



AGENDA
CITY OF LAKE WORTH BEACH
REGULAR CITY COMMISSION MEETING (REVISED)
CITY HALL COMMISSION CHAMBER
TUESDAY, MAY 07, 2024 - 6:00 PM

ROLL CALL:

INVOCATION OR MOMENT OF SILENCE: led by Commissioner Christopher McVoy

PLEDGE OF ALLEGIANCE: led by Vice Mayor Sarah Malega

AGENDA - Additions / Deletions / Reordering:

PRESENTATIONS: (there is no public comment on Presentation items)

- A. Legislative Update from Florida House Representatives David Silvers and Katherine Waldron and Florida Senator Bobby Powell
- B. [Proclamation declaring May 2024 as Haitian Heritage Month](#)
- C. [Proclamation declaring May 2024 as Historic Preservation Month](#)
- D. [Proclamation declaring May 2024 as Mental Health Awareness Month](#)
- E. [Proclamation declaring May 5 - 12, 2024 as Days of Remembrance Week](#)
- F. [Proclamation declaring May 5 - 11, 2024 as Municipal Clerks Week](#)
- G. [Proclamation declaring May 5 - 11, 2024 as Soil Awareness Week brought forward by Commissioner McVoy](#)

COMMISSION LIAISON REPORTS AND COMMENTS:

CITY MANAGER'S REPORT:

CITY ATTORNEY'S REPORT:

- A. [Sunshine Law, Public Records Law and Ethics Law](#)

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:

APPROVAL OF MINUTES:

- A. [April 9, 2024 - special meeting](#)
- B. [April 12, 2024 - pre-agenda work session](#)
- C. [April 16, 2024 - work session](#)
- D. [April 16, 2024 - regular meeting](#)

CONSENT AGENDA: (public comment allowed during Public Participation of Non-Agendaed items)

- A. [Agreement with Advanced Data Solutions to provide digitizing of property files](#)

- B. [Proclamation declaring May 2024 as Asian and Pacific Islander Heritage Month](#)

PUBLIC HEARINGS:

- A. [Ordinance No. 2024-05 - First Reading – amending Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Division 3 “Permits,” Section 23.2-39 “Affordable/Workforce Housing Program” to provide minor changes for clarity to the Affordable/Workforce Housing Program Tiers](#)
- B. [Ordinance No. 2024-06 - First Reading – amending multiple sections of Chapter 23 “Land Development Regulations” to address several housekeeping items and minor changes for clarity](#)
- C. [Ordinance No. 2024-07 - First Reading – amending Chapter 23 “Land Development Regulations,” Article 4 “Development Standards,” Section 23.4-25 “Micro-units” to provide minor changes to the development standards for Micro-Units](#)

UNFINISHED BUSINESS:

- A. [Discussion regarding the city manager residency requirement brought forward by Commissioner May](#)

NEW BUSINESS:

- A. [Business Advisory Board Update and Discussion](#)
- B. [Purchase and Sale Agreement with the Lake Worth Beach Community Redevelopment Agency for 304 S F Street](#)
- C. [Work Order #7 with B&B Underground Construction, Inc. to install new emergency water interconnect with Town of Lantana](#)
- D. [Construction Contracts with The Paving Lady Inc., M & M Asphalt Maintenance Inc., and Wynn & Sons Environmental Construction Co. for Annual Paving, Concrete, Striping, and Associated Restoration Work.](#)

UPCOMING MEETINGS AND WORK SESSIONS:

May 9 - special @ 5 pm
May 10 - pre-agenda work session @ 9 am
May 15 - budget work session #1 @ 9 am
May 21 - regular @ 6 pm

ADJOURNMENT:

The City Commission has adopted Rules of Decorum for Citizen Participation (See Resolution No. 13-2023). The Rules of Decorum are posted within the City Hall Chambers, City Hall Conference Room, posted online at: <https://lakeworthbeachfl.gov/government/virtual-meetings/>, and available through the City Clerk's office. Compliance with the Rules of Decorum is expected and appreciated.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that,

for such purpose, he or 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. (F.S. 286.0105)

CITY OF LAKE WORTH BEACH

PROCLAMATION

- WHEREAS,** May has historical and cultural traditions that are honored by Haitians around the world; and
- WHEREAS,** May is the month in which an historic pact signed by Black and Mulatto officers occurred, which led to the creation of the Haitian Flag on May 18, 1803, and Haiti's independence on January 1, 1804, when Haiti become the first Black independent country in the world; and
- WHEREAS,** The Haitian Revolution was the forerunner of modern anti-colonial movements throughout the Third World; and
- WHEREAS,** Haiti celebrates May 1st as Labor and Agricultural Day, a day when workers, peasants and artisans celebrate together; and
- WHEREAS,** Haitians honor their mothers on the last Sunday in May by wearing red flowers if their mothers are still alive and white or purple flowers if their mothers have died; and
- WHEREAS,** Many religious celebrations in Haiti occur during the month of May, known by Haitian Catholics as the month of Mary, the mother of Jesus; and
- WHEREAS,** The Haitian community contributes greatly to the rich history, culture and diversity of the City of Lake Worth Beach; and
- WHEREAS,** The Haitian community of Lake Worth Beach has established and distinguished itself through the efforts of many community organizations, businesses and community participation; and
- WHEREAS,** The City of Lake Worth Beach and the Haitian community share in the belief that the contributions and participation of all people from all cultures and backgrounds is what makes Lake Worth Beach a great City.

NOW, THEREFORE, I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

MAY 2024
as
HAITIAN HERITAGE MONTH

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 7th day of May, 2024.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

CITY OF LAKE WORTH BEACH

PROCLAMATION

- WHEREAS,** The City of Lake Worth Beach has adopted a Historic Preservation Program that is designed to preserve, protect, and bring awareness to our unique historic resources, which represent defining elements of the City’s cultural and social identity; and that serve as visible reminders of the City’s vibrant heritage; and
- WHEREAS,** Historic preservation is an effective tool for managing growth and sustainable development, while also revitalizing neighborhoods, fostering local pride, and maintaining community character; and
- WHEREAS,** Cities and neighborhoods, including those that are historic, are never static, and historic preservation takes a holistic approach, considering the built environment’s historic integrity, character, and usefulness while allowing for compatible new development; and
- WHEREAS,** Historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, walks of life, and all ethnic backgrounds; and
- WHEREAS,** It is important to celebrate the role of history in our lives and the contributions made by dedicated individuals who help to preserve the tangible aspects of our built environment that have shaped us as a people; and
- WHEREAS,** “People Saving Places” is the theme for National Preservation Month 2024, to shine the spotlight on everyone doing the work of saving places—in big ways and small; and
- WHEREAS,** The City of Lake Worth Beach continues to demonstrate its commitment to preserving our past, while planning for an economically and ecologically sustainable and resilient future!

NOW, THEREFORE, I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

MAY 2024

as

NATIONAL HISTORIC PRESERVATION MONTH

and

LAKE WORTH BEACH HISTORIC PRESERVATION MONTH

And call upon the people of the City of Lake Worth Beach to join their fellow citizens across the United States in recognizing and participating in this special observance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 7th day of May, 2024.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

CITY OF LAKE WORTH BEACH

PROCLAMATION

- WHEREAS,** Mental health is essential to everyone's overall health and well-being and everyone experiences times of stress and struggles in their lives. One in four adults and one in five youth ages 13-18 experience serious mental illness; and
- WHEREAS,** 60 percent of adults and 50 percent of youth do not receive the treatment necessary for their mental health needs due to limited or no knowledge of the need, barriers to care, or fear and shame; and
- WHEREAS,** Research recognizes that adverse childhood experiences (ACEs), which include, but are not limited to physical, emotional and sexual abuse, physical and emotional household dysfunction, untreated mental illness, or incarceration of a member, domestic violence, and separation or divorce involving household members, are traumatic experiences that can have a profound effect on a child's developing brain and body and can result in poor physical and mental health during childhood and adulthood; and
- WHEREAS,** Community understanding and available supports and services can greatly impact a person's ability to handle their stress and struggle and move forward; and
- WHEREAS,** Promoting mental health and wellness leads to higher overall productivity, better educational outcomes, lower crime rates, stronger economies, lower health care costs, improved family life, improved quality of life and increased lifespan; and
- WHEREAS,** Studies show that the effects of ACEs are felt by people regardless of race, ethnicity, religion, gender, sexual orientation, or socio-economic status; and
- WHEREAS,** Each business, school, government agency, healthcare provider, faith-based organization, non-profit agency and citizen shares accountability for the community's mental health needs and has a responsibility to promote mental wellness and support prevention efforts; and
- WHEREAS,** The importance of attending to mental health has become even more pronounced in the past few years due to COVID-19, political and social unrest, and the resulting economic crisis, where isolation, sickness, grief, job loss, food instability, and loss of routines has increased the need for mental health services; and
- WHEREAS,** The City of Lake Worth Beach, recognizes the impact of awareness and education, access to services and acceptance of the importance of mental health and well-being to a person's overall success and supports the implementation of trauma informed approaches throughout the systems of care.

NOW, THEREFORE, I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

MAY 2024

as

MENTAL HEALTH AWARENESS AND TRAUMA INFORMED CARE MONTH

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 7th day of May, 2024.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

CITY OF LAKE WORTH BEACH

PROCLAMATION

- WHEREAS,** The US Congress established Days of Remembrance, a week-long commemoration of the Holocaust, which is observed every year in April and May. This year, it will be observed from May 5 to May 12, 2024, including the International Day of Remembrance known as Yom Hashoah; and
- WHEREAS,** The Holocaust was the state-sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945. Jews were the primary victims - six million were murdered - Gypsies, the handicapped and Poles were also targeted for destruction or decimation for racial, ethnic, or national reasons. Millions more, including homosexuals, Jehovah's Witnesses, soviet prisoners of war and political dissidents also suffered grievous oppression and death under Nazi tyranny; and
- WHEREAS,** the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies and governments; and
- WHEREAS,** the Days of Remembrance have been set aside for the people of the City of Lake Worth Beach to remember the victims of the Holocaust as well as to reflect on the need for respect of all peoples; and
- WHEREAS,** Violent antisemitism and hatred did not end with the defeat of Nazi Germany. It is important to stand up to antisemitism in all of its forms today; and
- WHEREAS,** due to the extreme rise in antisemitism today, we the people of the City of Lake Worth Beach should always remember the terrible events of the Holocaust, remaining vigilant against hatred, persecution and tyranny, and should actively rededicate ourselves to the principles of individual freedom in a just society.

NOW, THEREFORE, I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

MAY 5 – 12, 2024
as
DAYS OF REMEMBRANCE

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 7th day of May, 2024.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

CITY OF LAKE WORTH BEACH

PROCLAMATION

WHEREAS, The International Institute for Municipal Clerks (IIMC) initiated Municipal Clerks Week in 1969, which was endorsed by all of its members in the United States, Canada and 15 countries as a time of celebration and reflection on the importance of the Clerk's office. In 1984, President Reagan signed a proclamation officially declaring the first week of May as Municipal Clerks Week; and

WHEREAS, The Florida Association of City Clerks (FACC) was established in 1972 to promote and develop the educational and professional status of Florida city clerks and works in conjunction with the IIMC to provide Certified Municipal Clerk (CMC) and Master Municipal Clerk (MMC) certifications for city clerks; and

WHEREAS, This organization, strives to help increase the efficiency of city clerk functions, increase cooperation and assistance with city administrators, gather and disseminate information to improve procedures, and improve the efficiency of the administration of municipal government; and

WHEREAS, The FACC currently has 616 members in seven districts throughout the state and is proud to have one of the largest certification programs in the country with 215 Certified Municipal Clerks and 132 Master Municipal Clerks among its members.

NOW, THEREFORE, I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

MAY 5 – 11, 2024

as

PROFESSIONAL MUNICIPAL CLERKS WEEK

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 7th day of May, 2024.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

CITY OF LAKE WORTH BEACH

PROCLAMATION

- WHEREAS,** soils are an essential and non-renewable natural resource, the foundation of 95% of global food production, the basis of feed, fuel and fiber production and help regulate emissions of carbon dioxide and other greenhouse gases; and
- WHEREAS,** soils, as the world's largest terrestrial pool of carbon, provide invaluable ecosystem services, including storage of water, nutrients, and carbon; and
- WHEREAS,** soils and especially soil organic matter annually clean tens of thousands of cubic kilometers of water each year; and
- WHEREAS,** despite being typically only a small percent of the soil volume, soil organic matter (the dark material) is the key component to maintaining soil health, being responsible for storage of water, storage of plant-available nutrients, removal of contaminants, and reduction of surface water runoff; and
- WHEREAS,** the Food and Agriculture Organization of the United Nations and many other organizations have sounded the alarm that fully one third of global soils are already moderately or highly degraded; and
- WHEREAS,** even urbanized areas can have important extents of soils; and
- WHEREAS,** appropriate municipal policies directly and favorably affect urban soils, urban stormwater runoff, flood control and municipal water supplies; policies including promotion of native landscaping and xeriscaping; active promotion of shade trees; and wise management and regulation of lot coverage, irrigation, fertilization and living ground cover; and
- WHEREAS,** the City of Lake Worth Beach is a coastal city subject with above average exposure to food insecurity, nutritional deficiencies, and the effects of climate change and sea level rise and has a particular responsibility for the water quality of the bordering Lake Worth Lagoon; and
- WHEREAS,** the City of Lake Worth Beach still has considerable area in front yards, backyards and public lands that can contribute to increased soil health, food production, and carbon storage; and
- WHEREAS,** an internationally active spiritual leader, Sadhguru, has joined with international organizations including the Food and Agriculture Organization, the UN Environment Programme, the UN World Food Programme, and the European Union to raise worldwide awareness of soil importance, soil degradation and opportunities for soil restoration.

NOW, THEREFORE, I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

MAY 5-11, 2024

as

SOIL AWARENESS WEEK

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 7th day of May, 2024.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

STAFF REPORT REGULAR MEETING

AGENDA DATE: May 7, 2024

DEPARTMENT: City Attorney

TITLE:

Sunshine Law, Public Records Law and Ethics Law

SUMMARY:

Brief overview of Sunshine Law, Public Records Law and Ethics Law

BACKGROUND AND JUSTIFICATION:

Elected officials in Florida are required to take annual training in Sunshine Law, Public Records Law and Ethics Law. Attached is a recent presentation our office made to the Treasure Coast League of Cities for this required 4-hour training. A brief summary will be provided to the Commission. This presentation will not fulfill the training requirement for the Commissioners.

MOTION:

N/A.

ATTACHMENT(S):

Presentation

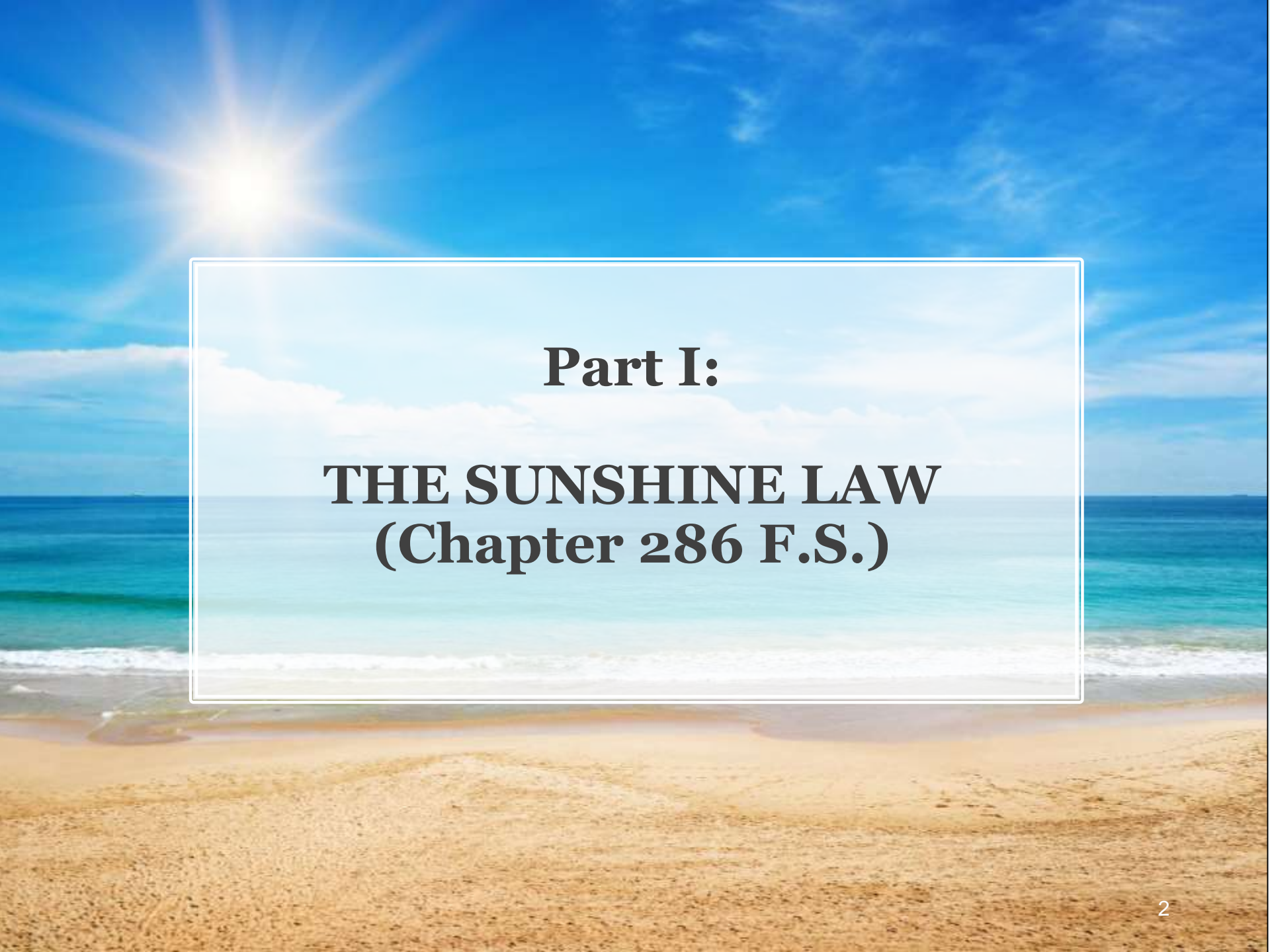


Sunshine, Public Records, and Ethics Laws

PRESENTED BY:

**GLEN J. TORCIVIA, ESQ.
ELIZABETH V. LENIHAN, ESQ.
TANYA M. EARLEY, ESQ**

**TORCIVIA, DONLON, GODDEAU & RUBIN, P.A.
701 NORTHPOINT PARKWAY, SUITE 209
WEST PALM BEACH, FL 33407
(561) 686-8700
www.torcivialaw.com**



Part I:

THE SUNSHINE LAW
(Chapter 286 F.S.)

Florida Statute § 286.011

Provides the right of access to governmental proceedings at the state and local levels.

- (1) All **meetings** of any board or commission of any state agency or authority or of any **agency or authority** of any county, **municipal** corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which **official acts are to be taken** are declared to be public meetings **open to the public at all times**, and **no resolution, rule, or formal action** shall be considered **binding** except as taken or made at such meeting. The board or commission must provide **reasonable notice** of all such meetings.

Florida Statute § 286.011

Minutes Required.

(2) The **minutes** of a meeting of any such board or commission of any such state agency or authority shall be **promptly recorded**, and such records shall be **open to public inspection**. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

Jackson v. City of South Bay,

358 So.3d 18 (Fla. 4th DCA 2023)

- Minutes must be promptly recorded and open to public inspection
- **There is no good faith exception**
- Reasonable attorney's fees and costs **shall be** assessed to enforce a violation

Notice

Must be reasonable.

Location

Must be open and accessible to the public.

Minutes

Must be written, promptly approved and open to the public for inspection.



What is a public meeting?

- Any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by the public board or commission, including but not limited to the following examples:
 - Both formal and casual meetings of two or more board members
 - Written correspondence (e.g., emails, texts, memos, social media posts, etc.) between board members with comments being provided to other members
 - Telephone conversations between two or more board members
 - Meeting of liaisons of two or more board members

Florida Statute § 286.011

Who does it apply to?

- The statute is “broadly construed to effect its remedial and protective purposes.”
- Applicable to elected and appointed bodies.
- Advisory boards are subject to Sunshine Law even though their recommendations are not binding upon the board or commission that created them.
- A single member of a board who has been delegated the authority to act (take official action) on behalf of the board (i.e., lease of land) is subject to the Sunshine Law.
- If a board or committee is delegated any decision-making authority by a public official, its meetings are subject to the Sunshine Law.

Slippery Slopes



Slippery Slope I

E-mail, text messages, and other written communications between board members

The Sunshine Law requires boards to meet in public; boards may not take action on or engage in private discussions of board business via written correspondence, e-mails, text messages, or other electronic communications. Thus, members of an advisory committee created to make recommendations to the superintendent on school attendance boundaries violated the Sunshine Law when they exchanged private electronic communications (emails and Facebook messages) relating to committee business. *Linares v. District School Board of Pasco County*, No. 17-00230 (Fla. 6th Cir. Ct. January 10, 2018).

Similarly, municipal commissioners may not use an electronic newsletter to communicate among themselves on issues that foreseeably may come before the commission. In AGO 09-19 it was determined that members of a city board or commission may not engage on the city's Facebook page in an exchange or discussion of matters that foreseeably will come before the board or commission for official action.

Slippery Slope II

Selection and screening committees

The Sunshine Law applies to advisory committees created by an agency to assist in the selection process. In *Wood v. Marston*, 442 So. 2d 934 (Fla. 1983), a committee created to screen applications and make recommendations for the position of a law school dean was held to be subject to the Sunshine Law. By screening applicants and deciding which applicants to reject from further consideration, the committee performed a policy-based, decision-making function delegated to it by the president of the university. In *Krause v. Reno*, 366 So. 2d 1244 (Fla. 3d DCA 1979) it was held that the Sunshine Law governs advisory group created by city manager to assist in screening applications and to recommend several applicants for the position of chief of police.

However, if the sole function of the screening committee is simply to gather information for the decision-maker, rather than to accept or reject applicants, the committee's activities are outside the Sunshine Law. *Cape Publications, Inc. v. City of Palm Bay*, 473 So. 2d 222 (Fla. 5th DCA 1985), held that the Sunshine Law was not violated when the city manager, who was responsible for selecting the new police chief, asked several people to sit in on the interviews, as the only function of this group was to assist the city manager in acquiring information on the applicants he had chosen by asking questions during the interviews and then discussing the qualifications of each candidate with the city manager after the interview.

Agendas

The Sunshine Law does not mandate that an agency provide notice of each item to be discussed via a published agenda although the Attorney General's Office has recommended the publication of an agenda, if available. The courts have rejected such a requirement because it could effectively preclude access to meetings by members of the general public who wish to bring specific issues before a governmental body.

Thus, the Sunshine Law does not require boards to consider only those matters on a published agenda. “[W]hether to impose a requirement that restricts every relevant commission or board from considering matters not on an agenda is a policy decision to be made by the legislature.” *Law and Information Services, Inc. v. City of Riviera Beach*, 670 So. 2d 1014, 1016 (Fla. 4th DCA 1996).

Luncheon meetings

Public access to meetings of public boards or commissions is the key element of the Sunshine Law, and public agencies are advised to avoid holding meetings in places not easily accessible to the public. The Attorney General's Office has suggested that public boards or commissions avoid the use of luncheon meetings to conduct board or commission business. These meetings may have a "chilling" effect upon the public's willingness or desire to attend. People who would otherwise attend such a meeting may be unwilling or reluctant to enter a public dining room without purchasing a meal and may be financially or personally unwilling to do so. Inf. Op. to Campbell, February 8, 1999; and Inf. Op. to Nelson, May 19, 1980.

Tape recording or Internet archive as minutes

The Sunshine Law does not require that public boards and commissions tape record their meetings. See AGO 86-21. However, other statutes may require that certain proceedings be recorded. See *Carlson v. Department of Revenue*, 227 So. 3d 1261 (Fla.1st DCA 2017) (statute mandating that a “complete recording” be made of portions of a closed negotiation team meeting requires more than an agenda and meeting notes).

However, while a board is authorized to tape record the proceedings if it chooses to do so, the Sunshine Law also requires written minutes. AGO 75-45. Similarly, while a board may archive the full text of all workshop discussions conducted on the Internet, written minutes of the workshops must also be prepared and promptly recorded. AGO 08-65. Moreover, the tape recordings are public records.

While the Sunshine Law does not specify the type of notice which must be given in all cases, the following notice guidelines are suggested:

1. The notice should contain the time and place of the meeting and, if available, an agenda, or if no agenda is available, a statement of the general subject matter to be considered.
2. The notice should be prominently displayed in the area in the agency's offices set aside for that purpose, e.g., for Citys, in City hall, and on the agency's website.
3. Except in the case of emergency or special meetings, notice should be provided at least 3 days prior to the meeting. Emergency sessions should be afforded the most appropriate and effective notice under the circumstances.
4. Special meetings should have no less than 24 and preferably at least 72 hours reasonable notice to the public. See *Yarbrough v. Young*, 462 So. 2d 515 (Fla. 1st DCA 1985) (three days notice of special meeting deemed adequate).
5. The use of press releases, faxes, e-mails, and/or phone calls to the local news media is encouraged in providing notice of upcoming meetings.

Florida Statute § 286.0114

Public Participation

- Requires that members of the public be given a “reasonable opportunity to be heard on a proposition before a board or commission.”
- The statute limits how a board or commission may restrict such opportunity to be heard (e.g., amount of time given, request forms, procedures for group representatives to speak on behalf of a group, designated time for public comment).
- The statute provides for exemptions (e.g., emergencies - if compliance would result in unreasonable delay, ministerial acts, an exempt meeting, quasi-judicial hearings).
- The statute provides for enforcement via injunction and the award of attorney’s fees for violations.
- A violation by a board or commission of this statute will NOT void the official action taken by such board or commission.

Florida Statute § 286.011

Consequences for Violations:

- Criminal penalties;
- Removal from office;
- Non-criminal infractions (AGO);
- Civil actions for injunctive and declaratory relief;
- Attorney's fees; and
- Action taken in violation of law is void *ab initio*.

Former Sebastian Council Members violate Sunshine Law

TCPalm. [Subscribe](#) [Sign In](#)

Former Sebastian council members Gilliams, Parris sentenced for Sunshine Law violations

11 PHOTOS
3:53 p.m. EDT Sep. 14, 2021

[f](#) [t](#) [e](#)



Former Sebastian City Council members Damien Gilliams and Pamela Parris appeared in Circuit Court on Tuesday, Sept. 14, 2021, for a sentencing hearing before Circuit Court Judge Michael Linn after being convicted of violating the state Sunshine Law and perjury. Gilliams was sentenced to more than 300 days in jail and fined \$1,500 and Parris was sentenced to 210 days in jail and fined \$2,500.

PATRICK DOVE/TCPALM

Gilliams v. State,
359 So.3d 784
Judge Cicklin’s “Clarion Call”

- Meetings of two or more fellow government officials who are subject to the Sunshine Law **are not allowed** if any words of any type pertaining to any possible foreseeable issue will be communicated in any way **unless they are open to the public to whom reasonable notice has been provided.**
- There is **rarely any purpose for a private meeting or communication** between two or more government officials who are both subject to the Sunshine Law. Those who engage in such activity **widely open themselves to allegations** that some aspect of the governmental decisional process has unlawfully occurred behind closed doors. Any aspect of the decisional process—ranging from whether to conduct a meeting in the first instance to the concept of terminating administrative staff to the seemingly inane decision as to which government officials will even make a motion to begin open public discussion—is part of the official decisional process and must be wide-open and advertised in advance to the public.

“Clarion Call”, p2

- Under Florida law, there is **no such thing as an “informal” conference or “unofficial” caucus or pass-you-in-the-hallway information gathering (or sharing)** by two or more government officials subject to the Sunshine Law which would thereby remove such communication from the Sunshine Law’s ambit. Indeed, **such “innocuous” meetings have been held to be illegal** and nothing short of the unlawful crystallization of secret decisions to a point just short of public discussion and ceremonial acceptance. And **whether done personally or through surrogates (such as aide-to-aide), such meetings are illegal** under Florida’s Sunshine Law.
- Any attempt to **distinguish between a “formal,” “informal,” “ministerial,” “informational gathering-only,” or “just a listening” meeting** between two or more government officials—for purposes of determining whether the Sunshine Law applies—**is by itself alien to the law’s design, exposing it to the very evasions which it was designed to prevent.**

“Clarion Call” p3

- Because a violation of Florida’s Sunshine Law can be investigated and charged as a crime, all of those law enforcement and prosecutorial techniques, such as the issuance of subpoenas for cell phone records are but a signature away. In these cases, prosecutors easily gathered data and produced it for the jury showing numerous texts, emails, telephone conversations, and voicemails over a wide-ranging period between all three city councilmembers.
- When in any doubt as to whether a meeting or communication, either directly or indirectly between two or more government officials may be illegal under the Sunshine Law, the easy answer is: “LEAVE.” See *City of Miami v. Berns*, 245 So. 2d 38, 41 (Fla. 1971) (“The evil of closed door operation of government without permitting public scrutiny and participation is what the law seeks to prohibit. If a public official is unable to know whether by any convening of two or more officials he is violating the law, he should leave the meeting forthwith.”).

