023	Staff to address in the FY2023 budget process and present recommendations to Town Council.
(3) Submit for all eligible state and federal grant assistance for added resiliency of capital improvement projects	Initial State Grant request submitted. This will be an on-going effort.
(4) Prioritize and provide policy changes of Town Code and Comprehensive Plan to Town Council for review and approval	Staff to itemize policy issues and present to Town Council, at future meetings.
(5) Create a phased water level monitoring plan to collect data in continued refinement of resiliency implementation	Staff to research. Recommend that Town Council send this to a future Public Works Committee meeting.

FUNDING/FISCAL IMPACTS

The cost of executing the implementation plan to address risk of public infrastructure will be developed after review and input from Town Council.

Attachments

cc: Jay Boodheshwar, Deputy Town Manager
H. Paul Brazil, P.E., Director of Public Works
Patricia Strayer, P.E., Town Engineer
Bob Hamilton, Woods Hole Group, Inc.

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Regular Agenda - New Business

Agenda Title

Proposed 2022 Town Council Meeting Schedule

Presenter

Kirk W. Blouin, Town Manager

ATTACHMENTS:

- ▣ **Memorandum Dated August 27, 2021, from Kirk W. Blouin, Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

To: Mayor and Town Council

From: Kirk W. Blouin, Town Manager

Re: Adoption of the 2022 Town Council Meeting Schedule

Date: August 27, 2021

STAFF RECOMMENDATION

Staff recommends the Town Council adopt the 2022 meeting schedule as modified below, along with any other modifications that may be acceptable to the majority.

GENERAL INFORMATION

Staff requests Town Council approve the following 2022 Town Council meeting schedule below:

JANUARY 11 AND 12	JULY 12 AND 13
FEBRUARY 8 AND 9	AUGUST 9 AND 10
MARCH 1 AND 2 ⁽¹⁾ MARCH 8 AND 9 (if no municipal election)	SEPTEMBER 13 AND 14
APRIL 12 AND 13	OCTOBER 11 AND 12
MAY 10 AND 11	NOVEMBER 8 AND 9
JUNE 14 AND 15	DECEMBER 13 AND 14

- (1) Staff recommends scheduling the March Town Council meeting on Tuesday, March 1, 2022, and Wednesday, March 2, 2022 due to the Town's general election occurring on Tuesday, March 8, 2022 from 7:00 a.m. to 7:00 p.m. The swearing in of newly elected official(s) and adoption of the certified election results will take place at the regular Town Council meeting immediately following the Town election.

The six (6) Jewish holidays listed below are dates that should be avoided when scheduling public meetings.

Purim	Thursday, March 17, 2022
Passover	Friday, April 15, 2022 (First night of Passover) and Friday, April 22, 2022
Shavuot	Monday, June 6, 2022
Rosh Hashanah	Tuesday, September 27, 2022 (last night)
Yom Kippur	Wednesday, October 5, 2022
Sukkot	Monday, October 10 and Tuesday, October 11, 2022

Board/Commission liaisons should work to reschedule any meetings that conflict with the above noted holidays.

KWK:QN:pgg

cc: Department Directors
John C. Randolph, Town Attorney

TOWN OF PALM BEACH

Town Council Meeting on: September 14, 2021

Section of Agenda

Ordinances - Second Reading

Agenda Title

Modification of Beach Access Hours and Inclusion of Root Trail as a Public Access Point

ORDINANCE NO. 21-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 74 of the Town's Code of Ordinances by Amending Article V, Beach Access Closure to Include the Beach Access Point at Root Trail as Public; Providing For Closure from Sunset to Sunrise Daily; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- ▢ **Memorandum Dated September 6, 2021 From Jay Boodheshwar, Deputy Town Manager**
- ▢ **Memorandum Dated August 31, 2021 From Paul Brazil, Director of Public Works**
- ▢ **Ordinance No. 21-2021**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 14, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Modification of Beach Access Hours and Inclusion of Root Trail as a Public Access Point
Ordinance No. 21-2021

Date: September 6, 2021

STAFF RECOMMENDATION

Staff recommends the Town Council adopt Ordinance No. 21-2021 on second reading, modifying beach access hours and including Root Trail as a public access location, and provide additional direction for implementation as necessary.

GENERAL INFORMATION

At the August 11, 2021, Town Council meeting, Ordinance No. 21-2021 (attached) was approved on first reading. At said meeting, staff was asked to provide information, relative to how beach access locations are currently managed, in terms of fencing and gates, and provide information regarding how staff intended on securing the Root Trail access point.

Please see the memo dated August 31, 2021, from Paul Brazil, Director of Public Works. Contained within is information relating to the commitment from Ocean Towers to partner with the Town in securing their private portion of the Root Trail access point, along with the information requested by Council for the other beach access locations within the Town.

Attachments

cc: Carolyn Stone, Assistant Town Manager
Department Directors
John Randolph, Town Attorney



MEMORANDUM

TO: Jay Boodheshwar, Deputy Town Manager

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

RE: Root Trail Beach Access Update, and Existing Beach Access Review

DATE: August 31, 2021

The following includes an update regarding Root Trail Beach Access as it pertains to Ocean Towers property and a summary of existing public beach accesses.

On August 20 2021, the Town of Palm Beach staff met with the General Manager and President of Ocean Towers Condominium to discuss proposed fencing and gates that are to be installed on the northern 10'-0" +/- of public beach access at Root Trail. Discussions continued to Ocean Towers Condominium southern 10'-0" +/- property and their desire to continue the fencing to their portion the access. The proposed fencing will match Town standard for this area, bronze, 4'-0" three (3)-rail fencing and gates with coastal coating for added durability.