“Clarion Call” p4

- **Lying, under oath**, about any matter that is material to an alleged Sunshine Law violation is **considered as an additional crime of perjury** and every individual lie constitutes an individual statutory crime against each person with each **separate charge**. Depending on the context, perjury can be a misdemeanor or a felony under Florida law.

Former Sumter County Commissioner, Oren Miller

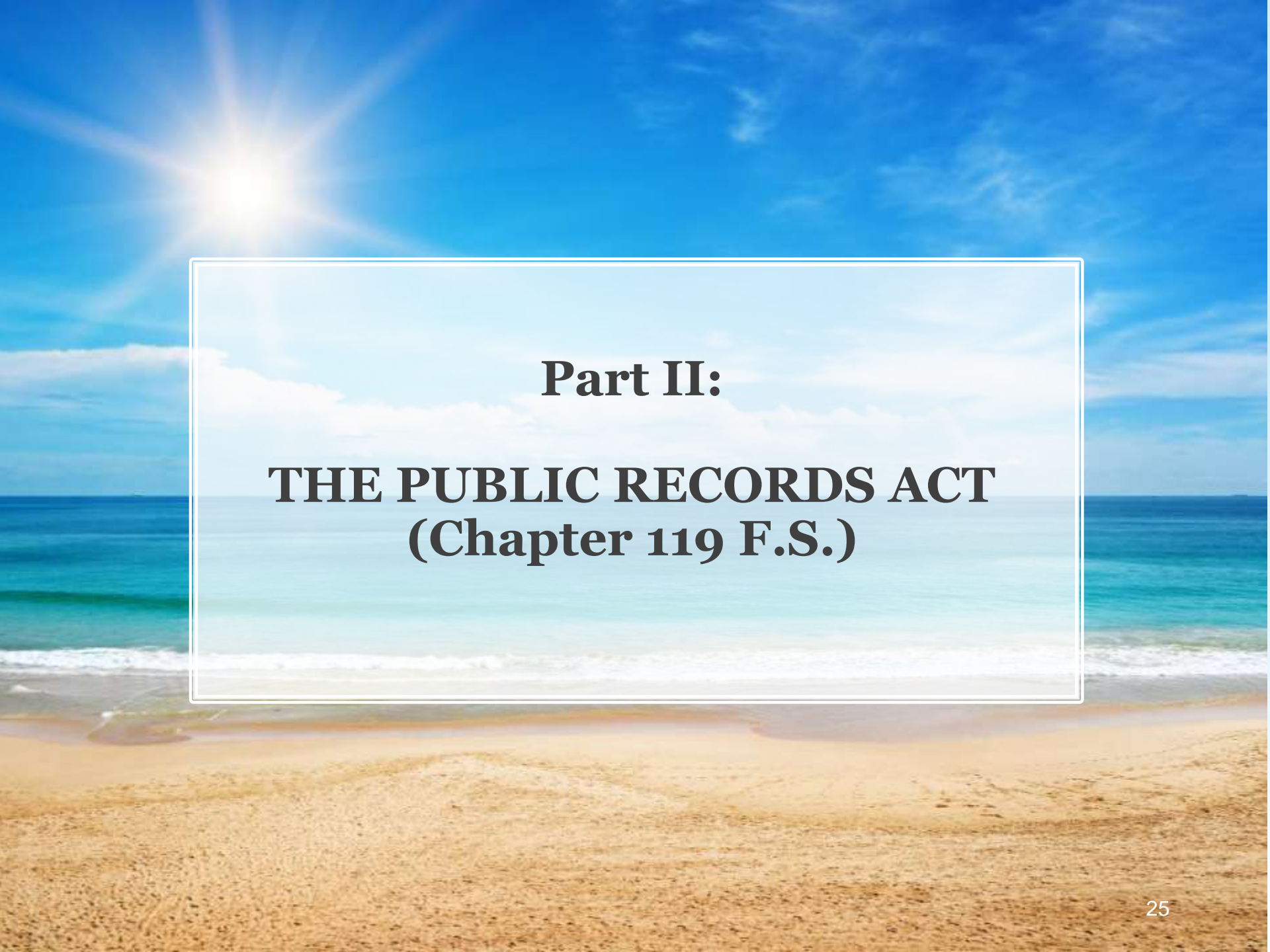
- **Convicted of felony perjury** for lying about calls with another former Sumter County Commissioner
- **Removed from office** by Governor for felony conviction
- **Served 75 days in jail**
- **Conviction reversed** on appeal

You Can Cure a Violation

- Sunshine Law violations may be cured by independent, final action taken completely in the Sunshine.
- No rubber stamp meeting

Cure... Don't Ignore





Part II:
THE PUBLIC RECORDS ACT
(Chapter 119 F.S.)

PUBLIC RECORDS

What is a Public Record

Defined as:

- **All** documents, papers, letters, maps, books, tapes, photos, films, sound recordings, data processing software or **other material**
- Regardless of physical form, characteristics or means of transmission (or **location**)
- Made or received pursuant to law or ordinance in connection with the transaction of official business by any agency (or **its officials/employees/agents/advisory board members**).
- Includes all materials intended to perpetuate, communicate, or formalize knowledge.

PUBLIC RECORDS

What is a Public Record

Examples:

- Agenda and meeting minutes
- Audio and video recordings and photographs
- Home phone, personal e-mail, and address lists
- E-mails (City computer and personal computer)
- Text Messages (City phone and personal phone)
- Social Media Posts (Official page and comments; maybe personal page)
- Advisory Board member's e-mail or text explaining a Board issue via e-mail to a resident or another Board member
- Department official records
- Interoffice memos and internal policies

PUBLIC RECORDS

Social Media Accounts

Linkde v. Freed, 144 S.Ct. 756 (2024)

- The United States Supreme Court acknowledged that public officials have the right to speak about public affairs in their personal capacities.
- **HOWEVER**, a public official can be held liable under 42 U.S.C. s 1983 for blocking members of the public or deleting their comments. Furthermore, social media posts could constitute **public records** that must be maintained and produced upon request in accordance with the Public Records Act.
 - **Best Practice 1**: Avoid “ambiguous” accounts that are partially personal and partially city-related. Use separate accounts for city and private matters.
 - **Best Practice 2**: Screenshot and forward any city-related items to your city account to ensure that they are preserved and easily searchable in the event of a public records request.

PUBLIC RECORDS

What is a Public Record

Examples continued:

- Drafts:
 - Documents circulated for review, comment or to perpetuate information. Examples may include:
 - draft reports
 - draft policies
 - draft minutes
 - draft agenda items
 - draft ordinances and resolutions

PUBLIC RECORDS

What is NOT a Public Record

- Drafts:
 - Preliminary drafts or notes not intended as final evidence of the knowledge recorded and intended for personal use are **not** a public record. Examples include:
 - Personal notes from a meeting used to jog your memory
 - Drafts of a document not yet finalized or circulated
 - Resolutions being prepared by the author
 - Meeting minutes being prepared by the meeting secretary or clerk
 - Policies being drafted by the City Attorney

PUBLIC RECORDS

What is NOT a Public Record

- Personal records:
 - Invitation to non-City/Board related social event or birthday card from co-workers sitting on your desk at work
 - Text messages on personal cell phone from co-workers or fellow board members about non-work/non-board related matters
 - Social media post by board member about non-board/non-City related matters and other board members' general responses

PUBLIC RECORDS

What is NOT a Public Record

- **Bottom-Line:** There is very little dealing with City business that is NOT a public record
 - Location and privacy do not matter
 - Service contractors' and agents' records may be public
 - Record or its metadata may exist somewhere
 - Your e-mail or text may be on the front page of the newspaper
- **If you have concerns, do not create a record. Pick-up the phone or speak directly to the necessary person.**

PUBLIC RECORDS

When it is NOT a Public Record

- If the record that is NOT a public record is requested, the record must not be disposed of for a period of 30 days after the request was made

PUBLIC RECORDS

What is an Exempt Public Record

- An exempt public record is a public record (or portion of a public record) that is exempted from public release by Florida Statute
- Over 1,000 exemptions in Florida Statutes and more created each year
- Responsibility of records custodian to remove exempt public record (or portion thereof) before public release (i.e., redact exempt information)
- If reasonable concerns exist over information to be released, exemption may apply
- Exemptions may be waived by the exemption holder

PUBLIC RECORDS

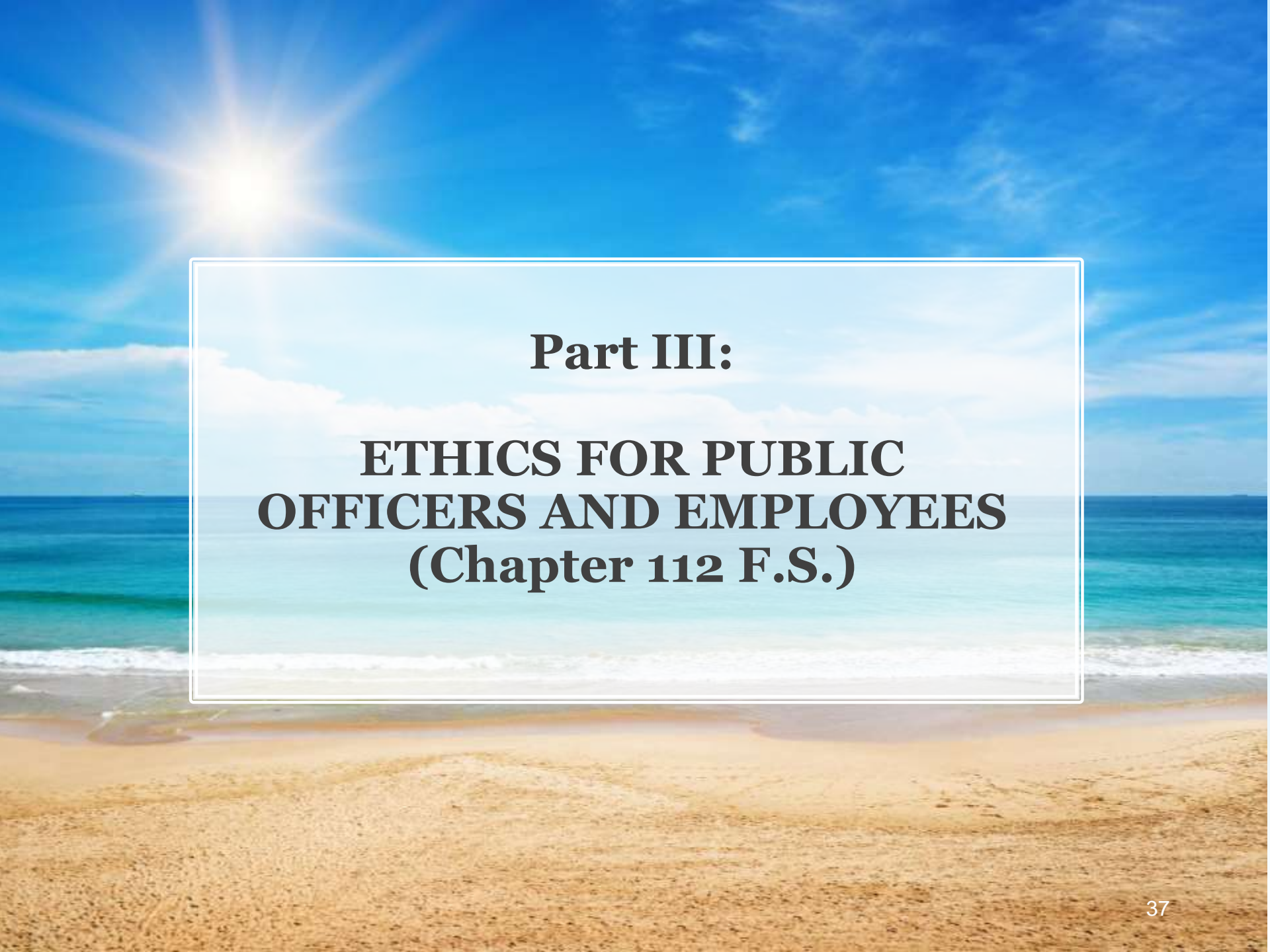
What is a Confidential Public Record

- A confidential public record is a public record (or portion of a public record) that is exempted from public release by Florida Statute and made confidential
- Confidential information cannot be released unless authorized by statute (or other legal process)
- Confidentiality may not be waived
- Knowing release of confidential information may be misdemeanor

PUBLIC RECORDS

Helpful Links

- Research on Public Records:
 - Florida Attorney General's office website:
 - www.myfloridalegal.com
 - Searchable data-base of opinions
 - GOVERNMENT-IN-THE-SUNSHINE-MANUAL
 - Available for purchase from First Amendment Foundation
 - Copy available at Florida Attorney General's website under Open Government page
 - Covers almost all public records issues and exemptions
 - Also covers related Sunshine Law issues



Part III:

**ETHICS FOR PUBLIC
OFFICERS AND EMPLOYEES
(Chapter 112 F.S.)**

Topics To Be Covered

- Legislative intent behind Florida's Code of Ethics
- Solicitation or acceptance of gifts and unauthorized compensation
- Doing business with one's agency
- Misuse of public position
- Conflicting employment or contractual relationships
- Disclosure or use of certain information
- Voting conflicts
- Additional Resources

Legislative Intent of Code of Ethics

“Essentially, it is about **using an office** or a position **to benefit yourself** in a manner that would **not be possible without** the use of **that office.**”

Florida League of Cities' *Quality Cities – March/April 2011* “Ethical Behavior in Office: Know the Law, Trust your Conscience” (p. 34) by Attorney John Hubbard.

Legislative Intent (cont'd)

Section 112.311, Florida Statutes (excerpts):

- “It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law.”
- “...public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public...”
- “Such officers and employees are bound to observe, in their official acts, the highest standards of ethics..., recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.”

Solicitation or Acceptance of Gifts

Do not solicit or accept anything of value in exchange for any vote, official action or judgment.

Section 112.313(2), Florida Statutes:

No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

Unauthorized Compensation

Do not accept any compensation intended to influence your vote or other official action.

Section 112.313(4):

No public officer, employee of an agency, local government or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

Solicitation of Gifts

Do not solicit any gift from a vendor, political committee or lobbyist.

Section 112.3148(3), Florida Statutes:

A reporting individual...is prohibited from soliciting any gift from a vendor doing business with the reporting individual's...agency, a political committee as defined in s. 106.11, or a lobbyist who lobbies the reporting individual's...agency, or the partner, firm, employer, or principal of such lobbyist, where such gift is for the personal benefit of the reporting individual..., another reporting individual..., or any member of the immediate family of a reporting individual..."

Solicitation of Gifts (cont'd)

- ▶ For the purposes of this the restriction, “**immediate family**” means any parent, spouse, child or sibling.
- ▶ A “**reporting individual**” is any individual, including a candidate upon qualifying, who is required to file full or limited public disclosure of his or her financial interests, including, but not limited to, any person elected to office in any political subdivision or person appointed to any governing body, community or junior college board of trustees, code enforcement board, zoning board, pension board, as well as a mayor, manager, attorney, finance director, building inspector, police chief, fire chief, and environmental control director of any county or municipality.

Prohibited Receipt of Gifts

Do not accept any gifts over \$100 from a vendor, political committee or lobbyist.

Section 112.3148(4), Florida Statutes:

A reporting individual...or any other person on his or her behalf is prohibited from accepting, directly or indirectly, a gift from a vendor doing business with the reporting individual's...agency, a political committee..., or a lobbyist who lobbies the reporting individual's...agency, or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100; however, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization...

Value of Gifts

- “The **value** of a gift provided to a reporting individual...shall be determined using **actual cost to the donor, less taxes and gratuities**, except as otherwise provided in this subsection...” Sec. 112.3148(7)(a), Fla. Stat.
- “**Compensation** provided **by the donee** to the donor, if provided **within 90 days** after receipt of the gift, shall be **deducted from** the **value** of the gift in determining the value of the gift.” Sec. 112.3148(7)(b), Fla. Stat.

Reporting of Gifts

All persons required to file financial disclosure and state procurement employees and who receive a gift that is not prohibited and worth more than \$100.00 must file a Form 9, Quarterly Gift Disclosure, with the Commission on Ethics no later than the last day of a calendar quarter following the quarter in which the gift was received. Gifts from relatives are not reported on Form 9 and the form does not need to be filed if no gift was received during the calendar quarter.

Honoraria

Section 112.3149, Florida Statutes, governs the solicitation and disclosure of **honoraria**.

An honorarium means a payment of money or anything of value, directly or indirectly, as consideration for a speech or other oral presentation or for anything other than a book which has been published or intended to published.

An honorarium does not include any ordinary payment or salary related to one's public duties, a reported campaign contribution, or the payment or provision of actual or reasonable transportation, lodging, and food and beverage expenses related to an honorarium event, including any registration fee.

Honoraria (cont'd)

A person who is required to file financial disclosure or who is a procurement employee for the state is prohibited from:

- ▶ **Soliciting** an honorarium which is related to his or her official public duties.
- ▶ Knowingly **accepting** an honorarium for a political committee or lobbyist who has lobbied his agency within the past 12 months or from a partner, firm, employer or principal of such lobbyist.
- ▶ Knowingly **accepting** an honorarium from a vendor (a business entity doing business directly with an agency, such as renting, leasing or selling any realty, goods or services)

Doing Business with One's Agency

Do not do business with your agency.

Section 112.313(3), Florida Statutes:

No... public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer...or the officer's...spouse or child is an officer, partner, director, or proprietor or in which such officer...or the officer's....spouse or child, or any combination of them, has a material interest.

Material interest means direct or indirect ownership of more than five (5) percent of the total assets or capital stock of any business entity.

Doing Business with One's Agency (cont'd)

Nor shall a public officer..., acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's...own agency,...This subsection shall not affect or be construed to prohibit contracts entered into prior to:

- (a) October 1, 1975.
- (b) Qualification for elective office.
- (c) Appointment to public office.
- (d) Beginning public employment.

Conflicting Employment or Contractual Relationship

Do not enter into employment or a contract with any entity that is regulated by or doing business with your agency.

Section 112.313(7), Florida Statutes:

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state...

Conflicting Employment or Contractual Relationship (cont'd)

...nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

Exemptions for Subsections (3) and (7)

Section 112.313(12), Florida Statutes:

- Requirements for persons serving on advisory boards may be waived by an affirmative vote of two-thirds of the appointing body upon full disclosure of the transaction or relationship.
- Emergency purchases to protect health, safety or welfare of citizens.
- Purchase/sale is for legal advertising in a newspaper.
- Bank serves as depository of funds and officer has not favored this bank over others.
- Business entity is the only source of supply.
- Total amount of transactions does not exceed \$500.00 per calendar year.

Exemptions (cont'd)

Other exemptions from subsection (3) and subsection (7) include but are not limited to:

- Business is conducted under rotation system among all qualified suppliers.
- Business is awarded through sealed, competitive bidding to the lowest or best bidder and:
 - Neither official or his or her spouse or child has participated in bid specs or determination of lowest or best bidder;
 - Neither official or his or her spouse or child has used or attempted to use official's influence to persuade agency; and
 - Official filed statement with SOE disclosing interest prior to or at the time of submission of bid.

Additional Considerations (Prohibited Employment and Business Relationships)

- ▶ A public employee is prohibited from being a member of the governing body which serves as his or her employer. (§ 112.313(10), Fla. Stat.)
- ▶ **Local government attorneys**, such as the city attorney or county attorney, and their law firms **are prohibited from representing private individuals and entities before the unit of local government which they serve.** A local government attorney cannot recommend or otherwise refer to his or her firm legal work involving the local government unit unless the attorney's contract authorizes or mandates the use of that firm. (§ 112.313(16), Fla. Stat.)

Misuse of Public Position

Do not use your official position to secure special privileges for yourself or others.

Section 112.313(6), Florida Statutes:

No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others...

Corruptly means done with wrongful intent or resulting from some act or omission of a public servant which is inconsistent with his or her public duties

Disclosure or Use of Certain Information

Do not use information gained from your official position (and not generally known to the public) for your or another's personal gain.

Section 112.313(8), Florida Statutes:

A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

Voting Conflicts

Do not vote on any item that will provide you or someone connected to you a special private gain or loss.

Section 112.3143(3)(a), Florida Statutes:

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer.

Voting Conflicts (cont'd)

- A special private gain or loss is defined as “an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal...”
- “Relative” is defined as “father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.”

Voting Conflicts (cont'd)

- Whether a gain or loss is a “special, private” gain or loss is typically interpreted by the size of the affected class.
- Class > 100 = no conflict
- Class < 100 = conflict
- *For example, the COE determined that a municipal council member could vote on the alignment of a proposed road project where he was one of 385 affected property owners. CEO 91-18*

Voting Conflicts (cont'd)

Remote and speculative test: At the time of the vote, is the officer's **potential gain or loss uncertain**? If it is uncertain, there is no “special private gain or loss” and no conflict exists.

For example, in CEO 88-31, the Commission determined that a city council member was not prohibited from voting on the annexation of property which adjoined property in which she owned an interest because it was unclear what effect the proposed development of the property would have on the council member's property.

Voting Conflicts (cont'd)

Make sure you state your interest; abstain from voting; and file proper form within 15 days.

Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

Note: While elected officers (unlike appointed officers) *may* participate in the discussion, such participation is strongly discouraged and often prohibited by local ethics codes.

Restriction on Employment of Relatives

Section 112.3135(1)(d), Florida Statutes:

“**Relative**”...means an individual who is **related to the public official** as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Restriction on Employment of Relatives (cont'd)

Do not appoint, employ, promote or advocate for one of your relatives within your agency.

Section 112.3135(2)(a), Florida Statutes:

A public official may not appoint, employ, promote, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control any individual who is a relative of the public official...

Mere approval of budgets shall not be sufficient to constitute “jurisdiction or control” for purposes of this prohibition. Section 112.3135(2)(b), Fla. Stat.

Restriction on Employment of Relatives (cont'd)

This restriction does not apply to:

- “appointments to boards other than those with land-planning or zoning responsibilities in those municipalities with less than 35,000 population.”
- “persons serving in a volunteer capacity who provide emergency medical, firefighting, or police services.”

Post Office Holding and Employment (Revolving Door) Restrictions

- A person elected to **county, municipal, school district, or special district office** is prohibited from representing another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office. Appointed officers and employees of counties, municipalities, school districts and special districts may be subject to a similar restriction by local ordinance or resolution. (§ 112.313(13) and (14), Fla. Stat.)

Penalties for Violations of Code of Ethics

Penalties for a public officer's violation of the various Ethics Laws include, but are not limited to:

- Impeachment
- Removal from office or employment
- Suspension
- Public censure and reprimand
- A civil penalty not to exceed \$10,000
- Restitution of any pecuniary benefits received because of the violation committed

Penalties (cont'd)

Candidates found in violation may be subject to:

- ▶ Disqualification from being on the ballot,
- ▶ Public censure and reprimand,
- ▶ Civil penalty not to exceed \$10,000, and
- ▶ Triple the value of a gift received from a political committee.

Former public officers or employees found in violation may be subject to:

- ▶ Public censure and reprimand,
- ▶ Civil penalty not to exceed \$10,000,
- ▶ Restitution of pecuniary benefits; and
- ▶ Triple the value of a gift received from a political committee.

Penalties (cont'd)

Felony convictions: Public officers and employees are subject to forfeiture of all rights and benefits under the retirement system to which they belong if convicted of certain offenses, including: embezzlement or theft of public funds; bribery; felonies specified in Chapter 838; Florida Statutes; impeachable offenses; and felonies committed with intent to defraud the public or their public agency. (§ 112.3172, Fla. Stat.)

Automatic penalties for failure to file annual disclosure:

Public officers and employees required to file either Form 1 or Form 6 annual financial disclosure are subject to automatic fines of \$25.00 per day for each day late the form is filed, up to a maximum penalty of \$1,500.00.

When in doubt – Ask!

When in doubt as to whether certain conduct or actions violate the Code of Ethics, contact your agency attorney or request an informal or formal advisory opinion from the State Commission on Ethics (or from your local Ethics Commission if subject to a locally adopted code).

“General Rules”

1. If you think it might be wrong, it probably is.
2. Don't get yourself into a situation that “tempts to dishonor.”
3. Is there anyone who gives you something who doesn't want or expect something in return, except your mother? (And you can't be sure about her.)
4. People don't give elected officials or government employees gifts because they like them, but because they want something – at best, it is a sense of obligation.
5. Can you accept a gift that does not influence you?

Additional Resources

- Commission on Ethics opinions at: <http://www.ethics.state.fl.us/>
- Ch. 112, Part III, Florida Statutes
- Criminal Statutes (e.g., Chs. 838 & 839, Fla. Stat.)
- Florida Constitution, Article 2, Section 8
- Florida League of Cities' *Quality Cities – March/April 2011* “Ethical Behavior in Office: Know the Law, Trust your Conscience” by Attorney John Hubbard at:
<http://www.floridaleagueofcities.com/Assets/Files/ethicalbehaviorinoffice.pdf>

THANK YOU!

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**MINUTES
CITY OF LAKE WORTH BEACH
SPECIAL CITY COMMISSION MEETING - CERTIFYING ELECTION RESULTS
AND SWEARING IN CEREMONY
CITY HALL COMMISSION CHAMBER
TUESDAY, APRIL 9, 2024 - 5:00 PM**

The meeting was called to order by Mayor Resch on the above date at 5:00 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

ROLL CALL: (0:35) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy, Commissioners Sarah Malega, Kim Stokes and Reinaldo Diaz. Also present were Interim City Manager Jamie Brown, City Attorney Glen Torcivia and City Clerk Melissa Ann Coyne.

PLEDGE OF ALLEGIANCE: (0:55) was led by Commissioner Sarah Malega.

NEW BUSINESS: (1:16)

- A. Resolution No. 09-2024 - certifying the results of the March 19, 2024, Municipal General Election (1:29)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 09-2024 OF THE CITY OF LAKE WORTH BEACH, FLORIDA,
CERTIFYING THE OFFICIAL RESULTS OF THE MUNICIPAL GENERAL ELECTION
HELD MARCH 19, 2024; AND PROVIDE FOR AN EFFECTIVE DATE

Action: Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to approve Resolution No. 09-2024 certifying the results of the March 19, 2024, Municipal General Election.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

- B. Resolution No. 13-2024 – certifying the results of the April 2, 2024, Municipal Run-Off Election (1:43)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 13-2024 OF THE CITY OF LAKE WORTH BEACH, FLORIDA,
CERTIFYING THE OFFICIAL RESULTS OF THE MUNICIPAL RUN-OFF ELECTION HELD
APRIL 2, 2024; AND PROVIDE FOR AN EFFECTIVE DATE

Action: Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to approve Resolution No. 13-2024 – certifying the results of the April 2, 2024, Municipal Run-Off Election.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

COMMENTS FROM OUTGOING CITY COMMISSIONER: (2:07)

- A. Commissioner Kim Stokes (2:30)

SWEARING IN OF NEWLY ELECTED OFFICIALS: (4:17)

- A. Betty Resch, Mayor (4:50)
- B. Sarah Malega, Commissioner District 1 (7:01)
- C. Mimi May, Commissioner District 3 (8:27)

COMMENTS BY NEWLY ELECTED OFFICIALS: (10:26)

- A. Betty Resch, Mayor (10:34)
- B. Sarah Malega, Commissioner District 1 (18:10)
- C. Mimi May, Commissioner District 3 (21:20)

ADJOURNMENT: (25:21)

Action: Motion made by Commissioner May and seconded by Commissioner Malega to adjourn the meeting at 5:26 PM.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, May and Diaz.
NAYS: None.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

Minutes Approved: May 7, 2024

Item time stamps correspond to the recording on YouTube.

**MINUTES
CITY OF LAKE WORTH BEACH
CITY COMMISSION PRE-AGENDA WORK SESSION
CITY HALL COMMISSION CHAMBER
FRIDAY, APRIL 12, 2024 - 10:15 AM**

The meeting was called to order by Mayor Resch on the above date at 10:17 AM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach.