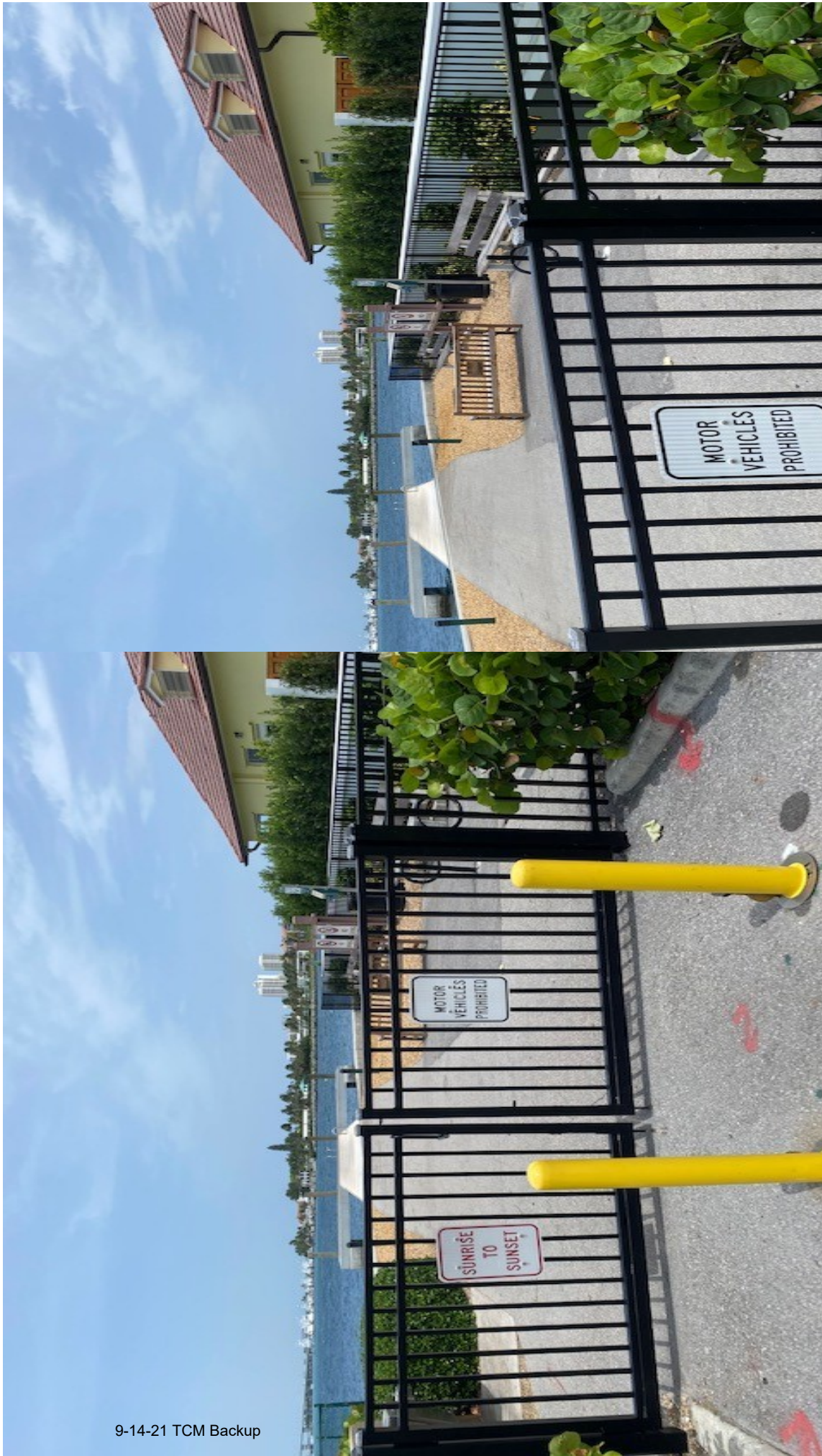
The Association of Ocean Towers has agreed to collaborate with the Town of Palm Beach to secure the entire beach access at the east-end of Root Trail and North Ocean Boulevard. The Association of Ocean Towers will provide the Town funding for their portion of proposed fencing. The Town of Palm Beach will manage all fabrication, permitting, and installation of fencing and gates for both the Town and Ocean Towers properties at Root Trail.

The Town will be granted property access in writing by the Association of Ocean Towers for any pre-installation and installation access as needed. Furthermore, the Association of Ocean Towers can remove their fencing at any time the Association deems necessary to maintain and/or gain access to their property. The Town of Palm Beach is excluded from all maintenance, vandalism, acts of God, etc., to this portion of fencing, and is the sole responsibility of the Association of Ocean Towers.

The Town currently has twelve (12) accesses (*Inlet Dock, Angler Avenue, Merrain Road, Kenlyn Road, Palmo Way, Wells Road, Dunbar Road, Sunset Avenue, Clarke Avenue, Brazilian Avenue, Chilean Avenue and Gulfstream Road*) that have fencing and gates installed.

The Town has a total of 24 public beach accesses from the Inlet to Phipps Ocean Park (photos attached). The amenity's at these assesses range from chilled water drinking fountain (Inlet Dock), 650' meandering path though trees, bushes, and ground cover (Mediterranean) to a sandy pathway to the Atlantic (Root Trail).

cc: Paul Colby, Facility Maintenance Division Manager
Mark DeCosta, Facility Maintenance Supervisor



Inlet Access

- Waste Container (1)
- Benches (3)
- Bicycle rack
- Signs– No littering, no motor vehicles, access hrs, no diving, no swimming
- Fence and gate
- Drinking fountain
- Doggy station



9-14-21 TCM Backup



Indian Road Beach Access

- Dirt Path 650' to sand
- Waste Container (1)
- Carry baskets
- Sign- No littering
- No gate



Arabian Road Beach Access

- Dirt path 650' to sand
- Waste Container (1)
- Recycle Container (1)
- Signs– No littering
- No gate