ROLL CALL: (0:15) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy and Commissioners Mimi May and Reinaldo Diaz. Also present were Interim City Manager Jamie Brown, City Attorneys Glen Torcivia and Deputy City Clerk Shayla Ellis. Commissioner Sarah Malega was absent.

UPDATES / FUTURE ACTION / DIRECTION:

ADJOURNMENT: (1:02:03)

The meeting adjourned at 11:20 AM.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

Minutes Approved: May 7, 2024

Item time stamps refer to the video available on YouTube.

**MINUTES
CITY OF LAKE WORTH BEACH
CITY COMMISSION WORK SESSION – PAY PLAN
CITY HALL COMMISSION CHAMBER
TUESDAY, APRIL 16, 2024 - 5:00 PM**

The meeting was called to order by Mayor Resch on the above date at 5:03 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

ROLL CALL: (0:35) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy, Commissioners Sarah Malega, Mimi May and Reinaldo Diaz. Also present were Interim City Manager Jamie Brown, City Attorney Elizabeth Lenihan and City Clerk Melissa Ann Coyne.

PLEDGE OF ALLEGIANCE: (0:55) led by Vice Mayor Christopher McVoy.

UPDATES / FUTURE ACTION / DIRECTION:

A. Overview of Class and Compensation Study Process (1:24)

ADJOURNMENT: (56:55)

The meeting adjourned at 5:56 PM.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

Minutes Approved: May 7, 2024

Item time stamps correspond to the recording of the meeting on YouTube.

**MINUTES
CITY OF LAKE WORTH BEACH
REGULAR CITY COMMISSION MEETING
CITY HALL COMMISSION CHAMBER
TUESDAY, APRIL 16, 2024 – 6:00 PM**

The meeting was called to order by Mayor Resch on the above date at 6:08 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

ROLL CALL: (1:08:21) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy, Commissioners Sarah Malega, Mimi May and Reinaldo Diaz. Also present were Interim City Manager Jamie Brown, City Attorney Elizabeth Lenihan and City Clerk Melissa Ann Coyne.

INVOCATION OR MOMENT OF SILENCE: (1:08:41) was led by Commissioner Sarah Malega.

PLEDGE OF ALLEGIANCE: (1:09:13) was led by Mayor Betty Resch.

ADDITIONS/DELETIONS/REORDERING: (1:09:36)

Presentation B, PBFR update, would be given by Chief Craig Spiegelhalter, the new District Chief as Chief Jaramillo had started at her new post. Presentation G, Proclamation declaring April 21-27, 2024, as National Volunteer Week, was moved to the Consent Agenda as Consent item D.

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner May to approve the agenda as amended.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, May and Diaz. NAYS: None.

PRESENTATIONS: (there is no public comment on Presentation items) (1:12:02)

- A. Presentation regarding the resurfacing, restoration and rehabilitation project on SR 802/Lake Avenue/Lucerne Avenue by Melissa Reading, Community Outreach Specialist for The Corradino Group (1:12:10)
- B. Palm Beach Fire Rescue report by Chief Craig Spiegelhalter, District Chief (1:18:35)
- C. Proclamation declaring April 18, 2024, as Lineman Appreciation Day (1:36:17)
- D. Proclamation declaring April 22, 2024 as Earth Day (1:38:38)
- E. Proclamation declaring April 26, 2024 as Arbor Day (1:41:16)
- F. Proclamation declaring April 7-13, 2024, as National Library Week (1:45:47)
- G. (moved to Consent Agenda D) Proclamation declaring April 21-27, 2024, as National Volunteer Week
- H. Proclamation declaring April 2024 as National Dark Night Sky Month (1:50:25)
- I. Proclamation declaring April 2024 as Water Conservation Month (1:55:32)
- J. Proclamation declaring April 2024 as Water Professionals Month (1:57:40)

DESIGNATION OF APPOINTMENTS: (2:10:13)

A. Appointment of Vice Mayor and Vice Mayor Pro Tem (2:10:17)

Action: Motion made by Commissioner May and seconded by Mayor Resch (who passed the gavel) to appoint Commissioner Sarah Malega as Vice Mayor.

Vote: Voice vote showed: AYES: Mayor Resch, and Commissioners Malega, May and Diaz. NAYS: Vice Mayor McVoy and Commissioner Diaz.

Action: Motion made Commissioner Diaz and seconded by Vice Mayor Malega to appoint Commissioner McVoy as Vice Mayor Pro Tem.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

B. Appointment of commissioners to various organizations: (2:31:47)

1. Transportation Planning Authority plus alternates

Action: Motion made by Commissioner May and seconded by Vice Mayor Malega to appoint Commissioner Diaz to serve as liaison to the Transportation Planning Authority with Commissioner McVoy as the alternate.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

2. Palm Beach County League of Cities

Action: Motion made by Commissioner May and seconded by Vice Mayor Malega to appoint Mayor Resch to serve as liaison to the Palm Beach County League of Cities.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

3. Community Redevelopment Agency

Action: Motion made by Commissioner May and seconded by Vice Mayor Malega to appoint Vice Mayor Malega to serve as liaison to the Community Redevelopment Agency.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

4. Neighborhood Association Presidents' Council

Action: Motion made by Commissioner May and seconded by Vice Mayor Malega to appoint Commissioner May to serve as liaison to the Neighborhood Association Presidents' Council.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

5. Education Task Force

Action: Motion made by Commissioner May and seconded by Vice Mayor Malega to appoint Commissioner Diaz to serve as liaison to the Education Task Force.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

COMMISSION LIAISON REPORTS AND COMMENTS: (2:38:35)

CITY MANAGER'S REPORT: (2:01:37 and 2:57:48)

Interim City Manager Brown provided the following report:

- an AT&T subcontractor hit the subregional forcemain on Florida Mango Road, requiring an around the clock repair operation; the dedication of city staff could not be overstated, with special kudos to Judy Love and her team
- there would be a special meeting on April 23 at 5 pm regarding sales tax, ARPA, restricted vs. unrestricted funds and the RFP for the beach property
- there would be a second special meeting on May 9 at 5 pm to discuss STRs, artificial turf and an RFP with the scope of services from the Tree and Landscape Board
- the first budget work session would be held on May 15 from 9 am to 5 pm

CITY ATTORNEY'S REPORT:

City Attorney Lenihan did not provide a report.

The meeting recessed at 8:04 PM and reconvened at 8:16 PM.

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA: (3:15:58)

APPROVAL OF MINUTES: (3:35:52)

Action: Motion made by Vice Mayor Malega and seconded by Commissioner Diaz to approve the following minutes:

- A. March 5, 2024 - regular meeting
- B. March 26, 2024 - emergency special meeting

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

CONSENT AGENDA: (public comment allowed during Public Participation of Non-Agendaed items) (3:35:34)

Action: Motion made by Commissioner Diaz and seconded by Commissioner May to approve the Consent Agenda.

- A. Proclamation declaring April 2024 as STD Awareness Month
- B. Agreement for Legal Services with Akerman, LLP for services regarding employee classification related to the City's Pension Ordinance.
- C. Informed Consent for Goren, Cherof, Doody & Ezrol, P.A.
- D. (moved from Presentation G) Proclamation declaring April 21-27, 2024, as National Volunteer Week

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

PUBLIC HEARINGS:

There were no Public Hearing items.

UNFINISHED BUSINESS:

There were no Unfinished Business items.

NEW BUSINESS: (3:35:59)

A. Agreement with Bausch Enterprises, Inc, to purchase and install lifeguard towers (3:36:01)

Action: Motion made by Vice Mayor Malega and seconded by Commissioner Diaz to approve the Agreement with Bausch Enterprises, Inc, to purchase and install lifeguard towers.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

B. Ratification of the emergency procurement with Musco Sports Lighting, LLC for the removal of the baseball field lighting at Dave Manzo field (3:37:55)

Action: Motion made by Commissioner Diaz and seconded by Commissioner McVoy to approve the ratification of the emergency procurement with Musco Sports Lighting, LLC for the removal of the baseball field lighting at Dave Manzo field.

Action: Amended Motion made by Commissioner Diaz and seconded by Commissioner McVoy to approve the ratification of the emergency procurement with Musco Sports Lighting, LLC for the removal of the baseball field lighting at Dave Manzo field at a cost not to exceed \$65,000.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

C. Agreement with Stantec Consulting Services, Inc for Comprehensive Sustainability Analysis for the City for the FY 2025 Budget not to exceed \$138,279.00 (3:45:31)

Action: Motion made by Commissioner Diaz and seconded by Commissioner McVoy to approve the Agreement with Stantec Consulting Services, Inc for Comprehensive Sustainability Analysis for the City for the FY 2025 Budget not to exceed \$138,279.00.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

D. Agreement with Davenport and Company, LLC, to provide comprehensive financial advisory services (3:45:58)

Action: Motion made by Vice Mayor Malega and seconded by Commissioner Diaz to approve the Agreement with Davenport and Company, LLC, to provide comprehensive financial advisory services.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

E. Discussion of the impact of the subregional forcemain break on Florida Mango Rd. (3:46:11)

UPCOMING MEETINGS AND WORK SESSIONS:

April 23 @ 5 pm - special meeting

April 30 @ 5 pm – work session followed by utility meeting

May 7 @ 6 pm - regular meeting

ADJOURNMENT: (4:03:13)

Action: Motion made by Commissioner McVoy and seconded by Commissioner Diaz to adjourn the meeting at 9:03 PM.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor Malega, and Commissioners McVoy, May and Diaz. NAYS: None.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

Minutes approved May 7, 2024

Item time stamps correspond to the recording on YouTube.

STAFF REPORT REGULAR MEETING

AGENDA DATE: May 7, 2024

DEPARTMENT: Community Sustainability

TITLE:

Agreement with Advanced Data Solutions to provide digitizing of property files

SUMMARY:

This Professional Services Agreement will provide the City with scanning and digitizing services for the City's property files to include blueprints, surveys, permits, and photos, as requested by the designated City's Building Division.

BACKGROUND AND JUSTIFICATION:

The City's Procurement Policy and Code authorizes the purchases of goods and services through 'piggybacking' other governmental competitively procured Agreements. On December 13, 2023, the City of Tamarac competitively awarded the Agreement for Citywide Record Scanning, Indexing and Disposition Services based on City of Tamarac's Invitation for Bid (RFP23-38R) valid until December 13, 2026, with two (2) additional one (1) year period renewals. The City of Tamarac's Agreement authorizes the Contractor to extend the terms and conditions to the other government entities. The City has reviewed the unit prices from the City of Tamarac Agreement and determined that the unit prices are competitive and will result in the best value to the City.

MOTION:

Move to approve/disapprove the professional services agreement with Advanced Data Solutions, Inc. to provide digitizing of property files.

ATTACHMENT(S):

Fiscal Impact Analysis
Agreement

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

Fiscal Years	2024	2025	2026	2027	2028
Inflows					
Current Appropriation	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
Outflows					
Operating	\$75,000	\$75,000	\$75,000	0	0
Capital	0	0	0	0	0
Net Fiscal Impact	\$75,000	\$75,000	\$75,000	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

Contract Award - Existing Appropriation	
	Expenditure
Department	Community Sustainability
Division	Building
GL Description	Professional Services – Scanning & Indexing
GL Account Number	103-2020-515.31-90
Project Number	
Requested Funds	\$75,000

AGREEMENT FOR RECORD CONVERSION SERVICES
(Utilizing the City of Tamarac Agreement No. RFP#23-38R)

THIS AGREEMENT FOR RECORD CONVERSION SERVICES (“Agreement”) is made as of the _____, by and between the **CITY OF LAKE WORTH BEACH**, 7 N. Dixie Highway, Lake Worth Beach, FL 33460, a municipal corporation organized and existing under the laws of the State of Florida, (“CITY”), and **ADVANCED DATA SOLUTIONS, INC.**, a Florida corporation, located at 141 Scarlet Blvd. Suite Oldsmar, FL 34677 (“CONTRACTOR”).

RECITALS

WHEREAS, the CITY Community Sustainability Department is in need of a company to provide Record Conversion Services; and

WHEREAS, the CITY’s Procurement Policy and Code authorizes the purchases of goods and services through “piggybacking” other governmental competitively procured Agreements; and

WHEREAS, on December 13, 2023, the City of Tamarac competitively awarded the Agreement for Record Conversion Services based on City of Tamarac’ Request for Proposal (RFP23-38R) (“City of Tamarac Agreement”) valid until December 13, 2026 with two (2) additional one (1) year period renewals; and

WHEREAS, the CITY has requested and the CONTRACTOR (along with the City of Tamarac) has agreed to extend the terms and conditions of the City of Tamarac Agreement to the CITY; and

WHEREAS, the CITY has reviewed the unit prices from the City of Tamarac Agreement, as provided in **Exhibit “A”**, and determined that the unit prices are competitive and will result in the best value to the CITY; and

WHEREAS, the CITY finds entering this Agreement with the CONTRACTOR serves a valid public purpose.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The parties agree that the recitals set forth above are true and correct and are fully incorporated herein by reference.
2. **Contract.** The City of Tamarac Agreement is hereby incorporated by reference into and expressly made a part of this Agreement as if set forth at length herein. The CITY shall have all rights and obligations of City of Tamarac under the City of Tamarac Agreement except as specifically modified herein. The term of this Agreement shall be consistent with the term of the City of Tamarac Agreement and valid until December 13, 2026 unless earlier terminated in accordance with the Agreement terms. This Agreement may be extended by the City Manager consistent with the renewal option of the City of Tamarac Agreement.
3. **Not to Exceed Amount.** While the CONTRACTOR is not guaranteed that the CITY will utilize this Agreement for any services, if the CITY utilizes this Agreement for services, the not to exceed amount for this Agreement shall be **Seventy-Five Thousand Dollars (\$75,000)** each fiscal year.
4. **Purchase Orders.** The CITY’s ordering mechanism for the work under this Agreement shall be a CITY issued Purchase Order; however, in the event of a conflict, all contractual terms and conditions stated herein and as stated in the City of Tamarac Agreement shall take precedence over the terms and conditions stated in the CITY

issued Purchase Order. The CONTRACTOR shall not provide any work under this Agreement without a CITY issued Purchase Order specifically for this purpose. The CONTRACTOR shall not perform work which is outside the scope of an issued Purchase Order and the CONTRACTOR shall not exceed the expressed amounts stated in the Purchase Order to be paid to the CONTRACTOR. The pricing in each Purchase Order shall be consistent with the pricing set forth in the City of Tamarac Agreement. Each issued Purchase Order shall be incorporated into this Agreement and made a part hereof.

5. Conflict of Terms and Conditions. Conflicts between documents that make up this Agreement shall be resolved in the following order of precedence:

- a. This Contract (including its exhibit);
- b. The City of Tamarac Agreement; and,
- c. The CITY issued Purchase Order.

6. Compensation to CONTRACTOR. CONTRACTOR shall submit invoices to the CITY for review and approval by the CITY's representative, indicating that all goods and services have been provided and rendered in conformity with this Agreement and then will be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the CITY representative's approval. CONTRACTOR waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Agreement. In order for both parties herein to close their books and records, CONTRACTOR will clearly state "final invoice" on the CONTRACTOR's final/last billing to the CITY. This certifies that all services have been properly performed and all charges have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the CONTRACTOR. The CITY will not be liable for any invoice from the CONTRACTOR submitted thirty (30) days after the provision of all services.

7. Miscellaneous Provisions.

- A. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in The City of Lake Worth Beach. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
- B. Except for any obligation of the CONTRACTOR to indemnify the CITY, if any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, each party shall be liable and responsible for their own attorney's fees incurred in that enforcement action, dispute, breach, default or misrepresentation. FURTHER, TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.
- C. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
- D. All notices required in this Agreement shall be sent by certified mail, return receipt requested or by nationally recognized overnight courier, and sent to the addresses appearing on the first page of this Agreement.

- E. The CITY and the CONTRACTOR agree that this Agreement (and the other documents described herein) sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.
- F. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement. This Agreement may be executed electronically.
- G. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.
- H. In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.
- I. PUBLIC RECORDS. The CONTRACTOR shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the CITY as provided under section 119.011(2), Florida Statutes, specifically agrees to:
1. Keep and maintain public records required by the CITY to perform the service.
 2. Upon request from the CITY's custodian of public records or designee, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the CONTRACTOR does not transfer the records to the CITY.
 4. Upon completion of this Agreement, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If the CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, 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 Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records or designee, in a format that is compatible with the information technology systems of the CITY.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF LAKE WORTH BEACH, ATTN: CITY CLERK, AT (561) 586-1662, CITY CLERK@LAKEWORTHBEACHFL.GOV, 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.

J. SCRUTINIZED COMPANIES.

1. CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.
2. If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.
3. The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
4. The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.
5. The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.
6. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

L. E-VERIFY.

Pursuant to Section 448.095(2), Florida Statutes, the CONTRACTOR shall:

1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement)

to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, Agreement with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;
3. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;
4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
5. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
6. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, CONTRACTOR may not be awarded a Agreement for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the CITY and CONTRACTOR hereto have made and executed this Agreement for Record Conversion Services as of the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

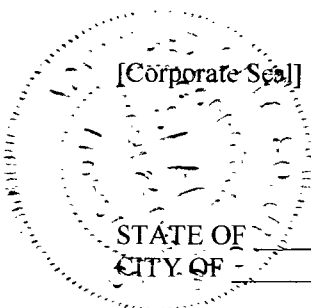
By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR: ADVANCED DATA SOLUTION, INC.

By: Melody Engle

Print Name: Melody Engle

Title: President



THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 9th day of April 2024, by Melody Engle, as the owner [title] of **ADVANCED DATA SOLUTIONS, INC.**, a Florida Corporation, who is personally known to me or who has produced _____ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Kara Infinger
Notary Public Signature

Notary Seal:

KARA INFINGER
Notary Public, State of Florida
My Comm. Expires Dec 3, 2026
No. HH 328057

EXHIBIT "A"
(Unit Price Schedule from City of Tamarac Agreement)



City of Tamarac

Purchasing and Contracts Division

APPENDIX A – PRICING
RECORD CONVERSION SERVICES

Item No.	Description	Unit	Unit Price
1	Document preparation (estimated 2500 documents per box)	Box	\$ 22.00
2	Document Preparation based of Plans and As Builds 8.5" x 11", 11"x 17" and 24" x 36"	Set	\$ 10.00
3	Scanning Paper Documents 8.5" x 11", 8.5" x 14" to CD, DVD or External HD	Image	\$ 0.0525
4	Scanning Paper Documents 11" x 17" to CD, DVD or External HD	Image	\$ 0.0525
5	Scanning Paper Documents 24" x 36" to CD, DVD or External HD	Image	\$ 0.57
6	Microfilming 16mm Documents 8.5" x 11", 8.5" x 14 from digital CD, DVD, External HD or FTP site (one original on Silver Film and 1 copy on Diazo Film)	Image	\$ 0.0325
7	Microfilming 16mm Document 11" x 17" from digital, CD, DVD, External HD or FTP site (one original on Silver Film and 1 copy on Diazo Film)	Image	\$ 0.035
8	Microfilming 35mm Plans/Drawings 24" x 36" from digital CD, DVD, External HD or FTP site (one original on Silver Film and 1 copy on Diazo Film)	Image	\$ 0.19
9	Indexing Assistance	Hour	\$ 25.00
10	Indexing scanned documents	File	\$ 0.04
11	Indexing microfilm documents	File	\$ 0.02
12	Indexing storage medium for CD, DVD, External HD or Microfilm	Container	\$ 0.40
13	Duplication of original Silver Film to Diazo	Roll	\$ 50.00

OPTIONAL OCR SCANNING SERVICES

Item No.	Description	Unit	Unit Price
1	OCR Scanning Paper Documents 8.5" x 11", 8.5" x 14" to CD, DVD or External HD	Image	\$ 0.0350
2	OCR Scanning Paper Documents 11" x 17" to CD, DVD or External HD	Image	\$ 0.0400
3	OCR Scanning Paper Documents 24" x 36" to CD, DVD or External HD	Image	\$ 0.1000

CITY OF LAKE WORTH BEACH

PROCLAMATION

WHEREAS, Asian American and Pacific Islander (AAPI) Heritage in the United States was celebrated beginning in 1978 and was made into a month-long event in 1992; and

WHEREAS, During AAPI Heritage Month, we acknowledge Asian American and Pacific Islanders have lived and worked in the United States of America for more than 200 years, contributing to the economy, culture, education, politics, arts, literature, science and technological developments despite institutional and systemic injustices designed to prevent and limit these achievements and contributions; and

WHEREAS, Despite these contributions and leadership, the role of AAPI in U.S. history has been consistently overlooked and undervalued, in the literature, teaching and study of American history; and

WHEREAS, During AAPI Heritage Month we acknowledge the additional determination, hard work, and perseverance, AAPI must put forth to be heard and seen and that these additional efforts are a result of inequitable institutional and systemic injustices.

NOW, THEREFORE, I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

MAY 2024

as

**ASIAN AMERICAN AND PACIFIC ISLANDER (AAPI)
HERITAGE MONTH**

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 7th day of May, 2024.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

STAFF REPORT REGULAR MEETING

AGENDA DATE: May 7, 2024

DEPARTMENT: Community Sustainability

TITLE:

Ordinance No. 2024-05 - First Reading – amending Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Division 3 “Permits,” Section 23.2-39 “Affordable/Workforce Housing Program” to provide minor changes for clarity to the Affordable/Workforce Housing Program Tiers

SUMMARY:

The recently adopted (10/6/2022) Ordinance 2022-12 created the City’s Affordable/Workforce Housing Program to encourage the development of affordable and/or workforce housing units within the City. The program allows several incentives, including a 15% density bonus and additionally flexibility in unit size, parking requirements and financial incentives provided that no less than 15% of the total dwelling units are deed restricted as affordable. The City Commission has subsequently directed staff to develop additional affordability buy down options. Further, in the recent implementation of the ordinance, staff has identified some minor housekeeping changes that would provide additional clarity on the program’s implementation as well as foster an increase in the number of new affordable/workforce housing units being proposed including accessory dwelling units.

BACKGROUND AND JUSTIFICATION:

The proposed amendments are in response to the following input received over the past year.

- The City Commission requested further opportunities to encourage the creation of affordable/workforce housing including accessory dwelling units.
- The Florida Legislature has adopted a series of policies to encourage the building of accessory dwelling units.
- The draft of the Florida Atlantic University Housing Study for Lake Worth Beach recommends several policy amendments to encourage the creation of affordable/workforce housing including accessory dwelling units.
- The LWB CRA has requested more flexibility in developing more residential units on lots of record that can be deed restricted as affordable/workforce housing.
- The Palm Beach County Housing Leadership Council and Palm Beach County encourage innovative approaches to improve the delivery of new affordable/workforce housing units including accessory dwelling units.

The **Planning & Zoning Board (PZB)** voted 6-1 to recommend approval of the proposed text amendments at their April 3, 2024, meeting with the recommendation that the City Commission consider that an additional unit, per proposed text in 1(f) (lines 83-87), not be applied to single-family residential zoning districts with an underlying single-family residential future land use designation. The discussion by the PZB was on the appropriateness of additional units on a single-family lot of record.

The **Historic Resources Preservation Board (HRPB)** unanimously voted to recommend approval of the proposed text amendments at their April 10, 2024, meeting with the recommendation that the City Commission consider that an additional unit, per proposed text in 1(f) (lines 83-87), not be applied to single-family residential zoning districts with an underlying single-family residential future land use.

MOTION:

Move to approve/disapprove Ordinance 2024-05 on first reading and to schedule second reading public hearing for May 21, 2024.

ATTACHMENT(S):

Ordinance 2024-05
PZB/HRPB Staff Report
Zoning Map #1
Zoning Map #2
Zoning Map #3

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ORDINANCE 2024-05 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS,” SECTION 23.2-39 “AFFORDABLE/WORKFORCE HOUSING PROGRAM,” AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, as provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the “City”), enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the City wishes to amend Chapter 23, Article 2 “Administration,” Section 23.2-39 – Affordable/Workforce Housing Program; and

WHEREAS, the City of Lake Worth Beach, Florida (the “City”), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Planning and Zoning Board, in its capacity as the local planning agency, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the Historic Resources Preservation Board, in its capacity as the local planning agency, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the City Commission finds and declares that the adoption of this ordinance is appropriate, and in the best interest of the health, safety and welfare of the City, its residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1: The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this ordinance as if set forth herein.

Section 2: Chapter 23 “Land Development Regulations,” Article 2 “Administration,” is hereby amended by adding thereto a new Section 23.2-39 “Affordable/Workforce Housing Program” to read as follows:

Sec. 23.2-39. – Affordable/Workforce Housing Program.

- a) *Intent.* The Affordable/Workforce Housing Program is intended to implement Objective 3.1.2 of the city comprehensive plan future land use element and provisions therein regarding affordable and workforce housing. The Affordable/Workforce Housing Program

52 provides for a density bonus and a reduction in overall housing unit areas for
53 developments that incorporate residential units with restrictive covenants that meet the
54 requirements of the program.
55

56 b) *Purpose.* The purpose of the Affordable/Workforce Housing Program is to encourage the
57 inclusion of affordable and workforce housing units within both residential and mixed-use
58 projects as well as planned developments of all types to provide for broader and more
59 accessible housing options within the City. The Affordable/Workforce Housing Program
60 offers the following as “Program Incentives”;
61

62 1. Tier One: may apply to all development projects consistent with the provisions of
63 this section

64 (a) Up to a fifteen percent (15%) increase in overall project density;

65 (b) Up to a fifteen percent (15%) reduction in the gross area requirements based
66 on unit type;

67 (c) Up to a twenty five percent (25%) reduction in required parking, provided that
68 each residential dwelling unit is provided at least one (1) parking space. This
69 reduction may not be combined with other parking reduction provisions of
70 these LDRs;

71 (d) Any additional density and/or other benefits provided under this tier shall
72 require that those units benefiting from the provisions be restricted as
73 affordable/workforce housing meeting the requirements of this section
74 through a restrictive covenant.

75 (e) Additional financial incentives may be considered on a case by case basis by
76 the applicable decision-making entity if the project provides more
77 affordable/workforce units that the minimum required.

78 (f) Any lot within either any residential or any mixed-use zoning district and any
79 project with a partial unit of additional density allowed under the calculations
80 in (a) is entitled to at least one (1) additional affordable/workforce unit
81 governed by a restrictive covenant meeting this section.

82 (g) Any platted lot of record within the CRA area boundaries, regardless of lot
83 width or lot area, is entitled to one (1) additional affordable/workforce unit
84 governed by a restrictive covenant meeting this section, even where the
85 platted lot(s) of record are combined into a single parcel.

86 2. Tier Two: applies to all projects utilizing other city incentive and/or bonus
87 program(s)

88 (a) ~~For all projects utilizing any other city incentive or bonus program(s), Fifteen~~
89 ~~percent (15%) of the total number of dwelling units within added to the project~~
90 ~~through the increased density under any other city incentive or bonus~~
91 ~~program(s) without using Tier One incentives~~ must be restricted as
92 affordable/workforce dwelling units meeting the requirements of this section
93 through a restrictive covenant.

94 (b) Any combination of Tier One incentives with other city incentive and/or bonus
95 program(s) related to density, intensity and/or height shall require that all units
96 benefiting from these increases and/or incentives be restricted as
97 affordable/workforce dwelling units meeting the requirements of this section
98 through a restrictive covenant.
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100 c) *Application and Review Process.*
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1. *Application.* All development proposals seeking increased density of up to fifteen percent (15%) and/or reductions in overall unit sizes of up to fifteen percent (15%) shall submit an affordable/workforce housing program application as provided by the department of community sustainability. The application shall accompany the standard City of Lake Worth Beach Universal Development Application for the development proposal. The affordable/workforce housing program application shall include all of the following:
 - (a) A project fact sheet with building specifications including the number of additional units, unit types and unit sizes proposed.
 - (b) The affordability criteria for each unit proposed to be included in the project.
 - (c) Draft restrictive covenant should the City's version not be submitted.
 - (d) Any other additional information to ensure the timely and efficient evaluation of the project by city staff to ensure that the requirements of the Affordable/Workforce Housing Program are being met.