Caribbean Road Beach Access

- Dirt Path 650' to sand
- Waste Container (1)
- Recycle Container (1)
- Sign— No littering
- No gate



9-14-21 TCM Backup

Mediterranean Road Beach Access

- Dirt Path 650' to sand
- Waste Container (1)
- Signs– No Parking
- No gate



9-14-21 TCM Backup

Angler Ave Beach Access

- Waste Container (1)
- Sand path
- Fence and gate



Merrain Road Beach Access

- Patio stones
- Wood steps
- Waste Container (1)
- Residents added shower, furniture, turf, irrigation and gate

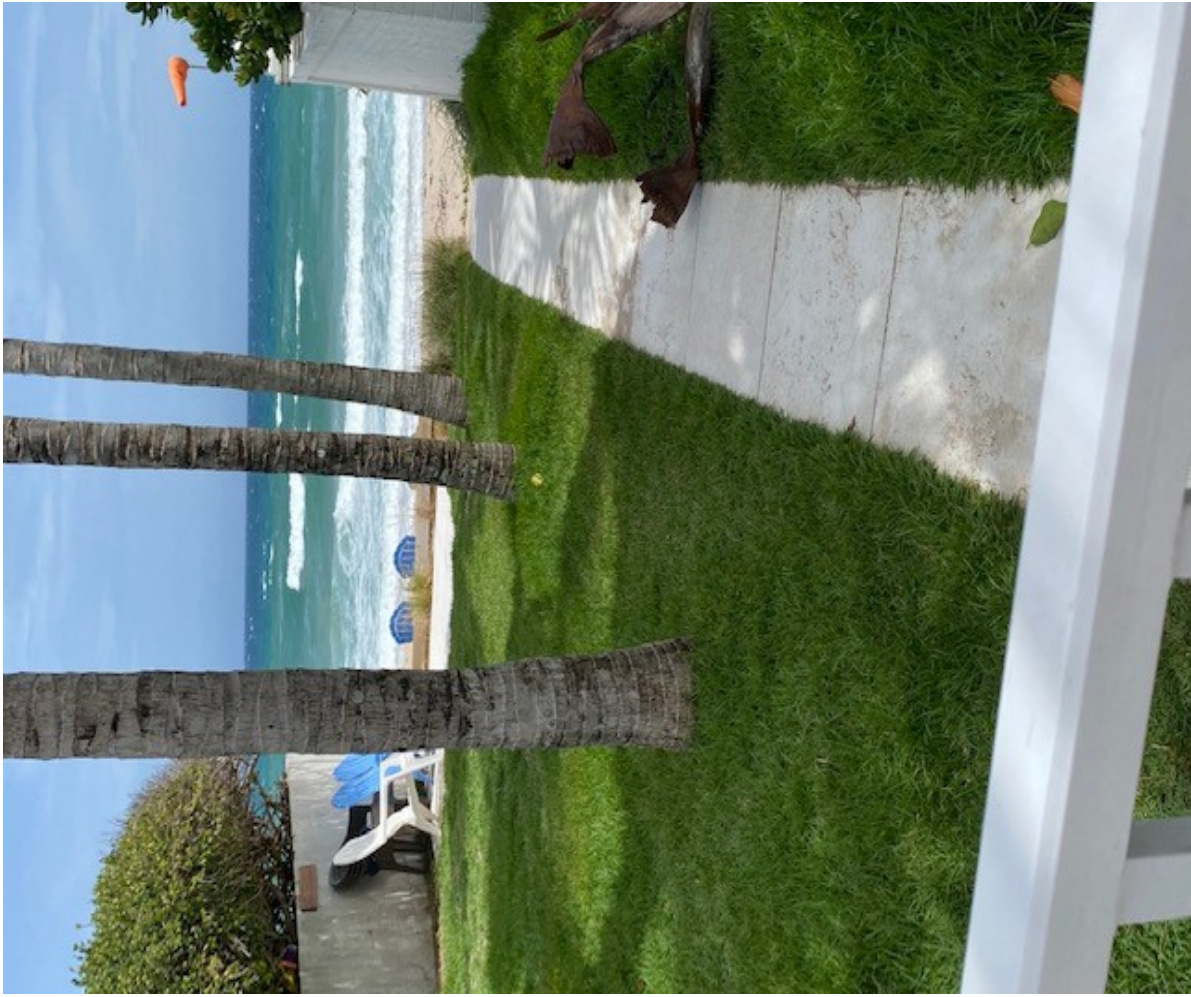


9-14-21 TCM Backup



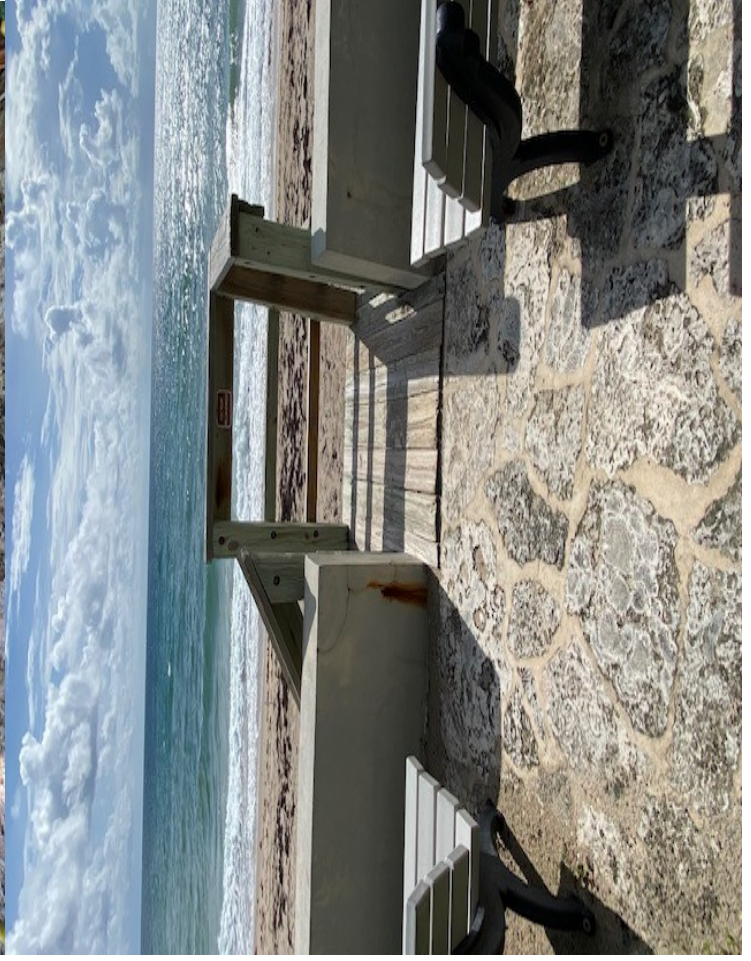
Kenlyn Road Beach Access

- Patio stones
- Residents provided shower, furniture, turf and irrigation
- Waste Container (1)
- Fencing and gate



Palmo Way Beach Access

- Patio stones
- Waste Container (1)
- Fencing and gate
- Residents provided shower, furniture, turf and irrigation



La Puerta Way Beach Access

- Coquina Stone walkway
- Waste Container (1)
- Residents provided concrete table
- Benches (2)
- Wood fencing, gate and steps
- Residents installed shower



El Pueblo Way Beach Access

- Patio stone walkway
- Waste Container (1)
- Residents installed shower and provided concrete tables
- Benches (2)
- Wood fencing and gate have been removed. wood steps



9-14-21 TCM Backup



Ocean Lane Beach Access

- Concrete steps in front, Wood steps in back.
- Mat walkway



Wells Road Beach Access

- Patio stone path
- Wood steps in back
- Waste container (1)
- Doggy station
- Signs: TOPB beach access, no parking
- Fencing and gate