2. *Review/decision.* The development review official shall review the application along with the zoning approvals otherwise required of the development proposal under these LDRs. Development applications that require further review or approval by a decision-making board shall also include the development review official's recommendation regarding the award of additional density and/or unit size reduction under the Affordable/Workforce Housing Program. Any decision on the award shall be made by the planning and zoning board, the historic resources planning board, or the city commission as applicable. A decision on an award may be appealed under the procedures applicable to the development application with which it is associated. No waiver or variance may be granted regarding the award. The award of bonus density, height or intensity under the Affordable/Workforce Housing Program shall be based on the following criteria:
 - (a) Is the award calculated correctly, consistent with the density and unit size reduction(s) that are allowed under the Affordable/Workforce Housing Program, including that the affordable/workforce housing unit type mix be reflective of the overall unit type mix for the entire project;
 - (b) Do the proposed income restrictions meet the intent of the Affordable/Workforce Housing Program;
 - (c) Do the proposed annual rents and/or mortgage costs meet the intent of the Affordable/Workforce Housing Program; and
 - (d) Do the proposed restrictive covenants to maintain affordability meet the intent of the Affordable/Workforce Housing Program?

- d) *Qualifying income restrictions.* The following provisions outline the required income limits and overall percentage of household income to qualify units as being affordable/workforce under the Affordable/Workforce Housing Program. All income values shall be based on the then current area (County) median household income published annually by the US Department of Housing & Urban Development. Whether with a rental unit or for a fee

153 simple, for sale unit, the overall housing expense (rent, mortgage, property taxes, and
154 insurances) for the unit shall not exceed thirty percent (30%) of the income limit provided
155 for each unit type, based upon the number of bedrooms.

- 156
157 1. For a studio unit, the annual gross household income shall not exceed forty five
158 percent (45%) of area median income and minimum household size is one (1) person,
159 not to exceed two (2) people.
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161 2. For a one-bedroom unit, the annual gross household income shall not exceed sixty
162 five percent (65%) of the area median income and minimum household size of one (1)
163 person, not to exceed two (2) people.
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165 3. For a two-bedroom unit, the annual gross household income shall not exceed eighty
166 five percent (85%) of the area median income and minimum household size of two (2)
167 people, not to exceed two (2) people per bedroom.
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169 4. For a three-bedroom unit, the annual gross household income shall not exceed one
170 hundred and five percent (105%) of the area median income and minimum household
171 size of three (3) people, not to exceed two (2) people per bedroom.
172
173 5. For a four or more-bedroom unit, the annual gross household income shall not exceed
174 one hundred and twenty five percent (125%) of the area median income and minimum
175 household size of four (4) people, not to exceed two (2) people per bedroom.
176
177 6. For fee simple ownership, the limits provided above may be increased by fifteen (15%)
178 based on unit type and shall include the overall housing expense.
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180 7. Alternatively, the income restrictions may adhere to the following guidelines singularly
181 or in combination.

182
183 a. "Affordable Housing Eligible Households" means a household with an annual
184 gross household income at or less than eighty percent (80%) of the Area
185 Median Income, calculated as percentages of the Median Family Income for
186 Palm Beach County, as published annually by the US Department of Housing
187 and Urban Development.

188
189 b. "Workforce Housing Eligible Households" means a household with an annual
190 gross household income within the following income categories: Moderate
191 (80%-100%) and Middle (101%-140%) of the Area Median Income, calculated
192 as percentages of the Median Family Income for Palm Beach County, as
193 published annually by the US Department of Housing and Urban Development.

194
195 e) *Additional restrictions.* The following requirements outline the restrictive covenant that
196 shall be recorded and maintained on each unit awarded under the Affordable/Workforce
197 Housing Program.

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199 1. The restrictive covenant shall be in a legal form acceptable to the department of
200 community sustainability and the city attorney's office or as otherwise provided by the
201 city and shall require each unit awarded be maintained at the awarded level of
202 affordability, in accordance with the Affordable/Workforce Housing Program, for a
203 minimum of twenty (20) years.

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2. The restrictive covenant shall include the more restrictive program requirements, which shall govern the project if other affordable/workforce housing incentives are combined with use of the Affordable/Workforce Housing Program.
 3. The restrictive covenant shall require an annual report of the project's compliance with the restrictive covenants and the requirements of the Affordable/Workforce Housing Program be provided to the City or its designee for evaluation, review and approval. Should the annual report not be submitted or should it demonstrate the project is not meeting the requirements of the Affordable/Workforce Housing Program, the project owner shall pay the city, as a penalty, an amount no less than fifteen dollars (\$15) per square foot for each unit that did not comply with the program's requirements for the previous year, or portion thereof. If the report is not submitted, the penalty payment will be calculated as though no units met the requirements of the Affordable/Workforce Housing Program for the reporting period. The per square foot penalty value may increase based on the annual U.S. Consumer Price Index (CPI) and shall be reflected in the City's adopted annual Schedule of Fees and Charges. Any required penalty payment shall be made within ten (10) days of notification from the city of the calculated payment based on the report or failure to submit the report and the annual penalty value as adopted by the city.
 4. The restrictive covenant shall provide for extension of the affordability period, as set forth in this section.
- f) *Financial incentives.* The following are parameters for financial incentive values based on unit type, which may be utilized to ensure more than the required fifteen percent (15%) of the dwelling units available after the density increase incentive remain affordable for a guaranteed twenty-five (25) year period as governed through a covenant and/or deed restriction. Values may be paid through utilization of Sustainable Bonus Incentive Values, Transfer Development Right Values or cash payments from the City from the Affordable/Workforce Housing Program Trust Fund, Sustainable Bonus Incentive Trust Account or the Transfer Development Rights Trust Account or other legally approved funding source(s).
1. For a studio dwelling unit, a one-time payment of \$40,000 or 50% percent of the area median income, whichever is greater;
 2. For a one-bedroom dwelling unit, a one-time payment of \$60,000 or 75% percent of the area median income, whichever is greater;
 3. For a two-bedroom dwelling unit, a one-time payment of \$80,000 or 100% percent of the area median income, whichever is greater;
 4. For a three-bedroom dwelling unit, a one-time payment of \$100,000 or 125% percent of the area median income, whichever is greater;
 5. For a four or more-bedroom dwelling unit, a one-time payment of \$120,000 or 150% percent of the area median income, whichever is greater;
 6. For a fee simple ownership dwelling unit, an additional one-time payment of \$25,000 may be provided; and

- 255 7. Payments shall be made at time of dwelling units receiving a final certificate of
256 occupancy or certificate of completion.
257
- 258 g) *Affordability extension(s)*. The City shall have the express right, in its sole discretion, to
259 extend the affordability deed restrictions and covenants for another period of no less than
260 twenty-five (25) years) through the provision of a then current economic incentive payment
261 based on unit size.
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- 263 1. The City shall provide formal notice of intent to extend affordability of units a minimum
264 of six (6) months prior to the expiration of the affordability deed restrictions and
265 covenants.
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 - 267 2. The City's notice shall include the number and type of units having affordability
268 extended and the economic incentive to be provided for those units.
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 - 270 3. The affordability extension may not exceed the original number and type of units
271 governed by the Affordable/Workforce Housing Program.
272
 - 273 4. There shall be no limit on the number of affordability extensions the city may fund for
274 a project.
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 - 276 5. The extension incentive payment shall follow the parameters as set forth in f) of this
277 section based on the values established for the year that the extension is authorized.
278
- 279 h) *Policies and Procedures*. The city's director for community sustainability is hereby
280 authorized to establish policies and procedures including covenants, accountability and
281 reporting to ensure effective implementation of the Affordable/Workforce Housing
282 Program and clarify the requirements and procedures as set forth herein.
283
- 284 i) *Trust Fund*. There is hereby established an Affordable/Workforce Housing Program Trust
285 Fund. The trust fund will be a separate line item in the City's budget.
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- 287 1. Payments required by the Affordable/Workforce Housing Program due to non-
288 compliance with restrictive covenants shall be paid into the trust fund.
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 - 290 2. Funds in the trust fund will be used to fund the financial incentives and the affordability
291 extensions under the Affordable/Workforce Housing Program.
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 - 293 3. At least once each fiscal period, the city manager shall present to the city commission
294 a report on funds held in the trust fund, including any accrued interest, and any
295 proposed use thereof. Monies, including any accrued interest, not assigned in any
296 fiscal period shall be retained in the trust fund until the next fiscal period.
297
- 298 j) *In Lieu Payment Provision*. In some instances, projects including Density, Intensity and/or
299 Height Bonuses may not be appropriate for participation in the Program. In these cases,
300 the project may pay an in lieu of payment based on the following provisions;
301
- 302 1. The fee shall be calculated on fifteen percent (15%) of the gross area of the
303 bonuses requested for the project.
304
 - 305 2. The fee shall be a one-time payment of \$50 or 0.0625% of the area median
income, whichever is greater, per gross square foot.
 3. Projects eligible for an in lieu of payment may include the following:

- 306 i. Single or multiple use projects that do not include a residential use;
- 307 ii. Mixed use projects that include residential and fewer than 25 residential
- 308 units;
- 309 iii. Residential only projects that include fewer than 15 residential units;
- 310 iv. Any project that includes a residential use(s) and all of the dwelling units
- 311 are for sale, home ownership such as condominiums, townhouses and/or
- 312 single-family residences of which none are deed restricted as
- 313 affordable/workforce housing.
- 314 4. Fee payment shall be due prior to issuance of any building permits related to the
- 315 project.
- 316

317 k) *Exemptions.* Projects in specific locations are exempt from the requirements of this
 318 section due to their maximum allowed density and/or to their allowed uses.

- 319 1. Individual residential dwelling units in the Single Family Residential (SF-R) and
- 320 Single Family/Two Family Residential (SF/TF) Zoning Districts unless units are
- 321 part of a project requesting additional densities under the provisions of one of the
- 322 city’s incentive programs.
- 323 2. Projects within the Public (P), Public Recreation and Open Space (PROS), Beach
- 324 and Casino (BAC), Conservation (C) and Industrial Park of Commerce (I-POC)
- 325 Zoning Districts.
- 326

327 **Section 3:** Severability. If any section, subsection, sentence, clause, phrase or portion
 328 of this Ordinance is for any reason held invalid or unconstitutional by any court of competent
 329 jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and
 330 such holding shall not affect the validity of the remaining portions thereof.

331 **Section 4:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict
 332 herewith are hereby repealed to the extent of such conflict.

333 **Section 5:** Codification. The sections of the ordinance may be made a part of the City
 334 Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and
 335 the word “ordinance” may be changed to “section”, “division”, or any other appropriate word.

336 **Section 6:** Effective Date. This ordinance shall become effective 10 days after
 337 passage.

338 The passage of this ordinance on first reading was moved by _____,
 339 seconded by _____, and upon being put to a vote, the vote was as follows:

- 340 Mayor Betty Resch
- 341 Vice Mayor Sarah Malega
- 342 Commissioner Christopher McVoy
- 343 Commissioner Mimi May
- 344 Commissioner Reinaldo Diaz

345 The Mayor thereupon declared this ordinance duly passed on first reading on the ____ day
 346 of _____, 2024.

347 The passage of this ordinance on second reading was moved by _____,
 348 seconded by _____, and upon being put to a vote, the vote was as follows:

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Mayor Betty Resch
Vice Mayor Sarah Malega
Commissioner Christopher McVoy
Commissioner Mimi May
Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2024.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk



DATE: March 27, 2024

TO: Members of the Planning & Zoning and Historic Resources Preservation Boards

FROM: William Waters, Director Community Sustainability

MEETING: April 3 & April 10, 2024

SUBJECT: **Ordinance 2024-05:** Consideration of an ordinance amending Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Division 3 “Permits,” Section 23.2-39 “Affordable/Workforce Housing Program” to provide minor changes for clarity to the Affordable/Workforce Housing Program Tiers.

PROPOSAL / BACKGROUND/ ANALYSIS:

The recently adopted (10/6/2022) Ordinance 2022-12 created the City’s Affordable/Workforce Housing Program to encourage the development of affordable and/or workforce housing units within the City. The program allows several incentives, including a 15% density bonus and additionally flexibility in unit size, parking requirements and financial incentives provided that no less than 15% of the total dwelling units are deed restricted as affordable. The City Commission has subsequently directed staff to develop additional affordability buy down options. Further, in the recent implementation of the ordinance, staff has identified some minor housekeeping changes that would provide additional clarity on the program’s implementation as well as foster an increase in the number of new affordable/workforce housing units being proposed including accessory dwelling units.

The proposed ordinance would amend the recently adopted new section of the LDR in Chapter 23 of the City’s Code of Ordinances:

- Article 2, Section 23.2-39 – Affordable/Workforce Housing Program

The proposed amendments are in response to the following input received over the past year.

- The City Commission requested further opportunities to encourage the creation of affordable/workforce housing including accessory dwelling units.
- The Florida Legislature has adopted a series of policies to encourage the building of accessory dwelling units.
- The recently completed Florida Atlantic University Housing Study for Lake Worth Beach recommends several policy amendments to encourage the creation of affordable/workforce housing including accessory dwelling units.
- The LWB CRA has requested more flexibility in development more residential units on lots of record that can be deed restricted as affordable/workforce housing
- The Palm Beach County Housing Leadership Council and Palm Beach County encourage innovative approaches to improve the delivery of new affordable/workforce housing units including accessory dwelling units.

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2024-05.

POTENTIAL MOTION:

I move to RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION **TO ADOPT** the proposed LDR text amendments included in Ordinance 2024-05.

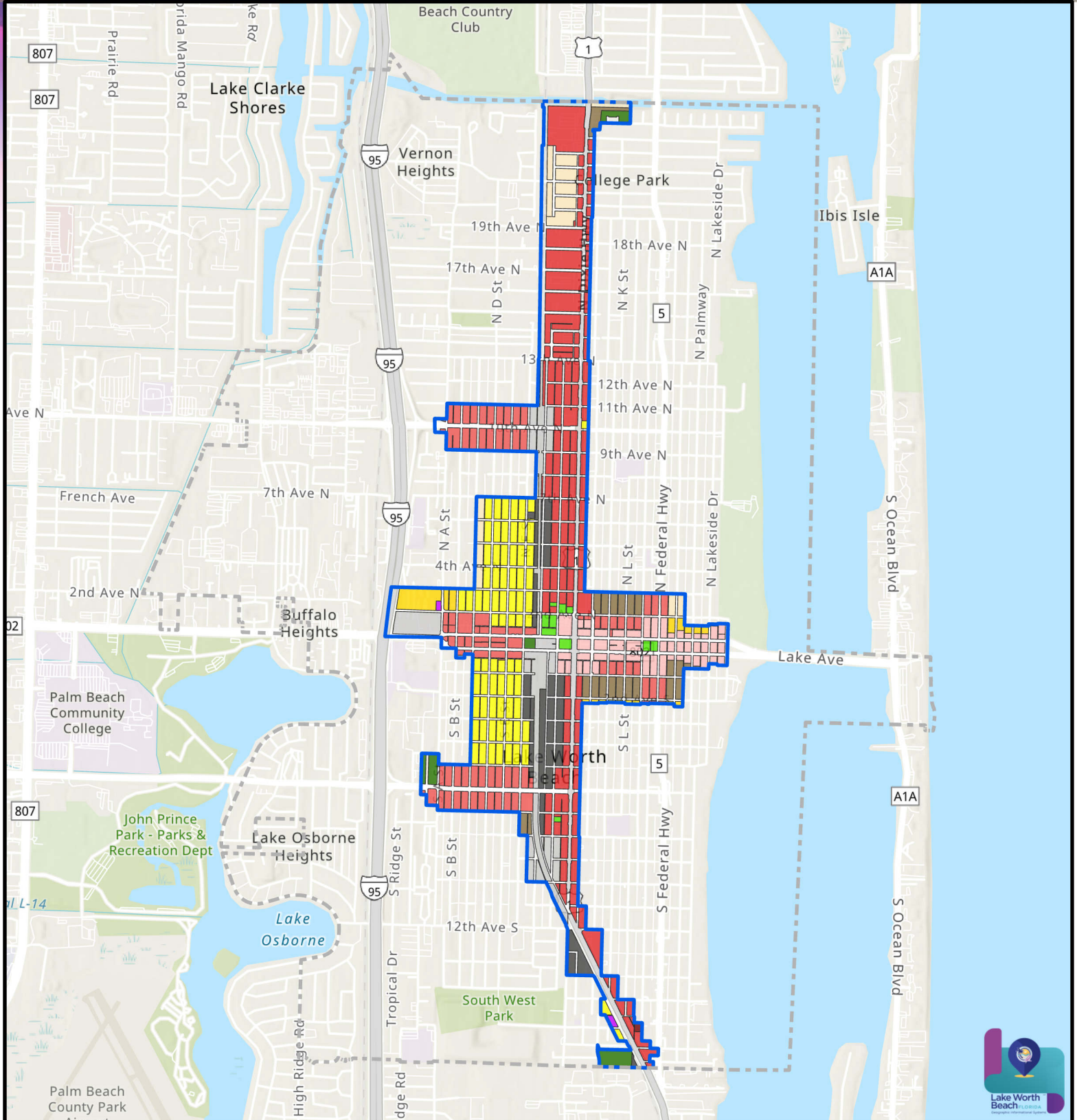
Attachments

- A. Draft Ordinance 2024-05



Community Redevelopment Area & Zoning Classification

City of Lake Worth Beach, FL



Map Legend

- CRA Boundary

Zoning Classification

 Artisanal Industrial (AI)	 Mixed Use - Dixie Highway (MU-DH)	 Public (P)
 Downtown (DT)	 Mixed Use - East (MU-E)	 Public Recreation and Open Space (PROS)
 Low-Density Multi-Family Residential, 20 du/net acre(MF-20)	 Mixed Use - Federal Highway (MU-FH)	 Single-Family and Two-Family Residential (SF-TF-14)
	 Neighborhood Commercial (NC)	 Single Family Residential (SFR)
		 Transit Oriented Development East (TOD-E)
		 Medium-Density Multi-Family Residential, 30 du/net acre (MF-30)

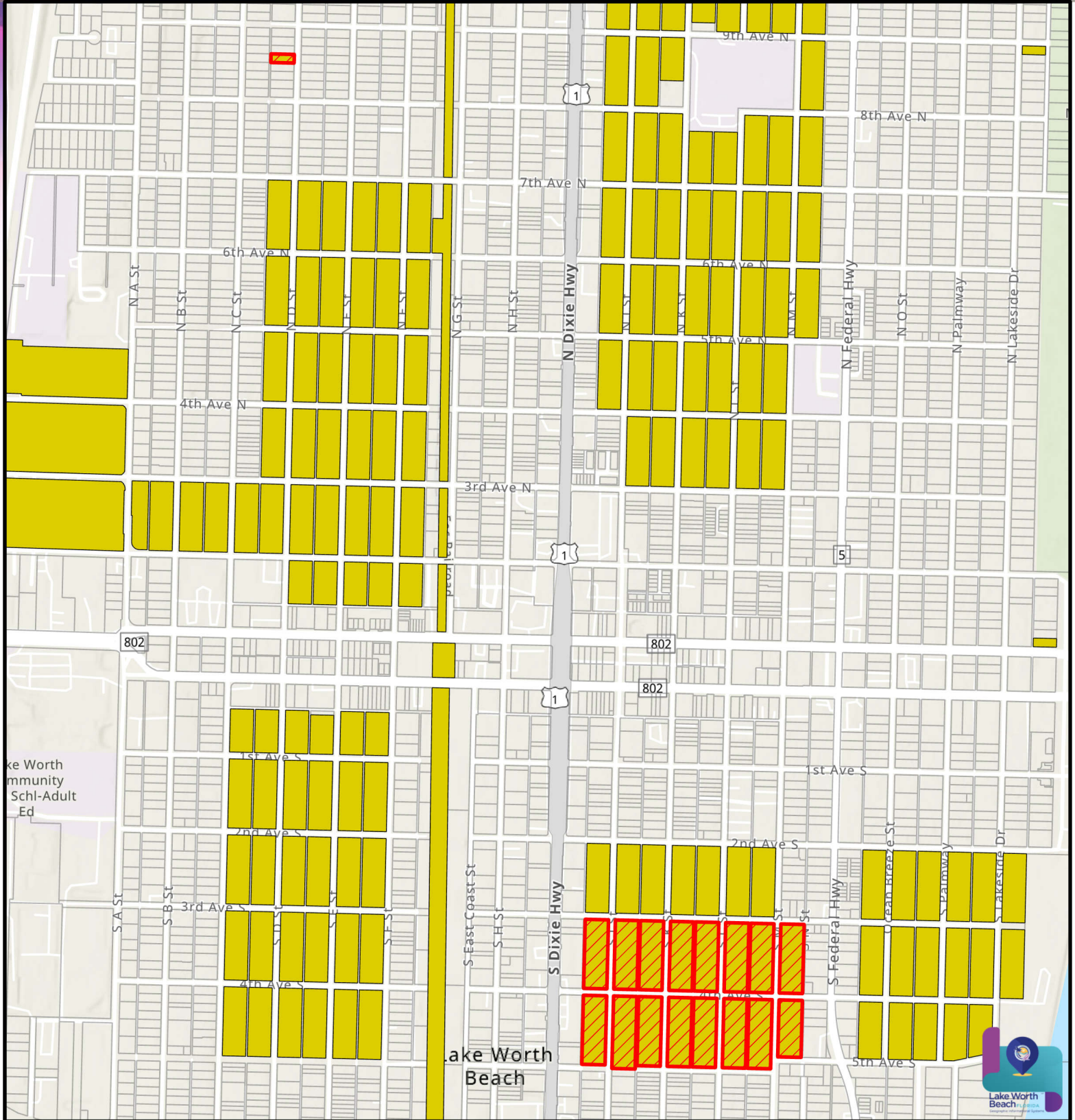
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Created: April 17, 2024
Source: City of Lake Worth Beach



Single-Family Residential Zoning Medium Density FLU Overlap

City of Lake Worth Beach, FL



Map Legend

- Single-Family Residential (SFR)
- Medium Density Residential (MDR)

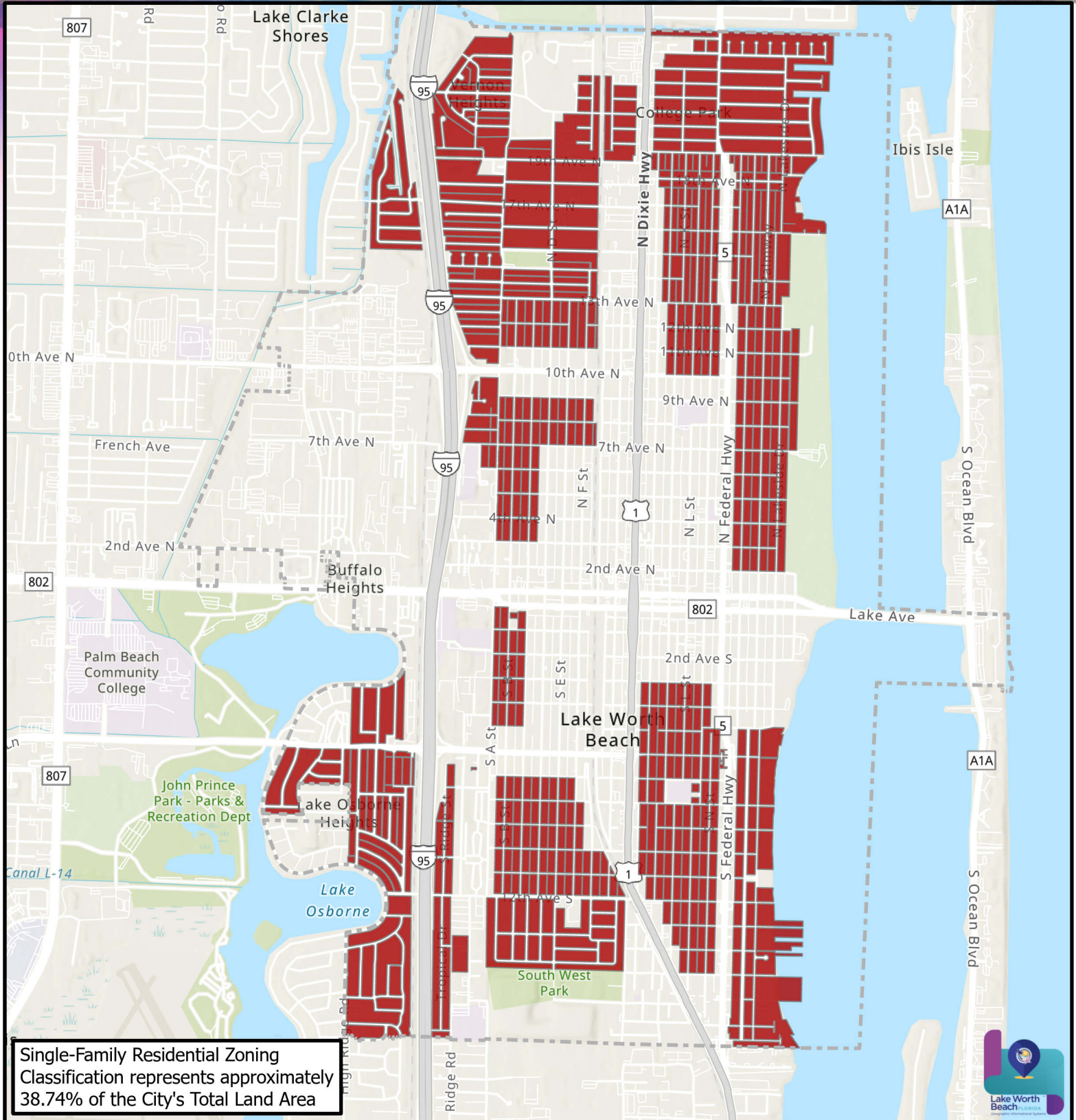
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Single-Family Residential Zoning Classification

City of Lake Worth Beach, FL



Single-Family Residential Zoning Classification represents approximately 38.74% of the City's Total Land Area

Map Legend

- Municipal Boundary
- Single-Family Residential (SFR)

0 0.13 0.25 0.5 Miles



STAFF REPORT REGULAR MEETING

AGENDA DATE: May 7, 2024

DEPARTMENT: Community Sustainability

TITLE:

Ordinance No. 2024-06 - First Reading – amending multiple sections of Chapter 23 “Land Development Regulations” to address several housekeeping items and minor changes for clarity

SUMMARY:

The subject amendment to the City’s Land Development Regulations (LDR) was drafted to clarify several provisions, address general housekeeping items, resolve inconsistencies, and provide greater flexibility for fencing and walls abutting public rights-of-way. The ordinance will also clarify minimum setbacks for pools on dual frontage properties, establish timeframes in which holiday lights may be displayed, and create additional performance standards for outdoor storage. Finally, the ordinance will amend historic preservation regulations to comply with recent state legislation.

BACKGROUND AND JUSTIFICATION:

The subject amendment consists of multiple housekeeping modifications, as well as several other issues that were identified by staff in the building permit and the site plan review processes, including:

- **Administrative Adjustments:** Expanding and clarifying the ability of the Development Review Officer (DRO) to establish the front yard and adjust fencing fronting public rights-of-way (ROW) in all residential zoning districts. Also, clarify the provision of administrative adjustment for existing structures.
- **Pools on dual frontage properties:** Clarify the minimum setbacks for pools on properties with dual frontage.
- **String Lights:** Adding definition for string lights and establishing timeframes in which holiday lights may be displayed.
- **Residential Fences and Walls:** To allow four-foot fences or walls at the property line abutting the public right-of-way with no additional setback or landscape screening requirement.
- **Outdoor Storage:** Adding and amending definitions of outdoor storage. Adding performance standards for outdoor storage in the mixed use and artisanal industrial zoning districts.
- **Historic Preservation:** Amending to comply with 553.79(26), Florida Statutes regarding demolition of noncontributing single-family structures in special flood hazard areas.
- **Housekeeping Items:** Revising and definitions to better distinguish between Accessory Dwelling Units (ADU) and guest houses, removing inconsistencies related to minimum front yard landscaping area, further identifying location requirements for mechanical systems, clarifying height measurements for fencing and walls, and clarifying building lot coverage calculations.

The **Planning & Zoning Board (PZB)** unanimously voted to recommend approval of the proposed text amendments at their April 3, 2024, meeting with the recommendations that the text in Exhibit A, lines 267 through 269 be amended to allow up to three (3) feet of depth of an overhanging roof, eyebrow, awning, or similar feature to be exempted from building lot coverage calculations, provided that the eave retains a minimum three-foot setback from the side property lines. The discussion by the PZB was that new construction projects may use a 2.5-foot or 3-foot roof overhang to provide additional shade to windows and meet green building requirements, so the Board felt that it was appropriate to expand the 2-foot overhang allowance to a 3-foot allowance. The PZB also recommended that the text in Exhibit O, line 1034 be stricken from the ordinance. The recommendation to strike line 1034 was initiated by staff at the advice of the City Attorney, as the text in that line could be interpreted to conflict with F.S. 553.79(26).