9-14-21 TCM Backup



Dunbar Road Beach Access

- Patio stone path
- Waste container (1)
- Doggy station
- Signs: TOPB beach access and hours, no parking, dogs on leashes
- Residents added turf and irrigation
- Fencing and gate

Root Trail Beach Access

- Waste container (2)
- Doggy station
- Signs: no standing, no parking, no stopping at any time
- No fencing or gate





9-14-21 TCM Backup



Sunset Ave Beach Access

- Paver stone and sand path
- Waste container (1)
- Signs: TOPB beach access, no parking, dogs on leash
- Fencing and gate



9-14-21 TCM Backup



Clarke Ave Beach Access

- Paver stones and wood steps
- Waste container (1)
- Recycle container (1)
- Signs: TOPB beach access and hours, no dogs
- Wood fence, metal gate



Brazilian Ave Beach Access

- Wood steps
- Waste Container (2)
- Recycle Container (1)
- Wood benches (2)
- Gate



9-14-21 TCM Backup



Chilean Ave Beach Access

- Wood ADA ramp
- Waste container (2)
- Recycle container (1)
- Wood benches (2)
- Bike rack
- Signs: TOPB beach access, parking kiosk, wheel chair accessible, life guard rules and warning flag
- Doggy station
- Gate

Gulfstream Road Beach Access

- Wood steps
- Waste container (1)
- Recycle container (1)
- Gate
- Signs: TOPB beach access and hours, unguarded warning, no alcohol, no dogs





9-14-21 TCM Backup



#1 Phipps Ocean Park Beach Access

- Wood steps
- Waste Container (1)
- Shower
- Signs: Lifeguard rules, TOPB beach access and hours, warning flag, no alcohol, no dogs
- No gate
- Tiki Hut to the left of access



9-14-21 TCM Backup

#2 Phipps Ocean Park Beach Access

- ADA Ramp and wood steps
- Tiki Hut
- Waste Container (1)
- Shower
- Benches (3)
- Signs: Lifeguard rule sign
- No gate



#3 Phipps Ocean Park Beach Access

- Wood steps
- Waste Container (1)
- Shower
- Signs: Lifeguard rules
- No gate
- Tiki Hut to the right of access



#4 Phipps Ocean Park Beach Access

- Wood steps
- Waste Container (2)
- Shower
- Signs: Lifeguard rules, warning flag, no alcohol, no dogs, TOPB beach access and hours
- No gate
- Tiki Hut to the left of access

ORDINANCE NO. 21-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 74 OF THE TOWN'S CODE OF ORDINANCES BY AMENDING ARTICLE V, BEACH ACCESS CLOSURE TO INCLUDE THE BEACH ACCESS POINT AT ROOT TRAIL AS PUBLIC; PROVIDING FOR CLOSURE FROM SUNSET TO SUNRISE DAILY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the street ends from Wells Road to Sunset Avenue which includes Wells Road, Dunbar Road, and Sunset Avenue, which provide access to the public beach are dedicated to the use of the public; and

WHEREAS, the beach access point at the end of Root Trail has also been dedicated for public use; and

WHEREAS, although the Town recognizes the right of the public to use said access points to the public beach, it has become necessary for the safety and protection of Town residents and the public to close said access points from sunset to sunrise daily; and

NOW, THEREFORE, be it ordained as follows:

Section 1. Chapter 74 of the Town's Code of ordinances titled Parks and Recreation is hereby amended at Article V titled 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 ~~9:30 P.M. to 5:30 A.M.~~ sunset to sunrise the following day.
2. The Town Manager or the Town Manager's designee is authorized to post signs at said access points setting forth the prohibition set forth above.
3. Any person 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. 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. All ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall be codified 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 11th day of August 2021, and for second and final reading on this 14th day of September, 2021.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Queenester Nieves, CMC, Town Clerk

Lewis S.W. Crampton, Town Council Member