The **Historic Resources Preservation Board (HRPB)** unanimously voted to recommend approval of the proposed text amendments at their April 10, 2024, meeting with the recommendations that the text in Exhibit J, line 742 be amended to strike the phrase “Colored or themed” and to instead use the phrase “Holiday themed lights.” The HRPB also recommended that the text in Exhibit O, line 1034 be stricken from the ordinance. The discussion by the HRPB was that the use of the word “colored” can have negative connotations given its historic use in the United States. The recommendation to strike line 1034 was initiated by staff at the advice of the City Attorney, as the text in that line could be interpreted to conflict with F.S. 553.79(26).

MOTION:

Move to approve/disapprove Ordinance 2024-06 on first reading and schedule the second reading and public hearing for May 21, 2024.

ATTACHMENT(S):

Ordinance 2024-06
PZB/HRPB Staff Report

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ORDINANCE 2024-06 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS”, ARTICLE 1 “GENERAL PROVISIONS,” DIVISION 2 “DEFINITIONS”; SECTION 23.1-12 – DEFINITIONS; ARTICLE 2 ‘ADMINISTRATION,” DIVISION 3 “PERMITS,” SECTION 23.2-28 ADMINISTRATIVE ADJUSTMENTS/ ADMINISTRATIVE USE PERMITS; ARTICLE 3 “ZONING DISTRICTS,” DIVISION 2, “RESIDENTIAL DISTRICTS,” SECTION 23.3-7 – SF-R - SINGLE-FAMILY RESIDENTIAL, SECTION 23.3-8 – SF-TF 14 - SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL, SECTION 23.3-10 – MF-20 - MULTI-FAMILY RESIDENTIAL, SECTION 23.3-11 – MF-30 – MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL, AND SECTION 23.3-12 – MF-40 – HIGH DENSITY MULTI-FAMILY RESIDENTIAL; ARTICLE 3 “ZONING DISTRICTS,” DIVISION 3, “MIXED USE DISTRICTS,” SECTION 23.3-13 – MU-E – MIXED USE EAST AND SECTION 23.3-16 – MU-FH – MIXED USE – FEDERAL HIGHWAY; ARTICLE 4 “DEVELOPMENT STANDARDS,” SECTION 23.4-3 EXTERIOR LIGHTING, SECTION 23.4-4 FENCES, WALLS AND GATES, SECTION 23.4-16 MECHANICAL SYSTEMS/EQUIPMENT FOR EXISTING RESIDENTIAL STRUCTURES, AND SECTION 23.4-19 OUTDOOR STORAGE AND OPEN-AIR OPERATIONS; ARTICLE 5 “SUPPLEMENTAL REGULATIONS,” SECTION 23.5-1 SIGNS AND SECTION 23.5-4 HISTORIC PRESERVATION; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, as provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the “City”), enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the City wishes to amend Chapter 23, Article 1 “General Provisions,” Division 2 “Definitions,” Section 23.1-12 – Definitions to revise the definition for accessory dwelling unit, revise the definition for building lot coverage, revise the definition for fence, create a definition for guest house, revise the definition of outdoor storage, create a definition for outdoor storage – other, create a definition for structure lot coverage, revise the definition for mechanical systems/equipment, create a definition for string lights, and revise the definition for wall; and

WHEREAS, the City wishes to amend Chapter 23, Article 2 “Administration,” Division 3 “Permits,” Section 23.2-28 – “Administrative adjustments/administrative use permits” to expand the ability of the Development Review Official to establish the front yard and adjust fencing fronting public rights-of-way for structures in all residential zoning districts and to clarify the provision for an administrative adjustment for existing structures that exceed building lot coverage, impermeable lot coverage, or floor area ratio; and

52 **WHEREAS**, the City wishes to amend Chapter 23, Article 3 “Zoning Districts,” Division 2
53 “Residential Districts,” Section 23.3-7 “SF-R – Single-family residential,” Section 23.3-8 “SF-TF
54 14 – Single-family and two family residential,” Section 23.3-10 “MF-20 – Multifamily residential,”
55 Section 23.3-11 “MF-30 – Medium density multi-family residential,” and Section 23.3-12 “MF-40
56 – High density multi-family residential,” and Chapter 23, Article 3 “Zoning Districts, Division 3
57 “Mixed Use Districts,” Section 23.3-13 “MU-E – Mixed use east,” Section 23.3-16 “MU-FH – Mixed
58 use – Federal Highway,” to create a consistent requirement for front yard landscaping; and
59

60 **WHEREAS**, the City wishes to amend Chapter 23, Article 3 “Zoning Districts,” Division 2
61 “Residential Districts,” Section 23.3-7 “SF-R – Single-family residential,” to clarify the minimum
62 setbacks for pools on properties with dual frontage; and
63

64 **WHEREAS**, the City wishes to amend Chapter 23, Article 4 “Development Standards,”
65 Section 23.4-3 – Exterior lighting to allow string lights and create timeframes in which holiday
66 lights may be displayed; and
67

68 **WHEREAS**, the City wishes to amend Chapter 23, Article 4 “Development Standards,”
69 Section 23.4-4 – Fences, walls, and gates to allow four-foot-tall fencing and walls along property
70 lines abutting public rights-of-way for residential uses; and
71

72 **WHEREAS**, the City wishes to amend Chapter 23, Article 4 “Development Standards,”
73 Section 23.4-16 – Mechanical systems/equipment for existing residential structures to prohibit
74 mechanical equipment in the front setback; and
75

76 **WHEREAS**, the City wishes to amend Chapter 23, Article 4 “Development Standards,”
77 Section 23.4-19 – Outdoor storage and open-air operations to provide standards for outdoor
78 storage in mixed-use and industrial zoning districts and remove redundant language regarding
79 open-air operation; and
80

81 **WHEREAS**, the City wishes to amend Chapter 23, Article 5 “Supplemental Regulations,”
82 Section 23.5-1 - Signs to remove a prohibition on string lights; and
83

84 **WHEREAS**, the City wishes to amend Chapter 23, Article 5 “Supplemental Regulations,”
85 Section 23.5-4 – Historic Preservation to comply with section 553.79(26), Florida Statutes; and
86

87 **WHEREAS**, the Planning and Zoning Board, in its capacity as the local planning agency,
88 considered the proposed amendments at a duly advertised public hearing; and
89

90 **WHEREAS**, the Historic Resources Preservation Board, in its capacity as the local
91 planning agency, considered the proposed amendments at a duly advertised public hearing; and
92

93 **WHEREAS**, the City Commission has reviewed the proposed amendments and has
94 determined that it is in the best interest of the public health, safety, and general welfare of the City
95 to adopt this ordinance.
96

97 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF**
98 **LAKE WORTH BEACH, FLORIDA, that:**
99

100 **Section 1:** The foregoing “WHEREAS” clauses are ratified and confirmed as being
101 true and correct and are made a specific part of this ordinance as if set forth herein.
102

103 **Section 2:** Chapter 23 “Land Development Regulations, Article 1 “General
104 Provisions,” Division 2 “Definitions,” Section 23.1-12 “Definitions” is hereby amended by adding
105 the words shown in underline type and deleting the words struck through as indicated in **Exhibit**
106 **A.**

107
108 **Section 3:** Chapter 23 Land Development Regulations, Article 2 “Administration,”
109 Division 3 “Permits,” Section 23.2-28 “Administrative adjustments/administrative use permits” is
110 hereby amended by adding the words shown in underline type and deleting the words struck
111 through as indicated in **Exhibit B.**

112
113 **Section 4:** Chapter 23 Land Development Regulations, Article 3 “Zoning Districts,”
114 Division 2 “Residential Districts,” Section 23.3-7 “SF-R – Single-family residential” is hereby
115 amended by adding the words shown in underline type and deleting the words struck through as
116 indicated in **Exhibit C.**

117
118 **Section 5:** Chapter 23 Land Development Regulations, Article 3 “Zoning Districts,”
119 Division 2 “Residential Districts,” Section 23.3-8 “SF-TF 14 – Single-family and two-family
120 residential” is hereby amended by deleting the words struck through as indicated in **Exhibit D.**

121
122 **Section 6:** Chapter 23 Land Development Regulations, Article 3 “Zoning Districts,”
123 Division 2 “Residential Districts,” Section 23.3-10 “MF-20 – Multi-family residential” is hereby
124 amended by deleting the words struck through as indicated in **Exhibit E.**

125
126 **Section 7:** Chapter 23 Land Development Regulations, Article 3 “Zoning Districts,”
127 Division 2 “Residential Districts,” Section 23.3-11 “MF-30 – Medium density multi-family
128 residential” is hereby amended by deleting the words struck through as indicated in **Exhibit F.**

129
130 **Section 8:** Chapter 23 Land Development Regulations, Article 3 “Zoning Districts,”
131 Division 2 “Residential Districts,” Section 23.3-12 “MF-40 – High density multi-family residential”
132 is hereby amended by deleting the words struck through as indicated in **Exhibit G.**

133
134 **Section 9:** Chapter 23 Land Development Regulations, Article 3 “Zoning Districts,”
135 Division 3 “Mixed Use Districts,” Section 23.3-13 “MU-E – Mixed use east” is hereby amended by
136 deleting the words struck through as indicated in **Exhibit H.**

137
138 **Section 10:** Chapter 23 Land Development Regulations,” Article 3 “Zoning Districts,”
139 Division 3 “Mixed Use Districts,” Section 23.3-16 “MU-FH – Mixed use – Federal Highway” is
140 hereby amended by deleting the words struck through as indicated in **Exhibit I.**

141
142 **Section 11:** Chapter 23 Land Development Regulations, Article 4 “Development
143 Standards,” Section 23.4-3 “Exterior lighting” is hereby amended by adding the words shown in
144 underline type as indicated in **Exhibit J.**

145
146 **Section 12:** Chapter 23 Land Development Regulations, Article 4 “Development
147 Standards,” Section 23.4-4 “Fences, walls and gates” is hereby amended by adding the words
148 shown in underline type and deleting the words struck through as indicated in **Exhibit K.**

149
150 **Section 13:** Chapter 23 Land Development Regulations, Article 4 “Development
151 Standards,” Section 23.4-16 “Mechanical systems/equipment for existing residential structures”
152 is hereby amended by adding the words shown in underline type and deleting the words struck
153 through as indicated in **Exhibit L.**

154 **Section 14:** Chapter 23 Land Development Regulations, Article 4 “Development
155 Standards,” Section 23.4-19 “Outdoor storage and open-air operations” is hereby amended by
156 adding the words shown in underline type and deleting the words struck through as indicated in
157 **Exhibit M.**

158
159 **Section 15:** Chapter 23 Land Development Regulations, Article 5 “Supplemental
160 Regulations,” Section 23.5-1 “Signs” is hereby amended by deleting the words struck through as
161 indicated in **Exhibit N.**

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163 **Section 16:** Chapter 23 Land Development Regulations, Article 5 “Supplemental
164 Regulations,” Section 23.5-4 “Historic Preservation” is hereby amended by adding the words
165 shown in underline type as indicated in **Exhibit O.**

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167 **Section 15:** Severability. If any section, subsection, sentence, clause, phrase or portion
168 of this Ordinance is for any reason held invalid or unconstitutional by any court of competent
169 jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and
170 such holding shall not affect the validity of the remaining portions thereof.

171
172 **Section 16:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict
173 herewith are hereby repealed to the extent of such conflict.

174
175 **Section 17:** Codification. The sections of the ordinance may be made a part of the City
176 Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and
177 the word “ordinance” may be changed to “section”, “division”, or any other appropriate word.

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179 **Section 18:** Effective Date. This ordinance shall become effective 10 days after
180 passage.

181
182 The passage of this ordinance on first reading was moved by _____,
183 seconded by _____, and upon being put to a vote, the vote was as follows:

- 184
185 Mayor Betty Resch
186 Vice Mayor Sarah Malega
187 Commissioner Christopher McVoy
188 Commissioner Mimi May
189 Commissioner Reinaldo Diaz

190
191 The Mayor thereupon declared this ordinance duly passed on first reading on the ___ day
192 of _____, 2024.

193
194
195 The passage of this ordinance on second reading was moved by _____,
196 seconded by _____, and upon being put to a vote, the vote was as follows:

- 197
198 Mayor Betty Resch
199 Vice Mayor Sarah Malega
200 Commissioner Christopher McVoy
201 Commissioner Mimi May
202 Commissioner Reinaldo Diaz

204 The Mayor thereupon declared this ordinance duly passed on the _____ day of
205 _____, 2024.

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LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk

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219 **EXHIBIT A**

220
221 Chapter 23

222 LAND DEVELOPMENT REGULATIONS ARTICLE 1 "GENERAL PROVISIONS"

223
224
225 *Article 1, "General Provisions," Division 2, "Definitions"*

226
227 **Sec. 23.1-12. – Definitions.**

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229 ***

230 *Accessory dwelling unit (ADU):* also known as a "mother-in-law" or "granny" unit, is an
231 additional living unit that has separate kitchen, sleeping and bathroom facilities, ~~attached or~~
232 detached from the primary residential unit on a single-family or two-family lot. ADUs provide
233 housing opportunities through the use of surplus space ~~either in or~~ adjacent to a single-family or
234 two-family dwelling. ~~In most cases they are either a garage conversion or a small backyard~~
235 ~~cottage or guest house style structure.~~ Accessory dwelling units shall count toward overall floor
236 area ratio (FAR) and lot coverage.

237 ***

238 *Building lot coverage:* The area of a lot covered by the impervious surface associated with
239 the footprint(s) of all buildings and structures on a particular lot. Exceptions: Structured parking
240 garages are exempt from building lot coverage calculations unless habitable space is provided
241 above or on top of the structured parking, then that portion of the parking garage would be
242 included in the calculation. The first two (2) feet of depth of an overhanging roof, decorative
243 eyebrow, awning, or other substantially similar architectural feature shall not count towards
244 building lot coverage calculations.

245 ***

246 *Fence:* A man-made barrier not comprised of masonry products or vegetation located out-
247 of-doors. Fence height shall be measured based on the average height of the natural grade on
248 either side of the fence. In locations where a fence serves as a required guard rail, it may not
249 exceed forty-two (42) inches in height.

250 ***

251 *Guest house:* A small, detached accessory structure on the grounds of a larger single-family
252 or two-family residence, used for accommodating guests of the owner/occupant of the principal
253 dwelling unit. A guest house functions as an extension of and subordinate to a single-family or
254 two-family residence. A guest house shall not be rented or used separately from the rental or use
255 of the principal dwelling unit. A guest house shall not function as an Accessory Dwelling Unit
256 (ADU).

257 ***

258 *Storage – Outdoor, Industrial:* The storage of construction material, mechanical equipment,
259 and commercial vehicles used by building trades and services or associated with other permitted
260 industrial uses. Outdoor storage is only allowed as accessory to a permitted principal use and
261 shall be appropriately screened from adjacent properties and all rights-of-way.

262 ***

263 Storage – Outdoor, Other: The storage of mechanical equipment and commercial vehicles
264 associated with permitted commercial uses. Outdoor storage is only allowed as accessory to a
265 permitted principal use and shall be appropriately screened from adjacent properties and all
266 rights-of-way.

267 ***

268 Structure lot coverage: See “building lot coverage.”

269 ***

270 Mechanical systems/equipment: Heating, ventilating, air conditioning, satellite dish
271 antennae, electrical, air conditioner compressor, pool pump and plumbing systems and similar
272 facilities which are ~~visible from a public right-of-way on the exterior of any or~~ on the roof, or on
273 the grounds of, or on the exterior of any site, building or structure. Mechanical systems/equipment
274 are not permitted to be located in the front setback of any property.

275 ***

276 String lights: Small electric lights spaced evenly along a cable and used for decoration. String
277 lights, also called café lights, may be clear or white (warm or cool in tone) and those substantially
278 similar.

279 ***

280 Wall: A manmade barrier comprised of masonry products located out-of-doors and not a part
281 of an exterior side of a building. Wall height shall be measured based on the average height of
282 the natural grade on either side of the wall. In locations where a wall serves as a required guard
283 rail, it may not exceed forty-two (42) inches in height.

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EXHIBIT B

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 2 "ADMINISTRATION"

Article 2, "Administration," Division 3, "Permits"

Sec. 23.2-28. – Administrative Adjustments/Administrative Use Permits.

a) *Administrative adjustments.*

1. All existing structures that exceed the development regulations for building lot coverage, impermeable lot coverage, or floor area ratio (F.A.R.) may be expanded by right no more than ten (10) percent of the existing overall square footage. The up to ten (10) percent expansion by right shall be granted only once; any additional ~~Expansions beyond the initial ten (10) percent~~ shall have to meet the established standards for the granting of a formal variance and be reviewed by the appropriate decision-making authority.
2. The development review official may administratively adjust Code provisions and regulations for establishing the front yard for all corner and multi-frontage lots, and to adjust setback, height, and location of fences fronting public rights-of-way to conform to the orientation of the structure in ~~the single-family residential (SF-R) and single-family and two-family residential (SF-TF 14)~~ all residential zoning districts.

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EXHIBIT C

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 3 "ZONING DISTRICTS"

Article 3, "Zoning Districts" Division 2, "Residential Districts"

Sec. 23.3-7. – SF-R – Single-Family Residential.

c) Development regulations for uses permitted by right

5. Maximum impermeable surface for entire lot.

D. Provided however that ~~the lesser of nine hundred (900) square feet or~~ seventy-five (75) percent of the front yard area shall remain pervious and be landscaped.

9. Location of Accessory buildings, pools, etc.

A. Pools in the rear yard of a property with dual frontage shall have a minimum setback of 10 feet from the secondary front (rear) property line and shall be screened with fencing and/or landscape screening, subject to the regulations in LDR Sections 23.4-4 and 23.6-1.

343 **EXHIBIT D**

344 Chapter 23

345 LAND DEVELOPMENT REGULATIONS ARTICLE 3 "ZONING DISTRICTS"

346
347
348 *Article 3, "Zoning Districts" Division 2, "Residential Districts"*

349 **Sec. 23.3-8. – SF-TF 14 – Single-Family and Two-Family Residential.**

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355 c) *Development regulations for uses permitted by right*

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357 ***

358 5. *Maximum impermeable surface for entire lot.*

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360 ***

361 C. Fifty (50) percent for lots seven thousand five hundred (7,500) square feet and
362 greater. ~~Provided however that the lesser of nine hundred (900) square feet~~
363 ~~or seventy five (75) percent of the front yard area shall remain pervious and~~
364 ~~be landscaped.~~

365 D. Provided however that seventy-five (75) percent of the front yard area shall
366 remain pervious and be landscaped.

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EXHIBIT E

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 3 "ZONING DISTRICTS"

Article 3, "Zoning Districts" Division 2, "Residential Districts"

Sec. 23.3-10. – MF-20 – Multi-Family Residential.

c) Development regulations for uses permitted by right

5. Maximum impermeable surface for entire lot.

D. Provided however that ~~the lesser of nine hundred (900) square feet or~~ seventy-five (75) percent of the front yard area shall remain pervious and be landscaped.

389 **EXHIBIT F**

390 Chapter 23

391 LAND DEVELOPMENT REGULATIONS ARTICLE 3 "ZONING DISTRICTS"

392 *Article 3, "Zoning Districts" Division 2, "Residential Districts"*

393 **Sec. 23.3-11. – MF-30 – Medium Density Multi-Family Residential.**

394 ***

395 c) *Development regulations for uses permitted by right*

396 ***

397 5. *Maximum impermeable surface for entire lot.*

398 ***

399 D. Provided however that ~~the lesser of nine hundred (900) square feet or~~ seventy-
400 five (75) percent of the front yard area shall remain pervious and be
401 landscaped.
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EXHIBIT G

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 3 "ZONING DISTRICTS"

Article 3, "Zoning Districts" Division 2, "Residential Districts"

Sec. 23.3-12. – MF-40 – High Density Multi-Family Residential.

c) Development regulations for uses permitted by right

5. Maximum impermeable surface for entire lot.

D. Provided however that ~~the lesser of nine hundred (900) square feet or~~ seventy-five (75) percent of the front yard area shall remain pervious and be landscaped.

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EXHIBIT H

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 3 "ZONING DISTRICTS"

Article 3, "Zoning Districts" Division 3, "Mixed Use Districts"

Sec. 23.3-13. – MU-E – Mixed Use East.

d) *Development regulations for nonresidential uses permitted by right*

4. *Maximum impermeable surface for entire lot.*

D. Provided however that ~~the lesser of nine hundred (900) square feet or~~ seventy-five (75) percent of the front yard area shall remain pervious and be landscaped.

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EXHIBIT I

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 3 "ZONING DISTRICTS"

Article 3, "Zoning Districts" Division 3, "Mixed Use Districts"

Sec. 23.3-16. – MU-FH – Mixed Use – Federal Highway.

d) *Development regulations for uses permitted by right.*

4. *Maximum impermeable surface for nonresidential uses.*

D. Provided however that ~~the lesser of nine hundred (900) square feet or~~ seventy-five (75) percent of the front yard area shall remain pervious and be landscaped.

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EXHIBIT J

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 4 "DEVELOPMENT STANDARDS"

Sec. 23.4-3. – Exterior lighting.

d) String lights.

1. Clear or white string lights (warm or cool in tone), and those substantially similar, shall be permitted in all zoning districts throughout the City.
2. Colored or themed holiday lights may be used for periods of sixty (60) days at a time – thirty (30) days prior to and thirty (30) days following the subject holiday. The City Commission shall designate the subject holidays by Resolution on an annual basis.

497 EXHIBIT K

498 Chapter 23

500 LAND DEVELOPMENT REGULATIONS ARTICLE 4 "DEVELOPMENT STANDARDS"

501 **Sec. 23.4-4. – Fences, Walls and Gates**

502 ***

503 d) *Single-family and two-family residential uses.*

504 1. *Height limitations.*

505 ***

506 D. Along side and rear property lines adjacent to roadways (except alleys) a fence
507 or wall placed at the property line shall have a maximum height of four (4)
508 feet. Fencing over four feet in height, up to a shall have a maximum height of
509 six (6) feet, and must be set back a minimum of thirty (30) inches from the
510 property line providing a landscape screen maintained at a minimum height
511 of twenty-four (24) inches (see definitions). Walls along side and rear property
512 lines adjacent to roadways (except alleys) over four feet in height, up to a shall
513 have a maximum height of six (6) feet, and must be set back a minimum of
514 five (5) feet from the property line providing a landscape screen maintained at
515 a minimum height of twenty-four (24) inches. (See definitions.)

516 ***

517 e) *Multi-family residential uses.*

518 1. *Height limitations.*

519 ***

520 C. Along side and rear property lines adjacent to roadways (except alleys) a fence
521 or wall placed at the property line shall have a maximum height of four (4)
522 feet. Fencing over four feet in height, up to a shall have a maximum height of
523 six (6) feet, and must be set back a minimum of thirty (30) inches from the
524 property line providing a landscape screen maintained at a minimum height
525 of twenty-four (24) inches (see definitions). Walls along side and rear property
526 lines adjacent to roadways (except alleys) over four feet in height, up to a shall
527 have a maximum height of six (6) feet, and must be set back a minimum of
528 five (5) feet from the property line providing a landscape screen maintained at
529 a minimum height of twenty-four (24) inches. (See definitions.)

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EXHIBIT L

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 4 "DEVELOPMENT STANDARDS"

Sec. 23.4-16. – Mechanical Systems/Equipment for Existing Residential Structures

- a) For existing residential structures, placement of mechanical equipment shall be allowed in the rear or side setback and/or between the main structure and a public street if there is insufficient space to locate the equipment outside of the setbacks. Equipment located in the rear or side setback must meet requirements of the landscape code and the equipment must be screened from view of the right-of-way. In addition, product information or an engineering report must be submitted indicating the noise level will not be in excess of sixty-five (65) decibels as measured at the property line. Mechanical systems/equipment are not permitted to be located in the front setback of any property.

561 EXHIBIT M

562 Chapter 23

563 LAND DEVELOPMENT REGULATIONS ARTICLE 4 "DEVELOPMENT STANDARDS"

564 **Sec. 23.4-19. – Outdoor Storage and Open-Air Operations.**

565 A. *Outdoor storage.*

566 ***

567 b) *Outdoor storage in mixed-use districts and Artisanal Industrial.* Outdoor storage in
568 mixed-use districts and the Artisanal Industrial (AI) district shall be permitted only as
569 accessory to an approved principal use. All such storage shall be completely screened
570 from all public rights-of-way and any adjacent property that is zoned for residential or
571 mixed use. Screening shall require both fencing and landscaping. Outdoor storage of
572 chemicals or parts is prohibited in mixed-use districts and the AI district.

573 ~~b c) *Outdoor storage industrial in I-POC.* Outdoor storage in the I-POC industrial districts~~
574 ~~shall be permitted only as accessory to an approved principal use. All such storage~~
575 ~~shall be completely screened from all public rights-of-way and any adjacent property~~
576 ~~that is zoned for residential or mixed use. Outdoor storage of equipment, vehicles,~~
577 ~~boats, parts, materials, or chemicals are required to be stored on an impervious paved~~
578 ~~surfaces to reduce pollutants in stormwater runoff.~~

579 B. ~~*Open air operations.*~~

580 a) ~~The following shall be allowed to be displayed only in front of the business to which the~~
581 ~~items belong:~~

- 582 1. ~~Up to three (3) items, which must be new or in excellent condition.~~
- 583 2. ~~Flowers or foliage maintained per City Code.~~
- 584 3. ~~Used and new clothing stores may display one (1) freestanding vertical clothing~~
585 ~~pole with a maximum of three (3) items of clothing.~~
- 586 4. ~~One (1) Propane tank display case if less than ten (10) percent of the bay or~~
587 ~~building width that the associated business occupies and if completely screened~~
588 ~~from abutting properties and rights-of-way.~~
- 589 5. ~~No item can obstruct entry or exit from any store or property or in any other way~~
590 ~~be hazardous to pedestrians or motorists. All items must be placed entirely on~~
591 ~~private property and may not be located in required parking areas or landscaped~~
592 ~~areas.~~
- 593 6. ~~No item may impede pedestrian access to the public sidewalk and/or restrict~~
594 ~~ADA accessibility.~~
- 595 7. ~~One (1) sandwich board meeting the requirements of the city's sign code may~~
596 ~~be displayed in front of businesses facing a city major thoroughfare and cannot~~
597 ~~impede pedestrian access or ADA accessibility.~~

598 b) ~~The following shall be allowed by first obtaining an administrative use permit on behalf~~
599 ~~of each individual business for a sales event no more than four (4) times a year for a~~
600 ~~duration of no more than three (3) days:~~

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- ~~1. Art or craft demonstrations.~~
 - ~~2. Outdoor sales of items.~~
 - ~~3. Guest art or craft or artist related items.~~
- e) ~~The following items shall not be displayed outside of any store or business at any time:~~
- ~~1. Upholstered furniture or bedding.~~
 - ~~2. Electrical appliances.~~
 - ~~3. Horizontal racks of clothing.~~
 - ~~4. Vehicles (except in authorized and licensed lots) or parts thereof.~~
 - ~~5. Any items which are in disrepair, rusty, mold or mildew damaged, soiled or sandy, any item having chipped or peeling paint, any item having protruding bolts or nails.~~
- d) ~~The appropriate regulatory advisory board shall review and make recommendations to the appropriateness of granting a variance from the open-air operations rules.~~

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EXHIBIT N

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 5 "SUPPLEMENTAL REGULATIONS"

Sec. 23.5-1. – Signs.

g) *Prohibited signs.*

~~18. String of light bulbs, except as provided in subsection e), above.~~

636 **EXHIBIT O**

637 Chapter 23

638 LAND DEVELOPMENT REGULATIONS ARTICLE 5 "SUPPLEMENTAL REGULATIONS"

641 **Sec. 23.5-4. – Historic Preservation.**

642 ***

643 m) *Exceptions to certificates of appropriateness.*

644 ***

645 7. Demolition of non-contributing single-family residential structures in special flood hazard
646 areas. In compliance with F.S. 553.79(26), a COA shall not be required for demolition
647 of non-contributing single-family residential structures located in a coastal high-hazard
648 area, moderate flood zone, or special flood hazard area if the lowest finished floor
649 elevation of such structure is at or below base flood elevation as established by the
650 Florida Building Code or a higher base flood elevation as may be required by local
651 ordinance, whichever is higher. If a demolition permit is requested under this section,
652 the HRPB shall be notified and given an opportunity to comment.
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DATE: March 27, 2024

TO: Members of the Planning & Zoning and Historic Resources Preservation Boards

FROM: William Waters, Director Community Sustainability

MEETING: April 3 & April 10, 2024

SUBJECT: **Ordinance 2024-06**: Consideration of an ordinance amending multiple sections of Chapter 23 “Land Development Regulations” to address several housekeeping items and minor changes for clarity.

PROPOSAL / BACKGROUND/ ANALYSIS:

The proposed LDR Amendments will modify the following sections of the City’s Land Development Regulations:

- Article 1 – Section 23.1-12: Definitions
- Article 2 – Section 23.2-28: Administrative Adjustments/Administrative Use Permits
- Article 3 – Section 23.3-7: Single-Family Residential (SF-R)
- Article 3 – Section 23.3-8: Single-Family and Two-Family Residential (SF-TF 14)
- Article 3 – Section 23.3-10: Multi-Family Residential (MF-20)
- Article 3 – Section 23.3-11: Medium Density Multi-Family Residential (MF-30)
- Article 3 – Section 23.3-12: High Density Multi-Family Residential (MF-40)
- Article 3 – Section 23.3-13: Mixed Use – East (MU-E)
- Article 3 – Section 23.3-16: Mixed Use – Federal Highway (MU-FH)
- Article 4 – Section 23.4-3: Exterior Lighting
- Article 4 – Section 23.4-4: Fence, Walls, and Gates
- Article 4 – Section 23.4-16: Mechanical Systems/Equipment for existing residential structures
- Article 4 – Section 23.4-19: Outdoor Storage and Open-Air Operations
- Article 5 – Section 23.5-1: Signs
- Article 5 – Section 23.5-4: Historic Preservation

Administrative Adjustments: Expanding and clarifying the ability of the Development Review Officer (DRO) to establish the front yard and adjust fencing fronting public rights-of-way (ROW) in all residential zoning districts. Also, clarify the provision of administrative adjustment for existing structures.

Pools on dual frontage properties: Clarify the minimum setbacks for pools on properties with dual frontage.

String Lights: Adding definition for string lights and establishing timeframes in which holiday lights may be displayed.

Residential Fences and Walls: To allow four-foot fences or walls at the property line abutting the public right-of-way with no additional setback or landscape screening requirement.

Outdoor Storage: Adding and amending definitions of outdoor storage. Adding performance standards for outdoor storage in the mixed use and artisanal industrial zoning districts.

Historic Preservation: Amending 553.79(26), Florida Statutes, regarding demolition of noncontributing single-family structures in special flood hazard areas.

Housekeeping Items: Revising and definitions to better distinguish between Accessory Dwelling Units (ADU) and guest houses, removing inconsistencies related to minimum front yard landscaping area, further identifying location requirements for mechanical systems, clarifying height measurements for fencing and walls, and clarifying building lot coverage calculations.

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2024-06.

POTENTIAL MOTION:

I move to **RECOMMEND/NOT RECOMMEND** TO THE CITY COMMISSION TO ADOPT the proposed LDR text amendments included in Ordinance 2024-06.

Attachments

- A. Draft Ordinance 2024-06

STAFF REPORT REGULAR MEETING

AGENDA DATE: May 7, 2024

DEPARTMENT: Community Sustainability

TITLE:

Ordinance No. 2024-07 - First Reading – amending Chapter 23 “Land Development Regulations,” Article 4 “Development Standards,” Section 23.4-25 “Micro-units” to provide minor changes to the development standards for Micro-Units

SUMMARY/ BACKGROUND:

The proposed amendment would improve interest and use of the program per feedback from potential investors and developers.

The **Planning & Zoning Board (PZB)** unanimously voted to recommend approval of the proposed text amendments at their April 3, 2024, meeting with the recommendations that the text, line 54, the project size be amended from 20 units to 10 units. The discussion by the PZB was that to incentivize micro-unit development for smaller lots, 10 micro-units are more feasible as some of the lots being developed cannot accommodate 20 micro-units. The PZB also recommended amending section c) to include the text “if a project does not provide a mix of uses, the interior shared common area shall be at least 20 percent”. The discussion by the PZB was on the impacts of the revised gross area for mixed-use projects.

The **Historic Resources Preservation Board (HRPB)** unanimously voted to recommend approval of the proposed text amendments at their meeting on April 10, 2024. The HRPB did not consider PZB recommendations.

MOTION:

Move to approve/disapprove Ordinance 2024-07 on first reading and schedule the second reading and public hearing for May 21, 2024.

ATTACHMENT(S):

Ordinance 2024-07
PZB/HRPB Staff Report

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4 **ORDINANCE 2024-07 - AN ORDINANCE OF THE CITY OF LAKE WORTH**
5 **BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT**
6 **REGULATIONS,” ARTICLE 4 “DEVELOPMENT STANDARDS,” SECTION**
7 **23.4-25 “MICRO-UNITS,” AND PROVIDING FOR SEVERABILITY,**
8 **CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE**
9

10 **WHEREAS**, as provided in Section 2(b), Article VIII of the Constitution of the State of
11 Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the “City”),
12 enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal
13 government, perform municipal functions, and render municipal services, and may exercise any
14 power for municipal purposes, except as expressly prohibited by law; and
15

16 **WHEREAS**, as provided in Section 166.021(3), Florida Statutes, the governing body of
17 each municipality in the state has the power to enact legislation concerning any subject matter
18 upon which the state legislature may act, except when expressly prohibited by law; and
19

20 **WHEREAS**, the City wishes to amend Chapter 23, Article 4 “Development Standards,”
21 Section 23.4-25 – Micro-Units to amend the supplementary development standards for this use;
22 and
23

24 **WHEREAS**, the City of Lake Worth Beach, Florida (the “City”), is a duly constituted
25 municipality having such power and authority conferred upon it by the Florida Constitution and
26 Chapter 166, Florida Statutes; and
27

28 **WHEREAS**, the Planning and Zoning Board, in its capacity as the local planning agency,
29 considered the proposed amendments at a duly advertised public hearing; and
30

31 **WHEREAS**, the Historic Resources Preservation Board, in its capacity as the local
32 planning agency, considered the proposed amendments at a duly advertised public hearing; and
33

34 **WHEREAS**, the City Commission finds and declares that the adoption of this ordinance is
35 appropriate, and in the best interest of the health, safety and welfare of the City, its residents and
36 visitors.
37

38 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF**
39 **LAKE WORTH BEACH, FLORIDA, that:**
40

41 **Section 1:** The foregoing “WHEREAS” clauses are ratified and confirmed as being
42 true and correct and are made a specific part of this ordinance as if set forth herein.
43

44 **Section 2:** Chapter 23 “Land Development Regulations,” Article 4 “Development
45 Standards,” Section 23.4-25 “Micro-units” is hereby amended to read as follows:
46

47 **Sec. 23.4-25. – Micro-units.**
48

- 49 a) *Project size.* All micro-unit projects must provide a minimum of 20 micro-units.
50
51 b) *Micro-Unit Use Restriction.* Micro-units must be residential and may not be converted to other
52 uses. Each micro-unit must be separately metered for electric.
53
54 c) *Personal service, retail or commercial space.* All micro-unit projects shall be designed as
55 mixed use projects providing personal service, retail and/or commercial areas, including the

56 required parking as set forth in this section and shall be allowed only within the City's mixed
57 use zoning districts. The aforementioned listed uses other than residential should account for
58 at least 10 45% of the gross area of the project or 2,500 sq ft, whichever is less. Live work
59 space, co work space or general office space may not count toward the required area for 45%
60 of non-residential uses.

61
62 d) *Residential Building Type*. All micro-unit projects must be in a multi-family structure or
63 collection of multi-family structures. Individual micro-units may not be combined to facilitate
64 larger individual units.

65
66 e) *Interior shared common areas*. Interior shared common areas supporting micro-units must
67 equate to 10% of the gross living area of all residential units within the project. Such
68 supporting common areas shall include but not be limited to the following:

- 69 1. Reading Room,
- 70 2. Gym/Exercise Facilities,
- 71 3. Virtual Office Space,
- 72 4. Party/Community Room,
- 73 5. Game Room,
- 74 6. Library,
- 75 7. Movie Theatre,
- 76 8. Gourmet Kitchen,
- 77 9. Art Labs,
- 78 10. Other similarly situated common usage areas, and
- 79 11. Essential support areas such as lobbies, hallways, egress routes, stairs, concierge areas,
80 staff offices, maintenance areas and required restroom facilities or similar shall not count
81 toward shared interior common areas.

82
83 f) *Parking*. Parking may be a combination of the following:

- 84 1. One (1) parking space or equivalent for each micro unit;
- 85 2. 50% or more of the required spaces shall be standard parking spaces;
- 86 3. Up to 25% of the parking spaces may be compact spaces (8'-0" x 18'-0");
- 87 4. Up to 25% of the parking spaces may be met with bicycle, scooter or motorcycle storage.
88 Four (4) bicycle storage spaces shall equal one (1) parking space; two (2) scooter storage
89 spaces shall equal one (1) parking space; and two (2) motorcycle storage spaces shall
90 equal one (1) parking space; and
- 91 5. Required guest and employee parking may be met with the same parking space
92 combination ratio. Guest and employee parking shall be no less than one (1) space for
93 every 100 sq. ft. of common area, public area, support area and offices, excluding required
94 hallways, egress routes and stairs.
- 95 6. The mixed-use parking reduction of 25% shall not apply.

96
97 g) *Outdoor amenity*. All micro-unit projects shall provide for an outdoor amenity that is above
98 and beyond the required interior shared common area. Outdoor amenity space shall be no
99 less than 5% of the gross area of all residential units and may not count toward the required
100 interior shared common area.

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102 **Section 3:** Severability. If any section, subsection, sentence, clause, phrase or portion
103 of this Ordinance is for any reason held invalid or unconstitutional by any court of competent
104 jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and
105 such holding shall not affect the validity of the remaining portions thereof.

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107 **Section 4:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict
108 herewith are hereby repealed to the extent of such conflict.

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Section 5: Codification. The sections of the ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "division", or any other appropriate word.

Section 6: Effective Date. This ordinance shall become effective 10 days after passage.

The passage of this ordinance on first reading was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

- Mayor Betty Resch
- Vice Mayor Sarah Malega
- Commissioner Christopher McVoy
- Commissioner Mimi May
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on first reading on the ____ day of _____, 2024.

The passage of this ordinance on second reading was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

- Mayor Betty Resch
- Vice Mayor Sarah Malega
- Commissioner Christopher McVoy
- Commissioner Mimi May
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2024.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk



DATE: March 27, 2024

TO: Members of the Planning & Zoning and Historic Resources Preservation Boards

FROM: William Waters, Director Community Sustainability

MEETING: April 3 & April 10, 2024

SUBJECT: **Ordinance 2024-07**: Consideration of an ordinance amending Chapter 23 “Land Development Regulations,” Article 4 “Development Standards,” Section 23.4-25 “Micro-units” to provide minor changes to the development standards for Micro-Units.

PROPOSAL / BACKGROUND/ ANALYSIS:

The proposed amendment would improve interest and use of the program per feedback from potential investors and developers.

The proposed ordinance would amend the recently adopted new section of the LDR in Chapter 23 of the City’s Code of Ordinances:

- Article 4, Section 23.4-25 – Micro-Units

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2024-07.

POTENTIAL MOTION:

I move to RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION **TO ADOPT** the proposed LDR text amendment included in Ordinance 2024-07.

Attachments

- A. Draft Ordinance 2024-07

STAFF REPORT REGULAR MEETING

AGENDA DATE: May 7, 2024

DEPARTMENT: City Commission

TITLE:

Discussion regarding the city manager residency requirement brought forward by Commissioner May

SUMMARY:

The city manager is required to reside in the city according to the city's code of ordinances.

BACKGROUND AND JUSTIFICATION:

Located in Part II – City Code of Ordinances, Chapter 2 – Administration, Article I – In General, Section 2-3 specifies a residency requirement for the city manager:

Sec. 2-3. - City manager and utility director residence requirement.

The city manager ... must establish a bona fide residence in the city, within six (6) months of appointment as city manager. A bona fide residence, for the purpose of this section, is a permanent domicile within the city which has not been adopted with the intention of again taking up or claiming a previous residence acquired outside of the city limits.

(Ord. No. 87-2, § 1, 1-19-87; Ord. No. 88-11, § 1, 5-16-88; Ord. No. 92-11, § 1, 5-4-92; Ord. No. 2006-20, § 1, 6-20-06)

Not all municipalities have a residency requirement for the city manager. Of the 39 municipalities in Palm Beach County, only 4 (Belle Glade, Palm Beach Gardens, Riviera Beach and West Palm Beach) require that the city manager reside in the municipality.

The issue will be discussed to determine whether the requirement should be changed.

MOTION:

Direction is sought whether to modify or remove the residency requirement for the city manager.

ATTACHMENT(S):

Fiscal Impact Analysis – N/A
Ordinance 2006-02
LWB District Map

ORDINANCE NO. 2006-20 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING SECTION 2-3 OF CHAPTER 2 OF THE CODE OF ORDINANCES BY DELETING THE RESIDENCE REQUIREMENT FOR CERTAIN DEPARTMENT HEADS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. Section 2-3 of the Code of Ordinances is amended to read as follows:

ADMINISTRATION

ARTICLE I. IN GENERAL

* * *

Sec. 2-3. ~~Department heads and~~ City manager and utility director residence requirement.

~~(a) Each department head hereafter appointed or employed by the city who was not employed by the city on March 1, 1988, must establish a bona fide residence in the city, within six (6) months of appointment as a department head. Personnel shall maintain an up-to-date record of residence with the city clerk. A bona fide residence, for the purpose of this section, is a permanent domicile within the city which has not been adopted with the intention of again taking up or claiming a previous residence acquired outside of the city limits. The city manager and utility director must establish a bona fide residence in the city, within six (6) months of appointment as city manager. A bona fide residence, for the purpose of this section, is a permanent domicile within the city which has not been adopted with the intention of again taking up or claiming a previous residence acquired outside of the city limits.~~

~~(b) Reserved.~~

~~(c) The city manager must establish a bona fide residence, as defined in subsection (a) above, in the city within six (6) months of appointment.~~

Section 2. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Section 1 of this Ordinance shall be codified.

Section 5. This Ordinance shall become effective ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Commissioner Burns, seconded by Commissioner Jennings, and upon being put to a vote, the vote was as follows:

Mayor Marc J. Drautz	AYE
Vice Mayor Retha Lowe	AYE
Commissioner Cara Jennings	AYE
Commissioner Nadine Burns	AYE
Commissioner Dave Vespo	NAY

The Mayor thereupon declared this Ordinance duly passed on first reading on the 6th day of June 2006.

The passage of this Ordinance on second reading was moved by Commissioner Jennings, seconded by Commissioner Burns, and upon being put to a vote, the vote was as follows:

Mayor Marc J. Drautz	AYE
Vice Mayor Retha Lowe	AYE
Commissioner Cara Jennings	AYE
Commissioner Nadine Burns	AYE
Commissioner Dave Vespo	NAY

The Mayor thereupon declared this Ordinance duly passed and enacted on second reading on the 20th day of June 2006.

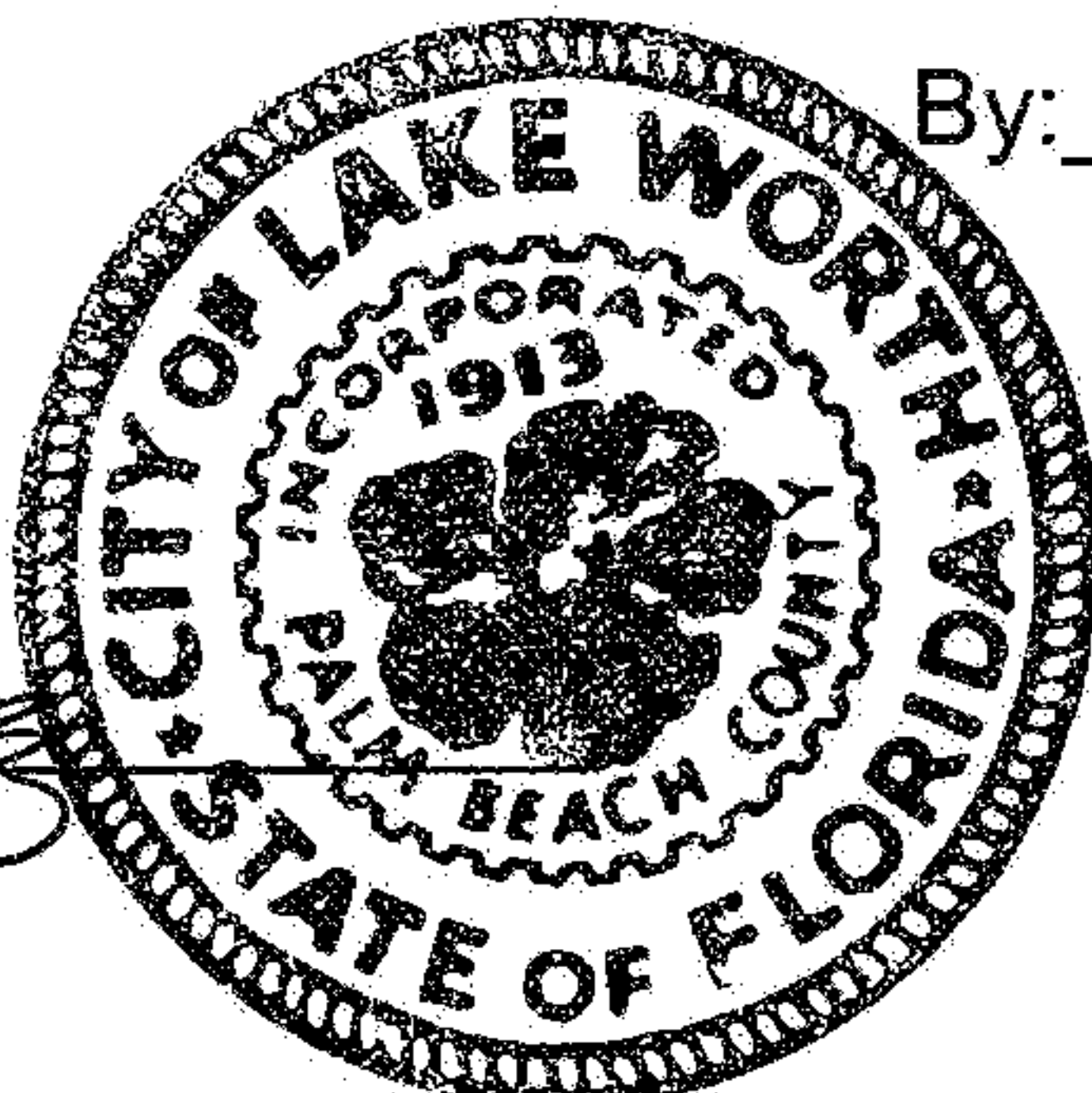
LAKE WORTH CITY COMMISSION

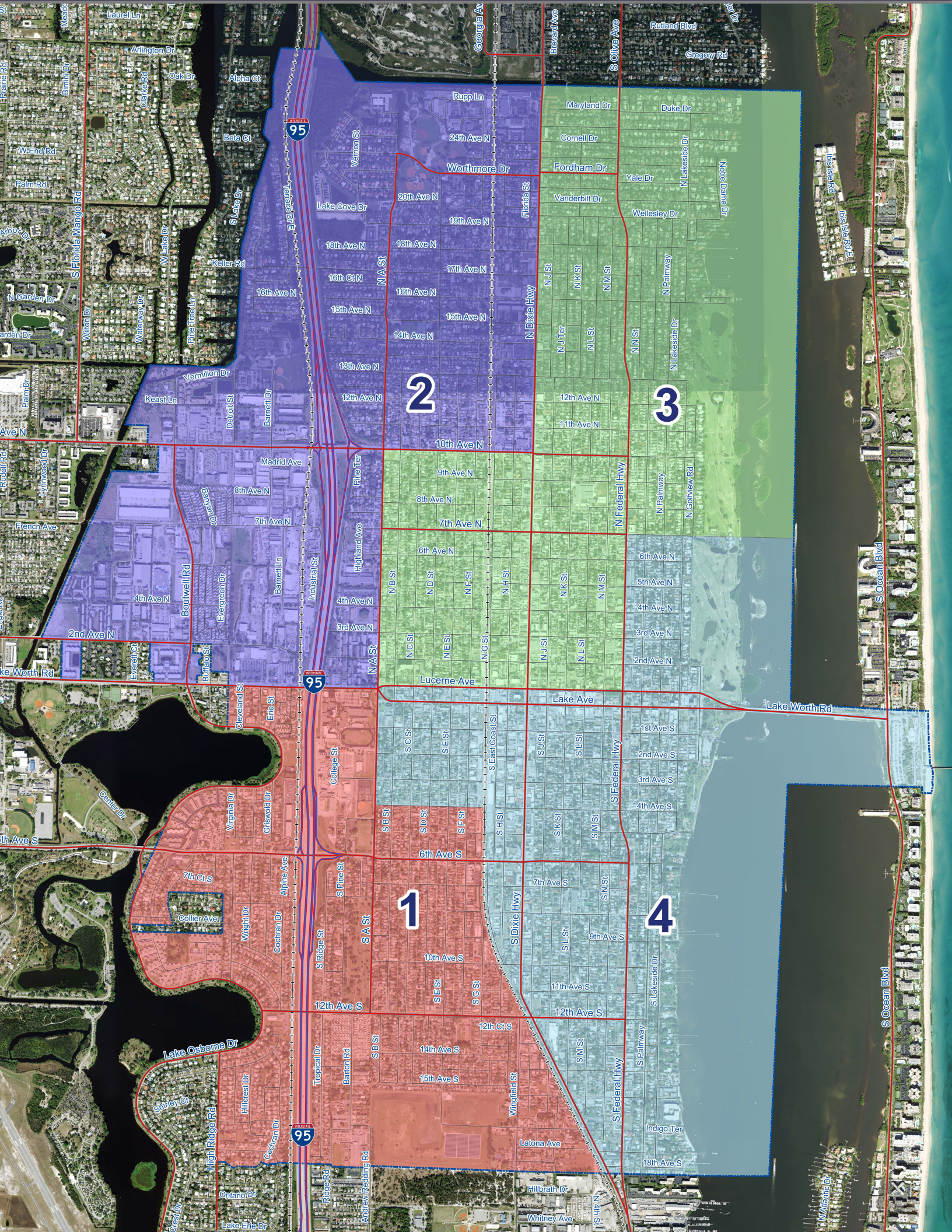
By: _____

Marc J. Drautz, Mayor

ATTEST:


Pamela J. Lopez, City Clerk





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Brevard Ave

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Georgia Av

Florida St

N H St

S Dixie Hwy

W 1st N

W 1st N

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Madison

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Prairie Rd

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**CITY OF LAKE WORTH BEACH
BUSINESS ADVISORY BOARD
MAY 7, 2024 COMMISSION UPDATE**

Established September 2023

Have met 5 out of 8 months (December canceled due to holidays and the City canceled January and March.)

City has recently changed meeting schedule to every other month from every month.

SUBJECT MATTERS ADDRESSED BY THE BOARD:

Ways to get the word out to the businesses about the existence of the board.

In partnership with the CRA and the City a postcard went out to all LBTR's (licensed businesses) in the City announcing the Business Advisory Board.

Erin has been walking door-to-door to downtown businesses introducing herself as Chairperson of the board and telling people of the existence of the board and inviting them to meetings or to reach out to share ideas/concerns they may have.

Input on making the city website more user-friendly for potential new businesses wanting to come to town. Adding a FAQ link for new businesses, what's required to open a new business.

Partnering with Businesses to come up with ways to promote downtown during the FDOT project.

Enforcement of ordinance governing signage for Empty Storefronts

Current ordinance Section 23.2-31

2. All windows or openings of vacant buildings which windows or openings can be viewed from the public streets and sidewalks, and which expose the interiors of such buildings, shall screen the vacant interior of the building in which they are located.

3. Window treatment or screening may be achieved by either constructing within the window or opening a pocket, equivalent in dimension to the dimension of the window or opening itself, and 40 inches or more in depth, or hanging curtains or utilizing interior shutters. The pocket shall be used for purposes of screening the interior of the building and **to provide an attractive display for those who can observe the window or opening from the streets or public sidewalks of the town. This pocket shall be decorated by featuring displays of the incoming tenant, or vignettes representing designs and merchandise of exiting city merchants.**

4. Vacant buildings may not have...stacked furniture, debris visible from the public street or right-of-way.
5. Any vacant storefront that has more than 25-feet of frontage on a public sidewalk must provide a vignette display in at least one-half of its available window space.
6. Newspaper, printed paper or unpainted plywood will not be allowed in the windows.
8. An owner must comply with these specifications within 7 days of vacancy of a storefront.

Penalties per Florida Statutes is currently \$50 a day (lowest) and may not exceed \$500 a day for a repeat offender.

SUGGESTIONS:

For aesthetics, enforce the current code. Revise as necessary.

Half the window would be covered except at the entrance, providing police ability to look into structure for safety and ease of monitoring inside buildings.

Provisions might be made for storefronts with over 25 feet of frontage to ease cost of complying.

CRA has “window clings” with images of things around town such as the beach, Triangle Park, etc., that could be purchased to display and showcase the city.

Allow other merchants to provide a display in the windows, with permission of the owner, of their merchandise or signage that would not require a sign permit.

Revision of the Minor Site Plan Review Process

Urban Planner, Wes Blackman, presented to the Board the process for a Minor Site Plan Review. The process is onerous in its current form, and it is the recommendation of the BAB for the City to look at the site review code with an eye towards making it easier for businesses to locate in town, to review what other communities are doing, and come back with suggested changes to our existing site plan review and application process in order to promote being small business friendly. (*PRESENTATION BY WES BLACKMAN*)

Respectfully Submitted By

Erin Allen, Chairperson

STAFF REPORT REGULAR MEETING

AGENDA DATE: May 7, 2024

DEPARTMENT: Community Sustainability

TITLE:

Purchase and Sale Agreement with the Lake Worth Beach Community Redevelopment Agency for 304 S F Street

SUMMARY:

The Lake Worth Beach Community Redevelopment Agency (CRA) has submitted a formal purchase and sale agreement for 304 S F Street in order to provide another opportunity to construct affordable housing units within the City.

BACKGROUND AND JUSTIFICATION:

The CRA, along with many partners, has successfully provided more than 400 affordable units within its district since 2010. In furtherance of providing more opportunities to construct new, affordable residential units, the CRA is interested in purchasing one of the City's vacant/surplus properties at 304 S F Street, which is located within its district boundaries. At present the property would allow for two units. With pending changes to the City's Affordable Housing Program, the property may have as many as four units.

Because of the pending change, the CRA Board approved a purchase and sale agreement to be submitted to the City for ten dollars (\$10). Under the City's Code of Ordinances, Chapter 2, Administration, surplus properties deemed appropriate for affordable housing may be donated to a nonprofit housing organization for the construction of permanent affordable housing or may waive the minimum sale price requirements to convey property to the CRA. With this method of conveyance and/or sale the CRA or its housing partners must apply for a building permit within 120 days of obtaining clear title to the property or it would revert to the City

MOTION:

Move to approve/disapprove the purchase and sale agreement with the CRA for 304 S F Street.

ATTACHMENT(S):

Fiscal Impact Analysis

CRA Memo

Purchase and Sale Agreement

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

Fiscal Years	2024	2025	2026	2027	2028
Inflows/Revenues					
Appropriated (Budgeted)	0	0	0	0	0
Program Income	\$10	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
Outflows/Expenditures					
Appropriated (Budgeted)	0	0	0	0	0
Operating	0	0	0	0	0
Capital	0	0	0	0	0
Net Fiscal Impact <i>(If not budgeted)</i>	\$10	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

New Appropriation (Not Budgeted) Fiscal Impact:		
	Revenue Source	Expenditure
Department		
Division		
GL Description		
GL Account Number		
Project Number		
Requested Funds		
Remaining Balance	N/A	



LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY

1121 Lucerne Avenue | Lake Worth Beach, Florida 33460-3346 | T: 561-493-2550

www.lakeworthcra.org

MEMORANDUM

TO: Chair, Vice-Chair and Members of the Board
FROM: Joan C. Oliva, Executive Director 
DATE: April 9, 2024
SUBJECT: Purchase of City owned property at 304 South "F" St. for use in Affordable Housing Program

EXPLANATION:

Since receiving a \$23M Neighborhood Stabilization Grant, along with our Consortium partners in 2010, the CRA, as lead agency, has provided for over 400 affordable units within the CRA district. Recently the City reviewed the inventory of City-owned properties and identified lots suitable for affordable housing. The one lot that falls in the Lake Worth CRA district is 304 South "F" St. The lot is zoned SF-TF and is .19 acres. Under current zoning, 2 units could be built on the property. There may be an opportunity, if the City approves a revision to the current affordable housing ordinance, that additional units may be allowed on properties within the CRA boundaries.

To provide more affordable units in the District, Staff is requesting the Board authorize the purchase of 304 South "F" Street (Exhibit "A") from the City. Our attorney, David Tolces, drafted a purchase and sale agreement for the Boards review and approval (Exhibit "B").

RECOMMENDATION:

Staff recommends the CRA Board approve the purchase of 304 South "F" Street and authorize Staff to select a partner who can build several units on the property.

Exhibit "A"



Exhibit "B"

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2024 ("Agreement") by and between the **Lake Worth Beach Community Redevelopment Agency, a Florida public body corporate and politic created pursuant to Section 163.356 F.S**, whose post office address is 1121 Lucerne Avenue, Lake Worth Beach, FL 33460 (hereinafter referred to as "PURCHASER") and the **City of Lake Worth Beach, a Florida municipal corporation**, whose post office address is 7 N. Dixie Highway, Lake Worth, FL 33460 (hereinafter referred to as "SELLER").

WITNESSETH

In consideration of the mutual agreements and upon and subject to the terms and conditions herein contained, the parties hereto agree as follows:

1. DEFINITIONS.

The following terms when used in this Agreement for Purchase and Sale shall have the following meanings:

1.1 Property. That certain property located at 304 South "F" Street, Lake Worth Beach, Florida, together with any buildings thereon and any attached personal property (collectively the "Property") which Property is more particularly described with the legal description in **Exhibit "A,"** attached hereto and made a part hereof.

1.2 Closing. The delivery of a Warranty Deed to PURCHASER concurrently with the delivery of the purchase price and other cash consideration to SELLER.

1.3 Closing Date. The Closing Date shall occur on or before Forty-Five (45) days after the expiration of the Inspection Period.

1.4 Deed. A General Warranty Deed, in its statutory form, which shall convey the Property from SELLER to PURCHASER.

1.5 Effective Date. The Effective Date of this Agreement shall be the date upon its execution by all parties to this Agreement: SELLER, PURCHASER and the Escrow Agent.

1.6 SELLER'S Address. Seller's mailing address is 7 N. Dixie Highway, Lake Worth, FL 33460.

1.7 PURCHASER'S Address. Purchaser's mailing address is 1121 Lucerne Avenue, Lake Worth Beach, FL 33460, with copy to Weiss Serota Helfman Cole & Bierman, P.L., Attn: David N. Tolces, Esq., at 2255 Glades Road, Suite 200-E, Boca Raton, FL 33431.

1.8 Other Definitions. The terms defined in any part of this Agreement shall

have the defined meaning wherever capitalized herein. Wherever appropriate in this Agreement, the singular shall be deemed to refer to the plural and the plural to the singular, and pronouns of each gender shall be deemed to comprehend either or both of the other genders. As used in this Agreement, the terms "herein", "hereof" and the like refer to this Agreement in its entirety and not to any specific section or subsection.

2. PURCHASE PRICE.

Subject to the provisions of this Agreement, the SELLER hereby agrees to sell to PURCHASER, and PURCHASER hereby agrees to purchase from SELLER, the Property previously identified on **Exhibit "A"** for the total Purchase Price of **Ten and 00/100 (\$10.00)** Dollars, other good and valuable consideration, and upon and subject to the terms and conditions hereinafter set forth. PURCHASER shall pay the Purchase Price to SELLER at Closing pursuant to the terms of this Agreement by check or wire transfer of readily negotiable funds to an account identified in writing by SELLER.

2.1 The Purchase includes:

- (a) All buildings and improvements located on the Land;
- (b) All right-of-ways, alleys, waters, privileges, easements and appurtenances which are on or benefit all the Land, subject to any existing easements, and dedications of rights-of-way for the benefit of any governmental entity;
- (c) All right, title and interest, if any, of SELLER in any Land lying in the bed of any public or private street or highway, opened or proposed, in front any of the adjoining Property to the center line thereof. The sale also includes any right of SELLER to any unpaid award to which SELLER may be entitled: 1) due to taking by condemnation of any right, title or interest of SELLER and (2) for any damage to the Land due to change of grade of any street or highway. SELLER will deliver to PURCHASER at closing, or thereafter on demand, proper instruments for the conveyance of title and the assignment and collection of awards and damages;
- (d) All fixtures and articles of personal property, **if any**, attached to or used in connection with the Land as more particularly identified on **Exhibit "B" (personal property)** as provided by SELLER, which is attached hereto and made a part hereof. SELLER represents that such fixtures and articles are paid for and are owned by SELLER free and clear of any lien or encumbrance.
- (e) To the extent transferable, all licenses, permits, contracts and leases, if applicable, with respect to the property.

3. INSPECTIONS.

3.1 PURCHASER shall have forty-five (45) days commencing on the Effective Date to perform inspections of the property as the PURCHASER deems necessary ("Inspection Period"). During the Inspection Period, PURCHASER shall, at PURCHASER'S sole cost and expense, determine that utility services including, water, wastewater, electric, telephone and all other utilities are available in the proper size and capacity to serve the existing facilities and installed to the property lines. At all times during the Inspection Period, PURCHASER and PURCHASER'S agents shall be provided with reasonable access during normal business hours to the Property for purposes of on-site inspection, upon reasonable prior Notice to SELLER. The scope of the inspection contemplated herein shall be determined by the PURCHASER as deemed appropriate under the circumstances. PURCHASER, at PURCHASER'S sole cost and expense, and at PURCHASER'S sole discretion, may obtain and accept a satisfactory Phase I Environmental Audit, and if deemed necessary at its discretion, a Phase II Environmental Audit for which it will be granted an additional sixty (60) days for inspections. In the event that any inspections and any review of documents conducted by the PURCHASER relative to the Property during this Inspection period prove unsatisfactory in any fashion, the PURCHASER, at PURCHASER'S sole discretion, shall be entitled to terminate this Agreement prior to the end of the forty five (45) day Inspection Period and PURCHASER also agrees to indemnify and hold SELLER harmless from any losses, claims, costs, and expenses, including reasonable attorney's fees, which may result from or be connected with any acts or omissions of PURCHASER during inspections that are done pursuant hereto. PURCHASER will provide written notice by mail or facsimile to SELLER and/or SELLER'S counsel and receive an immediate refund of all Earnest Money deposits plus interest paid hereto in the event the PURCHASER determines that the Property is unsuitable during the Inspection Period or proceed to Closing as set forth herein.

3.2 During the Inspection Period, SELLER shall provide copies of any surveys, environmental reviews or assessments, and any other information contained in the SELLER's records regarding the Property in order to assist PURCHASER with its inspection of the Property. PURCHASER shall provide copies of any surveys, environmental reviews or assessments obtained during the Inspection Period to SELLER.

4. SELLER'S REPRESENTATIONS.

To induce PURCHASER to enter into this Agreement, SELLER makes the following representations, all of which, to the best of SELLER'S knowledge, in all material respects and except as otherwise provided in this Agreement (i) are now true, and (ii) shall be true as of the date of the Closing unless SELLER receives information to the contrary, and (iii) shall survive the

Closing. In that event, PURCHASER shall be provided immediate notice as to the change to the following representations:

4.1 At all times from the Effective Date until prior to Closing, SELLER shall keep the Property (whether before or after the date of Closing) free and clear of any mechanic's or materialmen's liens for work or materials furnished to or contracted for, by or on behalf of SELLER prior to the Closing.

4.2 SELLER has no actual knowledge nor has SELLER received any notice of any litigation, claim, action or proceeding, actual or threatened, against SELLER or the Property by any organization, person, individual or governmental agency which would affect (as to any threatened litigation, claim, action or proceeding, in a materially adverse fashion) the use, occupancy or value of the Property or any part thereof or which would otherwise relate to the Land.

4.3 SELLER has full power and authority to enter into this Agreement and to assume and perform SELLER'S obligations hereunder in this Agreement. SELLER does not and will not conflict with or result in the breach of any condition or provision, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the Property or assets of the SELLER by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which the SELLER is a party of which is or purports to be binding upon the SELLER or which affects the SELLER; no action by any federal, state or municipal or other governmental department, CRA, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon the SELLER in accordance with its terms.

4.4 SELLER represents that SELLER will not, between the date of this Agreement and the Closing, without PURCHASER'S prior written consent, which consent shall not be unreasonably withheld or delayed, except in the ordinary course of business, create by SELLER'S consent any encumbrances on the Property. For purposes of this provision the term "encumbrances" shall mean any liens, claims, options, or other encumbrances, encroachments, rights-of-way, leases, easements, covenants, conditions or restrictions.

4.5 SELLER represents that there are no parties other than SELLER in possession of the Property or any portion of the Property as a lessee.

4.6 SELLER shall not list or offer the Property for sale or solicit or negotiate offers to purchase the Property while this Agreement is in effect. SELLER shall use SELLER'S best efforts to maintain the Property in its present condition so as to ensure that it shall remain

substantially in the same condition from the conclusion of the forty five (45) day Inspection Period to the Closing Date.

4.7 SELLER represents that SELLER has no actual knowledge nor has SELLER received any notice that the Land has been, is presently or is contemplated to be utilized as a reservoir of hazardous material. As used herein, the term "Hazardous Material" shall mean any substance, water or material which has been determined by any state, federal or local government authority to be capable of posing a risk of injury to health, safety and property, including, but not limited to, all of those materials, wastes and substances designated as hazardous or toxic by the U.S. Environmental Protection Agency, the U.S. Department of Labor, the U.S. Department of Transportation, and/or any other state or local governmental agency now or hereafter authorized to regulate materials and substances in the environment (collectively "Governmental Authority(ies)").

5. EVIDENCE OF TITLE.

5.1 Title to the Property. SELLER shall convey to PURCHASER at Closing, by delivery of a General Warranty Deed, title to the subject Property. PURCHASER shall, within fifteen (15) days of the commencement of the Inspection Period, secure a title insurance commitment issued by a title insurance underwriter approved and selected by PURCHASER for the Property insuring PURCHASER'S title to the Property subject only to those exceptions set forth in the commitment. The costs and expenses relative to the issuance of a title commitment and the owner's title policy shall be borne by the PURCHASER.

PURCHASER shall have fifteen (15) days from the date of receiving said commitment to examine the title commitment. If PURCHASER objects to any exception to title as shown in the title commitment, PURCHASER, prior to ten (10) days of expiration of the Inspection Period, shall notify SELLER in writing specifying the specific exception(s) to which it objects. Any objection(s) of which PURCHASER has so notified SELLER, and which SELLER chooses to cure, shall be cured by SELLER so as to enable the removal of said objection(s) from the title commitment within ten (10) days after PURCHASER has provided notice to SELLER. Within five (5) days after the expiration of SELLER'S time to cure any objection, SELLER shall send to PURCHASER a notice in writing (a "cure notice") stating either (1) that the objection has been cured and, in such case, enclosing evidence of such cure, or (ii) that SELLER is either unable to cure or has chosen not to cure such objection. If SELLER shall be unable or unwilling to cure all objections within the time period set forth in the preceding sentence, then PURCHASER may (a) terminate this Agreement by written notice to the SELLER within five (5) days after receipt of a cure

notice specifying an uncured objection, in which event all instruments and monies held by the Escrow Agent shall be immediately returned to PURCHASER; or (b) subject to the provisions set forth below, proceed to close the transaction contemplated herein despite the uncured objection.

5.2. Survey and Legal Description. Within ten (10) days of the commencement of the Inspection Period, PURCHASER at PURCHASER'S own expense shall order: (i) a survey prepared by a registered land surveyor or engineer licensed in the State of Florida showing the boundaries of the land, and the location of any easements thereon and certifying the number of acres (to the nearest one thousandth acre) of land contained in the Property, all buildings, improvements and encroachments; and (ii) a correct legal description of the Property which, upon approval thereof by PURCHASER and SELLER (not to be unreasonably withheld), shall be the legal description used in the deed of conveyance. The survey and legal description shall be prepared and certified by a surveyor licensed and registered in the State of Florida and shall comply with the requirements of the survey map established in connection with the issuance of an owner's title insurance policy on the Land. The survey shall be certified to PURCHASER and the title insurance company issuing the title insurance.

6. PURCHASER'S REPRESENTATIONS.

PURCHASER hereby represents and warrants to the best of PURCHASER'S knowledge that all the following are true and correct:

- (a) PURCHASER has full power and authority to enter into this Agreement and to assume and perform all its obligations hereunder.
- (b) The execution and delivery of this Agreement and the consummation of the transaction contemplated hereunder on the part of the PURCHASER do not and will not violate the corporate or organizational documents of PURCHASER and will not conflict with or result in the breach of any condition or provision, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which the PURCHASER is a party.
- (c) No action by any federal, state, municipal or other governmental department, CRA, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon PURCHASER in accordance with its terms and conditions.

All the representations, warranties and covenants of PURCHASER contained in this Agreement or in any other document, delivered to SELLER in connection with the transaction

contemplated herein shall be true and correct in all material respects and not in default at the time of Closing, just as though they were made at such time.

7. CONDITIONS PRECEDENT TO CLOSING.

Each of the following events or occurrences ("Conditions Precedents") shall be a condition precedent to PURCHASER'S obligation to close this transaction:

- (a) That the PURCHASER has not notified the SELLER that it has deemed the property to be unsuitable for its intended purpose, as a result of the Investigations conducted on the Property during the Inspection Period.
- (b) SELLER has performed all covenants, agreements, and obligations, and complied with all conditions required by this Agreement to convey clear and marketable title of the Property to PURCHASER, prior to closing.
- (c) SELLER shall release any municipal liens in which the SELLER has an interest with respect to the Property, upon the PURCHASER paying any outstanding administrative fees related to the municipal liens.
- (d) Approval of this Agreement by the Lake Worth Beach Community Redevelopment Agency on or before _____, 2024.
- (e) Approval of this Agreement by the City of Lake Worth Beach City Commission on or before _____, 2024.

8. RISK OF LOSS.

Risk of loss or damage from fire, other casualty, or both, is assumed by SELLER until the deed described in Paragraph 5.1 hereof is delivered by SELLER to PURCHASER. In the event any portion of the Property is destroyed, rendered unleaseable or dysfunctional by fire or other casualty then the following shall apply:

- (a) Unless the SELLER undertakes its own repairs, or chooses not to file an insurance claim, in its sole and absolute discretion, if the damage, as determined by the insurance adjuster, is not more than Ten Thousand and 00/100 Dollars (\$10,000.00): (i) PURCHASER shall complete settlement and all insurance proceeds relating to the improvements damaged by such casualty loss shall be paid to the PURCHASER, and (ii) SELLER shall assign to PURCHASER on the date of Closing the full amount of any proceeds payable under SELLER'S fire and extended coverage insurance policy applicable to said damage;
- (b) If the damage, as determined by the insurance adjuster, is more than Ten

Thousand and 00/100 Dollars (\$10,000.00) DOLLARS, PURCHASER shall have the option to (i) complete the settlement hereunder and collect all available insurance proceeds relating to the improvements damaged by such casualty loss, in which case SELLER shall pay to PURCHASER on the date of Closing the full amount of any deductible under SELLER'S fire and extended coverage insurance policy, or (ii) terminate this Agreement and receive a refund of entire deposit and interest. SELLER warrants that it shall maintain until the date of the Closing adequate "All Risk" property insurance; and:

- (c) In the event the Property, or any portion thereof, is condemned by any governmental authority under its power of eminent domain or becomes the subject of a notice of condemnation, prior to Closing, PURCHASER may elect to terminate this Agreement, or PURCHASER may elect to complete settlement hereunder, in which event SELLER shall assign to PURCHASER all of SELLER'S right, title and interest in and to any condemnation awards, whether pending or already paid, as may be applicable to the loss of the real property and the improvements located thereon, and there shall be no adjustment to the Purchase Price.

9. CLOSING DOCUMENTS.

At closing, SELLER shall deliver to PURCHASER a Warranty Deed, Bill of Sale, if applicable, No Lien/Gap Affidavit, Non-Foreign Certification in accordance with Section 1445 of the Internal Revenue Code, 1099 Form and any other documents as listed as title requirements in Schedule B-I of the Title Commitment to assure the conveyance of good and marketable fee simple title of the Property to the PURCHASER.

10. CLOSING COSTS, TAXES AND PRORATIONS.

PURCHASER agrees that it shall pay for all closing costs associated with the subject transaction.

11. CLOSING DATE AND PLACE.

The Closing will take place on or before the expiration of forty-five days subsequent to the expiration date of the Inspection Period at the law offices of Weiss Serota Helfman Cole & Bierman, PL 2255 Glades Road, Suite 200-E, Boca Raton, FL 33431.

12. DEFAULT.

In the event of a default by SELLER, PURCHASER shall have the election of the following

remedies, which shall include the return of the earnest money, and accrued interest as liquidated damages or equitable relief to enforce the terms and conditions of this Agreement either through a decree for specific performance or injunctive relief.

13. CONTINGENCIES. PURCHASER'S obligations under the Agreement are contingent upon the following:

(a) That the PURCHASER is fully satisfied with its due diligence investigation conducted during the investigation period.

(b) The conveyance of clear and marketable title to the property.

(c) That the environmental audit is satisfactory and acceptable to PURCHASER.

(d) The Lake Worth Beach Community Redevelopment Agency authorizes the transaction.

(e) The City of Lake Worth Beach City Commission authorizes the transaction.

14. BROKER.

The parties each represent to the other that they have not dealt with any real estate broker, real estate salesman or finder in conjunction with this transaction who is entitled to a fee or brokerage commission in accordance with Florida law.

15. ENFORCEABILITY.

If any provision in this Agreement shall be held to be excessively broad, it shall be construed, by limiting and reducing it, to be enforceable to the extent compatible with applicable law. If any provision in this Agreement shall, notwithstanding the preceding sentence, be held illegal or unenforceable, such illegality or unenforceability shall not affect any other provision of this Agreement.

16. NOTICE.

All written notices shall be deemed effective if sent to the following places:

PURCHASER: Lake Worth Beach Community Redevelopment Agency
1121 Lucerne Avenue
Lake Worth Beach, Florida 33460
Attn: Joan Oliva, Executive Director

With Copy to: David N. Tolces, Esq.
WEISS SEROTA HELFMAN COLE & BIERMAN, PL
2255 Glades Road, Suite 200-E
Boca Raton, FL 33431
Tel: (561) 835-2111

SELLER: City of Lake Worth Beach
7 N. Dixie Highway
Lake Worth Beach, Florida 33460
Attn: _____, City Manager

With a Copy to: Glen Torcivia, City Attorney
7 N. Dixie Highway
Lake Worth Beach, Florida 33460

17. GOVERNING LAW.

This Agreement shall be governed by the laws of the State of Florida. Venue shall be in the Federal or State Courts in Palm Beach County, Florida.

18. ENTIRE AGREEMENT.

All prior understandings and agreements between SELLER and PURCHASER are merged in this Agreement. This Agreement completely expresses their full agreement.

19. AMENDMENT.

No modification or amendment of this Agreement shall be of any force or effect unless in writing and executed by both SELLER and PURCHASER.

20. SUCCESSORS.

This Agreement shall apply to and bind the executors, administrators, successors and assigns of SELLER and PURCHASER.

21. COUNTERPARTS:

This Agreement may be executed in two or more counterparts, each of which shall be taken to be an original and all collectively deemed one instrument. The parties hereto agree that a facsimile copy hereof and any signatures hereon shall be considered for all purposes as originals.

22. LITIGATION COSTS:

In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all costs and expenses incurred, including its reasonable attorney's fees at all trial and appellate levels and post judgment proceedings.

(SIGNATURE PAGES TO FOLLOW)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates indicated above:

WITNESSES:

Printed name: _____

Printed name: _____

WITNESSES:

Printed name: _____

Printed name: _____

Approved as to Legal Form:

Glen Torcivia, City Attorney

PURCHASER

LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY, a Florida public body corporate and politic

By: _____
Printed Name: Joan Oliva
Title: Executive Director

By: _____
Printed Name: Leah Foertsch
Title: Vice-Chair

Executed on: _____

SELLER:

City of Lake Worth Beach, a Florida municipal corporation

By: _____
Print Name: Betty Resch
Title: Mayor

By: _____
Printed Name: Melissa Ann Coyne
Title: MMC, City Clerk

Executed on: _____

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel I:

Lots 13 and 14, and the South 10 feet of Lot 15, Block 123, Townsite of Lucerne (now known as Lake Worth), according to the Palm Beach Farms Company Plat No. 2, recorded in Plat Book 2, Page 29, of the Public Records of Palm Beach County, Florida

Parcel Control Number: 38-43-44-21-15-123-0130

Premises commonly knowns as 304 South "F" Street, Lake Worth Beach, FL 33460

(SUBJECT TO VERIFICATION BY SURVEY TO BE OBTAINED BY PURCHASER)

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2024 ("Agreement") by and between the **Lake Worth Beach Community Redevelopment Agency, a Florida public body corporate and politic created pursuant to Section 163.356 F.S.**, whose post office address is 1121 Lucerne Avenue, Lake Worth Beach, FL 33460 (hereinafter referred to as "PURCHASER") and the **City of Lake Worth Beach, a Florida municipal corporation**, whose post office address is 7 N. Dixie Highway, Lake Worth, FL 33460 (hereinafter referred to as "SELLER").

WITNESSETH

In consideration of the mutual agreements and upon and subject to the terms and conditions herein contained, the parties hereto agree as follows:

1. DEFINITIONS.

The following terms when used in this Agreement for Purchase and Sale shall have the following meanings:

1.1 Property. That certain property located at 304 South "F" Street, Lake Worth Beach, Florida, together with any buildings thereon and any attached personal property (collectively the "Property") which Property is more particularly described with the legal description in **Exhibit "A,"** attached hereto and made a part hereof.

1.2 Closing. The delivery of a Quit Claim Deed to PURCHASER concurrently with the delivery of the purchase price and other cash consideration to SELLER.

1.3 Closing Date. The Closing Date shall occur on or before Forty-Five (45) days after the expiration of the Inspection Period.

1.4 Deed. A Quit Claim Deed, in its statutory form, which shall convey the Property from SELLER to PURCHASER.

1.5 Effective Date. The Effective Date of this Agreement shall be the date upon its execution by all parties to this Agreement: SELLER, PURCHASER and the Escrow Agent.

1.6 SELLER'S Address. Seller's mailing address is 7 N. Dixie Highway, Lake Worth Beach, FL 33460.

1.7 PURCHASER'S Address. Purchaser's mailing address is 1121 Lucerne Avenue, Lake Worth Beach, FL 33460, with copy to Weiss Serota Helfman Cole & Bierman, P.L., Attn: David N. Tolces, Esq., at 2255 Glades Road, Suite 200-E, Boca Raton, FL 33431.

1.8 Other Definitions. The terms defined in any part of this Agreement shall

have the defined meaning wherever capitalized herein. Wherever appropriate in this Agreement, the singular shall be deemed to refer to the plural and the plural to the singular, and pronouns of each gender shall be deemed to comprehend either or both of the other genders. As used in this Agreement, the terms "herein", "hereof" and the like refer to this Agreement in its entirety and not to any specific section or subsection.

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Subject to the provisions of this Agreement, the SELLER hereby agrees to sell to PURCHASER, and PURCHASER hereby agrees to purchase from SELLER, the Property previously identified on **Exhibit "A"** for the total Purchase Price of **Ten and 00/100 (\$10.00)** Dollars, other good and valuable consideration, and upon and subject to the terms and conditions hereinafter set forth. PURCHASER shall pay the Purchase Price to SELLER at Closing pursuant to the terms of this Agreement by check or wire transfer of readily negotiable funds to an account identified in writing by SELLER.

2.1 The Purchase includes:

- (a) All buildings and improvements located on the Land;
- (b) All privileges and appurtenances which are on or benefit all the Land, subject to any existing easements, and dedications of rights-of-way for the benefit of any governmental entity;
- (c) All fixtures and articles of personal property, **if any**, attached to or used in connection with the Land as more particularly identified on **Exhibit "B" (personal property)** as provided by SELLER, which is attached hereto and made a part hereof. SELLER represents that such fixtures and articles are paid for and are owned by SELLER free and clear of any lien or encumbrance.
- (d) To the extent transferable, all licenses, permits, contracts and leases, if applicable, with respect to the property.

3. INSPECTIONS.

3.1 PURCHASER shall have forty-five (45) days commencing on the Effective Date to perform inspections of the property as the PURCHASER deems necessary ("Inspection Period"). During the Inspection Period, PURCHASER shall, at PURCHASER'S sole cost and expense, determine that utility services including, water, wastewater, electric, telephone and all other utilities are available in the proper size and capacity to serve the existing facilities and installed to the property lines. At all times during the Inspection Period, PURCHASER and PURCHASER'S agents shall be provided with reasonable access during normal business hours to

the Property for purposes of on-site inspection, upon reasonable prior Notice to SELLER. The scope of the inspection contemplated herein shall be determined by the PURCHASER as deemed appropriate under the circumstances. PURCHASER, at PURCHASER'S sole cost and expense, and at PURCHASER'S sole discretion, may obtain and accept a satisfactory Phase I Environmental Audit, and if deemed necessary at its discretion, a Phase II Environmental Audit for which it will be granted an additional sixty (60) days for inspections. In the event that any inspections and any review of documents conducted by the PURCHASER relative to the Property during this Inspection period prove unsatisfactory in any fashion, the PURCHASER, at PURCHASER'S sole discretion, shall be entitled to terminate this Agreement prior to the end of the forty five (45) day Inspection Period and PURCHASER also agrees to indemnify and hold SELLER harmless from any losses, claims, costs, and expenses, including reasonable attorney's fees, which may result from or be connected with any acts or omissions of PURCHASER during inspections that are done pursuant hereto.

3.2 During the Inspection Period, SELLER shall provide copies of any surveys, environmental reviews or assessments, and any other information contained in the SELLER's records regarding the Property in order to assist PURCHASER with its inspection of the Property. PURCHASER shall provide copies of any surveys, environmental reviews or assessments obtained during the Inspection Period to SELLER.

4. SELLER'S REPRESENTATIONS.

To induce PURCHASER to enter into this Agreement, SELLER makes the following representations, all of which, to the best of SELLER'S knowledge, in all material respects and except as otherwise provided in this Agreement (i) are now true, and (ii) shall be true as of the date of the Closing unless SELLER receives information to the contrary, and (iii) shall survive the Closing. In that event, PURCHASER shall be provided immediate notice as to the change to the following representations:

4.1 At all times from the Effective Date until prior to Closing, SELLER shall keep the Property (whether before or after the date of Closing) free and clear of any mechanic's or materialmen's liens for work or materials furnished to or contracted for, by or on behalf of SELLER prior to the Closing.

4.2 SELLER has no actual knowledge nor has SELLER received any notice of any litigation, claim, action or proceeding, actual or threatened, against SELLER or the Property by any organization, person, individual or governmental agency which would affect (as to any threatened litigation, claim, action or proceeding, in a materially adverse fashion) the use,

occupancy or value of the Property or any part thereof or which would otherwise relate to the Land.

4.3 SELLER has full power and authority to enter into this Agreement and to assume and perform SELLER'S obligations hereunder in this Agreement. SELLER does not and will not conflict with or result in the breach of any condition or provision, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the Property or assets of the SELLER by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which the SELLER is a party of which is or purports to be binding upon the SELLER or which affects the SELLER; no action by any federal or state department, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon the SELLER in accordance with its terms.

4.4 SELLER represents that SELLER will not, between the date of this Agreement and the Closing, without PURCHASER'S prior written consent, which consent shall not be unreasonably withheld or delayed, except in the ordinary course of business, create by SELLER'S consent any encumbrances on the Property. For purposes of this provision the term "encumbrances" shall mean any liens, claims, options, or other encumbrances, encroachments, rights-of-way, leases, easements, covenants, conditions or restrictions.

4.5 SELLER represents that there are no parties other than SELLER in possession of the Property or any portion of the Property as a lessee.

4.6 SELLER shall not list or offer the Property for sale or solicit or negotiate offers to purchase the Property while this Agreement is in effect. SELLER shall use SELLER'S best efforts to maintain the Property in its present condition so as to ensure that it shall remain substantially in the same condition from the conclusion of the forty five (45) day Inspection Period to the Closing Date.

4.7 SELLER represents that SELLER has no actual knowledge nor has SELLER received any notice that the Land has been, is presently or is contemplated to be utilized as a reservoir of hazardous material. As used herein, the term "Hazardous Material" shall mean any substance, water or material which has been determined by any state, federal or local government authority to be capable of posing a risk of injury to health, safety and property, including, but not limited to, all of those materials, wastes and substances designated as hazardous or toxic by the U.S. Environmental Protection Agency, the U.S. Department of Labor, the U.S. Department of Transportation, and/or any other state or local governmental agency now or hereafter authorized to regulate materials and substances in the environment (collectively

"Governmental Authority(ies)").

5. EVIDENCE OF TITLE.

5.1 Title to the Property. SELLER shall convey to PURCHASER at Closing, by delivery of a Quit Claim Deed, title to the subject Property. PURCHASER shall, within fifteen (15) days of the commencement of the Inspection Period, secure a title insurance commitment issued by a title insurance underwriter approved and selected by PURCHASER for the Property insuring PURCHASER'S title to the Property subject only to those exceptions set forth in the commitment. The costs and expenses relative to the issuance of a title commitment and the owner's title policy shall be borne by the PURCHASER.

PURCHASER shall have fifteen (15) days from the date of receiving said commitment to examine the title commitment. If PURCHASER objects to any exception to title as shown in the title commitment, PURCHASER, prior to ten (10) days of expiration of the Inspection Period, shall notify SELLER in writing specifying the specific exception(s) to which it objects. Any objection(s) of which PURCHASER has so notified SELLER, and which SELLER chooses to cure, shall be cured by SELLER so as to enable the removal of said objection(s) from the title commitment within ten (10) days after PURCHASER has provided notice to SELLER. Within five (5) days after the expiration of SELLER'S time to cure any objection, SELLER shall send to PURCHASER a notice in writing (a "cure notice") stating either (1) that the objection has been cured and, in such case, enclosing evidence of such cure, or (ii) that SELLER is either unable to cure or has chosen not to cure such objection. If SELLER shall be unable or unwilling to cure all objections within the time period set forth in the preceding sentence, then PURCHASER may (a) terminate this Agreement by written notice to the SELLER within five (5) days after receipt of a cure notice specifying an uncured objection, in which event all instruments and monies held by the Escrow Agent shall be immediately returned to PURCHASER; or (b) subject to the provisions set forth below, proceed to close the transaction contemplated herein despite the uncured objection.

5.2. Survey and Legal Description. Within ten (10) days of the commencement of the Inspection Period, PURCHASER at PURCHASER'S own expense shall order: (i) a survey prepared by a registered land surveyor or engineer licensed in the State of Florida showing the boundaries of the land, and the location of any easements thereon and certifying the number of acres (to the nearest one thousandth acre) of land contained in the Property, all buildings, improvements and encroachments; and (ii) a correct legal description of the Property which, upon approval thereof by PURCHASER and SELLER (not to be unreasonably withheld), shall be the legal description used in the deed of conveyance. The survey and legal description shall be

prepared and certified by a surveyor licensed and registered in the State of Florida and shall comply with the requirements of the survey map established in connection with the issuance of an owner's title insurance policy on the Land. The survey shall be certified to PURCHASER and the title insurance company issuing the title insurance.

6. PURCHASER'S REPRESENTATIONS.

PURCHASER hereby represents and warrants to the best of PURCHASER'S knowledge that all the following are true and correct:

- (a) PURCHASER has full power and authority to enter into this Agreement and to assume and perform all its obligations hereunder.
- (b) The execution and delivery of this Agreement and the consummation of the transaction contemplated hereunder on the part of the PURCHASER do not and will not violate the corporate or organizational documents of PURCHASER and will not conflict with or result in the breach of any condition or provision, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which the PURCHASER is a party.
- (c) No action by any federal or state governmental department, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon PURCHASER in accordance with its terms and conditions.

All the representations, warranties and covenants of PURCHASER contained in this Agreement or in any other document, delivered to SELLER in connection with the transaction contemplated herein shall be true and correct in all material respects and not in default at the time of Closing, just as though they were made at such time.

7. CONDITIONS PRECEDENT TO CLOSING.

Each of the following events or occurrences ("Conditions Precedents") shall be a condition precedent to PURCHASER'S obligation to close this transaction:

- (a) That the PURCHASER has not notified the SELLER that it has deemed the property to be unsuitable for its intended purpose, as a result of the Investigations conducted on the Property during the Inspection Period.
- (b) SELLER has performed all covenants, agreements, and obligations, and complied with all conditions required by this Agreement to convey clear and marketable title of the Property to PURCHASER, prior to closing.
- (c) SELLER shall release any municipal liens in which the SELLER has an

interest with respect to the Property, upon the PURCHASER paying any outstanding administrative fees related to the municipal liens.

- (d) Approval of this Agreement by the Lake Worth Beach Community Redevelopment Agency on or before July 1, 2024.
- (e) Approval of this Agreement by the City of Lake Worth Beach City Commission on or before July 1, 2024.

8. RISK OF LOSS.

Risk of loss or damage from fire, other casualty, or both, is assumed by SELLER until the deed described in Paragraph 5.1 hereof is delivered by SELLER to PURCHASER. In the event any portion of the Property is destroyed, rendered unleaseable or dysfunctional by fire or other casualty then the following shall apply:

- (a) Unless the SELLER undertakes its own repairs, or chooses not to file an insurance claim, in its sole and absolute discretion, if the damage, as determined by the insurance adjuster, is not more than Ten Thousand and 00/100 Dollars (\$10,000.00): (i) PURCHASER shall complete settlement and all insurance proceeds relating to the improvements damaged by such casualty loss shall be paid to the PURCHASER, and (ii) SELLER shall assign to PURCHASER on the date of Closing the full amount of any proceeds payable under SELLER'S fire and extended coverage insurance policy applicable to said damage;
- (b) If the damage, as determined by the insurance adjuster, is more than Ten Thousand and 00/100 Dollars (\$10,000.00) DOLLARS, PURCHASER shall have the option to (i) complete the settlement hereunder and collect all available insurance proceeds relating to the improvements damaged by such casualty loss, in which case SELLER shall pay to PURCHASER on the date of Closing the full amount of any deductible under SELLER'S fire and extended coverage insurance policy, or (ii) terminate this Agreement. SELLER warrants that it shall maintain until the date of the Closing adequate "All Risk" property insurance; and:
- (c) In the event the Property, or any portion thereof, is condemned by any governmental authority under its power of eminent domain or becomes the subject of a notice of condemnation, prior to Closing, PURCHASER may elect to terminate this Agreement, or PURCHASER may elect to complete

settlement hereunder, in which event SELLER shall assign to PURCHASER all of SELLER'S right, title and interest in and to any condemnation awards, whether pending or already paid, as may be applicable to the loss of the real property and the improvements located thereon, and there shall be no adjustment to the Purchase Price.

9. CLOSING DOCUMENTS.

At closing, SELLER shall deliver to PURCHASER a Quit Claim Deed, Bill of Sale, if applicable, No Lien/Gap Affidavit, Non-Foreign Certification in accordance with Section 1445 of the Internal Revenue Code, 1099 Form and any other documents as listed as title requirements in Schedule B-I of the Title Commitment to assure the conveyance of good and marketable fee simple title of the Property to the PURCHASER.

10. CLOSING COSTS, TAXES AND PRORATIONS.

PURCHASER agrees that it shall pay for all closing costs associated with the subject transaction.

11. CLOSING DATE AND PLACE.

The Closing will take place on or before the expiration of forty-five days subsequent to the expiration date of the Inspection Period at the law offices of Weiss Serota Helfman Cole & Bierman, PL 2255 Glades Road, Suite 200-E, Boca Raton, FL 33431.

12. DEFAULT.

In the event of a default by SELLER, PURCHASER shall have the election of the following remedies, which shall include the return of the earnest money, and accrued interest as liquidated damages or equitable relief to enforce the terms and conditions of this Agreement either through a decree for specific performance or injunctive relief.

13. RESERVED.

14. BROKER.

The parties each represent to the other that they have not dealt with any real estate broker, real estate salesman or finder in conjunction with this transaction who is entitled to a fee or brokerage commission in accordance with Florida law.

15. ENFORCEABILITY.

If any provision in this Agreement shall be held to be excessively broad, it shall be construed, by limiting and reducing it, to be enforceable to the extent compatible with applicable law. If any provision in this Agreement shall, notwithstanding the preceding sentence, be held illegal or unenforceable, such illegality or unenforceability shall not affect any other provision of this

Agreement.

16. NOTICE.

All written notices shall be deemed effective if sent to the following places:

PURCHASER: Lake Worth Beach Community Redevelopment Agency
1121 Lucerne Avenue
Lake Worth Beach, Florida 33460
Attn: Joan Oliva, Executive Director

With Copy to: David N. Tolces, Esq.
WEISS SEROTA HELFMAN COLE & BIERMAN, PL
2255 Glades Road, Suite 200-E
Boca Raton, FL 33431
Tel: (561) 835-2111

SELLER: City of Lake Worth Beach
7 N. Dixie Highway
Lake Worth Beach, Florida 33460
Attn: City Manager

With a Copy to: Glen Torcivia, City Attorney
701 Northpoint Parkway, Suite 209
West Palm Beach, Florida 33407

17. GOVERNING LAW.

This Agreement shall be governed by the laws of the State of Florida. Venue shall be in the State Courts in Palm Beach County, Florida.

18. ENTIRE AGREEMENT.

All prior understandings and agreements between SELLER and PURCHASER are merged in this Agreement. This Agreement completely expresses their full agreement.

19. AMENDMENT.

No modification or amendment of this Agreement shall be of any force or effect unless in writing and executed by both SELLER and PURCHASER.

20. SUCCESSORS.

This Agreement shall apply to and bind the executors, administrators, successors and assigns of SELLER and PURCHASER.

21. COUNTERPARTS:


This Agreement may be executed in two or more counterparts, each of which shall be taken to be an original and all collectively deemed one instrument. The parties hereto agree that a facsimile copy hereof and any signatures hereon shall be considered for all purposes as originals.

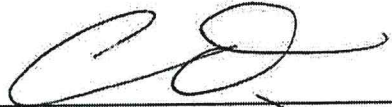
22. LITIGATION COSTS:

In connection with any litigation arising out of this Agreement, each party shall be responsible for its own costs and expenses incurred, including its attorney's fees at all trial and appellate levels and post judgment proceedings.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates indicated above:

WITNESSES:


Printed name: Emily Treadrossakos


Printed name: Chris Dubros

WITNESSES:

Printed name: _____

Printed name: _____

Approved as to Legal Form:

Glen Torcivia, City Attorney

PURCHASER

LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY, a Florida public body corporate and politic

By: 
Printed Name: Joan Oliva
Title: Executive Director

By: 
Printed Name: Leah Foertsch
Title: Vice-Chair
Executed on: _____

SELLER:

City of Lake Worth Beach, a Florida municipal corporation

By: _____
Print Name: Betty Resch
Title: Mayor

By: _____
Printed Name: Melissa Ann Coyne
Title: MMC, City Clerk
Executed on: _____

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel I:

Lots 13 and 14, and the South 10 feet of Lot 15, Block 123, Townsite of Lucerne (now known as Lake Worth), according to the Palm Beach Farms Company Plat No. 2, recorded in Plat Book 2, Page 29, of the Public Records of Palm Beach County, Florida

Parcel Control Number: 38-43-44-21-15-123-0130

Premises commonly knowns as 304 South "F" Street, Lake Worth Beach, FL 33460

(SUBJECT TO VERIFICATION BY SURVEY TO BE OBTAINED BY PURCHASER)

STAFF REPORT REGULAR MEETING

AGENDA DATE: May 7, 2024

DEPARTMENT: Water Utilities

TITLE:

Work Order #7 with B&B Underground Construction, Inc. to install new emergency water interconnect with Town of Lantana

SUMMARY:

The Water Utilities Department will engage in a work order with B&B Underground Construction, Inc. to install a new metered water distribution emergency interconnect with the Town of Lantana.

BACKGROUND AND JUSTIFICATION:

The City of Lake Worth Beach water distribution system currently has a valved connection to the Town of Lantana water distribution system to be opened in the case of an emergency. In order to quantify water transferred through this interconnect, the City is installing a new interconnect with a meter assembly. This project is a joint effort with the Town of Lantana and the cost will be partially reimbursed by the Town, as reflected in the Fiscal Impact Analysis.

MOTION:

Move to approve/disapprove Work Order #7 with B&B Underground Construction, Inc. to install new emergency water interconnect with Town of Lantana in the amount of \$68,415.54

ATTACHMENT(S):

Fiscal Impact Analysis
Work Order #7

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

Fiscal Years	2024	2025	2026	2027	2028
Inflows/Revenues					
Appropriated (Budgeted)	\$60,000	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
Outflows/Expenditures					
Appropriated (Budgeted)	0	0	0	0	0
Operating	0	0	0	0	0
Capital	\$68,415.54	0	0	0	0
Net Fiscal Impact					
<i>(If not budgeted)</i>	\$8,415.54	0	0	0	0
No. of Addn'l Full-Time					
Employee Positions	0	0	0	0	0

New Appropriation (Not Budgeted) Fiscal Impact:		
	Revenue Source	Expenditure
Department		
Division		
GL Description		
GL Account Number		
Project Number		
Requested Funds		
Remaining Balance	N/A	

Contract Award - Existing Appropriation (Budgeted)	
	Expenditure
Department	Water Utilities
Division	Distribution
GL Description	Improve Other than Build / Mains
GL Account Number	422-7034-533.63-60
Project Number	WT2201
Requested Funds	\$68,415.54
Remaining Balance	N/A
Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.)	

**CONTRACTOR AGREEMENT
(EMERGENCY UTILITY REPAIRS FOR WATER, WASTEWATER AND STORMWATER)
WORK ORDER NO. 7**

THIS WORK ORDER for Emergency Utility Repairs for Water, Wastewater and Stormwater ("Work Order" hereafter) is made on the _____, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth, Florida 33460 ("City" hereafter) and **B & B Underground Construction, Inc.** a Florida corporation ("Contractor" hereafter).

1.0 Project Description:

The City desires the Contractor to provide all goods, services, materials and equipment as identified herein related to the Emergency Utility Repairs for Water, Wastewater and Stormwater project generally described as: Installation of a new emergency interconnect between the City of Lake Worth Beach and the Town of Lantana water distribution systems (the "Project").

2.0 Scope

Under this Work Order, the Contractor will provide the City of Lake Worth Beach with construction services for the Project as specified in the **Contractor's proposal attached hereto and incorporated herein as Exhibit "1"**.

3.0 Schedule and Liquidated Damages

Substantial completion of all services and work under this Work Order shall be within **60 calendar days** from the Effective Date of this Work Order. Final completion of all services and work (and all punch-list items (if any)) under this Work Order shall be within **75 calendar days** from the Effective Date of this Work Order. The Effective Date of this Work Order is the date following the parties' execution of this Work Order and the City's delivery of a Notice to Proceed to the Contractor via e-mail, facsimile or other form of delivery as documented by the City. Substantial completion occurs when the services and work has progressed to the point where, in the opinion of the City, the work is sufficiently complete in accordance with the Contract Documents and this Work Order, so that the Project can be utilized for the purposes for which it is intended. Final completion occurs when all services and work (including punch-list items) has been completed and the project becomes fully operational and accepted by the City.

Liquidated Damages. The City and Contractor recognize that time is of the essence under this Work Order and the Contract Documents, and that the City will suffer financial loss if the services and work described in this Work Order and the Contract Documents are not completed within the times specified in this Work Order. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the services and work within the time specified. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City five-hundred dollars (\$500.00) for each day that expires after the time specified in this Work Order.

4.0 Compensation and Direct Purchases

This Work Order is issued for a unit price, not to exceed amount of **\$68,415.54**. The attached proposal identifies all costs and expenses included in the unit price, not to exceed amount.

5.0 Project Manager

The Project Manager for the Contractor is Stephen Decker, phone: 561-249-0341; email: sdecker@bbuconst.com; and, the Project Manager for the City is Vaughn Hayduk, phone: 561-586-1798; email: vhayduk@lakeworthbeachfl.gov.

6.0 Progress Meetings

The Contractor shall schedule periodic progress review meetings with the City Project Manager as necessary but every 30 days as a minimum.

7.0 Contractor's Representations

In order to induce the City to enter into this Work Order, the Contractor makes the following representations:

7.1 Contractor has familiarized itself with the nature and extent of the Contract Documents including this Work Order, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work.

7.2 Contractor has obtained at his/her own expense and carefully studied, or assumes responsibility for obtaining and carefully studying, soil investigations, explorations, and test reports which pertain to the subsurface conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the stated work order price within the Work Order stated time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the IFB; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes.

7.3 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are deemed necessary by the Contractor in order to perform and furnish the work under this Work Order price, within the Work Order time and in accordance with the other terms and conditions of the Contract Documents.

7.4 Contractor has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.5 Contractor has given the City's Contract Administrator written notice of all conflicts, errors or discrepancies that he or she has discovered in the Contract Documents and the written resolution thereof by City or its designee is acceptable to the Contractor.

8.0 Warranty. The Contractor warrants and guarantees to the City that all services and work provided under this Work Order will be in accordance with this Work Order and the other Contract Documents. The Contractor warrants that (a) all materials and parts supplied under this Work Order shall be free from defects for one (1) year from the final completion of all work (unless a longer manufacturer warranty applies); (b) all services and work performed under this Work Order will be free from defects for one (1) year from the final completion of all work and the project shall be fully operational without unreasonable downtime or failures; and (c) that the services and work will conform to the requirements of the Contract Documents. If, at any time prior to the expiration of the one (1) year warranty period, the City discovers any failure or breach of the Contractor's warranties or the Contractor discovers any failure or breach of the Contractor's warranties, the Contractor will, upon written notice from City or of its own accord, at the Contractor's sole cost and expense, promptly correct such failure or breach (which corrective action must include, without limitation, any necessary removal, disassembly, reinstallation, repair, replacement, reassembly, retesting, and/or re-inspection of any part or portion of the work and any other property damaged or affected by such failure, breach, or corrective action). The Contractor will remedy any such failure or breach so, to the extent possible, to avoid unnecessary disruptions to the operations of City or its systems. In the event the Contractor fails to initiate and diligently pursue corrective action within five (5) days of the Contractor's receipt of the City's notice or the Contractor's discovery of the same, the City may undertake such corrective action at the Contractor's expense.

9.0 Authorization

This Work Order is issued pursuant to the Emergency Utility Repairs for Water, Wastewater and Stormwater Contract between the City of Lake Worth Beach and the Contractor, dated July 10, 2020 ("Contract" hereafter) as amended. If there are any conflicts between the terms and conditions of this Work Order and the Contract, the terms and conditions of the Contract shall prevail.

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SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this **Work Order #7** as of the day and year set forth above.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director
422-7034-533-63.60 WT2201

CONTRACTOR: **B & B Underground Construction INC.**

By: _____
[Signature]

[Corporate Seal]

Print Name: STEPHEN DECKER

Title: PRESIDENT

STATE OF FLORIDA
COUNTY OF DADE

The foregoing instrument was acknowledged before me by means of physical presence or online notarization on this 26 day of MARCH, 2024, by STEPHEN DECKER, as the PRESIDENT (title), of **B & B Underground Construction INC.**, a Company which is authorized to do business in the State of Florida, and who is personally known to me or who has produced _____ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Notary Seal:

Notary Public Signature

[Signature]

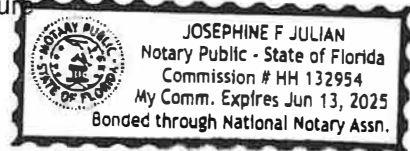


Exhibit 1

CITY OF LAKE WORTH BEACH					
EMERGENCY UTILITY REPAIRS FOR WATER, WASTEWATER, AND STORM DRAINAGE					
LAKE WORTH BEACH - LANTANA WATERMAIN INTERCONNECT					
ITEM NO.	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
	GENERAL				
GC-4	Non-Emergency Mobilization / Demobilization Costs for Utility Right of Way Repairs	1	LS	\$ 2,000.00	\$ 2,000.00
GC-5	Record Drawings	1	LS	\$ 1,500.00	\$ 1,500.00
GC-10	MOT FDOT Right of Way	1	EA	\$ 4,000.00	\$ 4,000.00
GC-11	Bacteriological Watermain Test	1	AL	Reimburse	Reimburse
GC-12	Density Tests	1	AL	Reimburse	Reimburse
GC-13	Proctor Test	1	AL	Reimburse	Reimburse
GC-17	Applicable Permits	1	AL	Reimburse	Reimburse
W-4	Furnish and Install 6" CL350 DIP watermain (min. 20' pipe length)	20	LF	\$ 131.46	\$ 2,629.20
2-2	Pipe Cost Increase (Amendment 2)	20	LF	\$ 10.19	\$ 203.80
W-24	6" Gate Valve (flanged)	2	EA	\$ 1,835.48	\$ 3,670.96
W-38	6"x6" Tapping Sleeve w/ Valve and Valve box	2	EA	\$ 5,522.34	\$ 11,044.68
W-99	Bollards	2	sets	\$ 2,483.00	\$ 4,966.00
W-118	Watermain Crew A (installation of flanged piping, fittings, meter)	14	HR	\$ 1,800.00	\$ 25,200.00
R-1	Remove and dispose of 6" thick concrete	120	SF	\$ 6.00	\$ 720.00
R-2	Furnish and Install 4" concrete with wire (Meter slab)	28	SF	\$ 9.50	\$ 266.00
R-3	Furnish and Install 6" concrete without wire (FDOT sidewalk)	120	SF	\$ 12.00	\$ 1,440.00
4-5	Concrete escalations	148	SF	\$ 8.00	\$ 1,184.00
R-11	Furnish and Install bahia sod - up to 1,000SF (min. 400sf pallet qty)	400	SF	\$ 0.70	\$ 280.00
R-29	12" Compacted subgrade	17	SY	\$ 7.00	\$ 119.00
	ADDITIONAL ITEMS				
4-9	Preconstruction Video (Amendment 4)	1	LS	\$ 1,500.00	\$ 1,500.00
X	6" Flanged fittings and spool pieces (material only)	1	LS	\$ 7,691.90	\$ 7,691.90
				TOTAL	\$ 68,415.54

STAFF REPORT REGULAR MEETING

AGENDA DATE: May 7, 2024

DEPARTMENT: Public Works

TITLE:

Construction Contracts with The Paving Lady Inc., M & M Asphalt Maintenance Inc., and Wynn & Sons Environmental Construction Co. for Annual Paving, Concrete, Striping, and Associated Restoration Work.

SUMMARY:

The Contract authorizes the City to utilize the Paving Lady Inc., M & M Asphalt Maintenance Inc., and Wynn & Sons Environmental Construction Co. to perform Paving, Concrete, Striping and Associated Restoration Work on a project basis.

BACKGROUND AND JUSTIFICATION:

The city is actively engaged in the repair and maintenance of the roadway infrastructure inclusive of pavement, sidewalks, curbing, striping and green spaces. The Public Works Department frequently has projects for restoration work that are beyond the capabilities of the in-house labor force and need to be outsourced. On February 21, 2024, the City received seven (7) bids in response to Invitation for Bid (IFB) 24-101, Annual Contract for Paving, Concrete, Striping, and Associated Restoration Work. In accordance with the bid document, three (3) contractors were selected for the award. Upon review of the bid submittals, it was determined that The Paving Lady, M & M Asphalt Maintenance Inc and Wynn & Sons Environmental Construction Co. were the lowest, most responsive, and responsible bidders. All three agreements are attached to this agenda item. The Agreements are for an initial three (3) year term with two (2) additional one (1) year extensions, for a total possible term of five (5) years. The Agreements are based upon unit-pricing and projects will be awarded via work order.

MOTION:

Move to approve/disapprove the construction contracts with The Paving Lady Inc., M & M Asphalt Maintenance Inc., and Wynn & Sons Environmental Construction Co. for Annual Paving, Concrete, Striping, and Associated Restoration Work.

ATTACHMENT(S):

Fiscal Impact Analysis N/A
Construction Agreements
Bid Tabulations

**CONSTRUCTION CONTRACT FOR
(Annual Contract for Paving, Concrete, Striping and Associated Restoration Work)
IFB #24-101**

THIS CONSTRUCTION CONTRACT for Annual Contract for Paving, Concrete, Striping and Associated Restoration Work (“Contract”) is entered on _____, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Janice M. Riley, Inc. dba The Paving Lady**, a Corporation authorized to do business in the State of Florida with its principal office located at 1000 W Industrial Ave, Boynton Beach, FL 33426 . (“Contractor”)

WHEREAS, the City is a Municipal organized and existing pursuant to the Charter and the Constitution of the State of Florida; and

WHEREAS, the City issued Invitation for Bids # 24-101 (including but not limited to the addendum, Plans & Drawings, Special Terms and General Conditions and Terms issued therewith) (“IFB”) for the construction and maintenance services for Roadway pothole repair, Full depth pavement repair, patching and reconstruction, Mill and Overlay, Thermoplastic striping/Signage, Concrete sidewalk and driveway removal and installation, ADA concrete ramps, Concrete curbing removal and replacement, Green area grading and sodding, Associated Misc. Restoration Work; and

WHEREAS, the Contractor submitted a unit price bid to perform the work generally described and set out in response to the IFB; and

WHEREAS, the City desires to accept Contractor’s bid in order for Contractor to render the services to the City as provided herein; and

WHEREAS, the Contractor further warrants that it is experienced and capable of performing the Task hereunder in a professional and competent manner; and

WHEREAS, the City finds awarding the IFB to the Contractor as described herein serves a valid public purpose.

NOW THEREFORE, the City hereby engages the services of the Contractor, and in consideration of the mutual promises herein contained, the sufficient of which is hereby acknowledged by both parties, the parties agree as follows:

Article I. GENERAL INFORMATION.

1.1 The foregoing recitals are incorporated into this Contract as true and correct statements.

1.2 **Scope of Services/Work.** The Contractor shall provide the services and work requested by the City and required under a City approved work order as described herein. The general nature of the services and work to be provided by the Contractor under this Contract are the construction and maintenance services for the City’s Public Works Departments for the Annual Contract for Paving, Concrete, Striping and Associated Restoration Work.

1.3 **Contract Documents.** The Contract Documents are incorporated herein by reference as if set forth in this Contract and comprise the entire agreement between the City and Contractor. The Contract Documents consist of this Contract, the IFB (including, but not limited to, the documents issued with the IFB as the scope and specifications, the drawings, addenda, attachments and exhibits); and, any duly executed and issued work



orders, change orders and Contract amendments relating thereto. If, during the performance of the work, the Contractor finds an ambiguity, error or discrepancy in the Contract Documents, the Contractor shall so notify the City, in writing, within five (5) business days and before proceeding shall obtain a written interpretation or clarification. Failure to obtain a written interpretation or clarification will be deemed a waiver of the ambiguity, error or discrepancy by the Contractor. The City will not be responsible for any oral instructions, clarifications, or other communications except those provided in writing in response to Contractor's request for clarification of an ambiguity, discrepancy or error.

In resolving conflicts in any of the Contract Documents, the order of precedence shall be as follows:

First Priority:	Fully executed Change Orders or Contract amendments
Second Priority:	Work Order (for each project) (sample attached as Exhibit A)
Third Priority:	Drawings/Specifications
Fourth Priority:	This Contract
Fifth Priority:	Special Terms (in the IFB)
Sixth Priority:	General Conditions and Terms (in the IFB)
Seventh Priority:	Remainder of the IFB
Eighth Priority:	Contractor's Bid (Schedule of Unit Prices attached as Exhibit B)

The City will not be responsible for any oral instructions, clarifications, or other communications except those provided in writing in response to Contractor's request for clarification of an ambiguity, discrepancy or error.

1.4 **Contract Administrator.** Whenever the term Contract Administrator is used herein, it is intended to mean the City Manager or designee, City of Lake Worth Beach, Florida. In the administration of this Contract, all parties may rely upon instructions or determinations made by the Contract Administrator except that all requests and/or determinations that result in an increase in change in time of completion and/or an increase in the contract price shall require a formal change order or contract amendment executed by the City Manager or the City Commission (depending on the authority set forth in the City's Procurement Code).

1.5 **Work Orders.** This Contract does not guarantee that the City will utilize the Contractor in any capacity or for any services hereunder. When the City identifies a need for the Contractor's services, the City will request a proposal from the Contractor to provide the services requested. The City will provide the Contractor with plans and/or specifications in order for the Contractor to develop its proposal. The Contractor's proposal shall be submitted in the format of the sample work order, attached hereto and incorporated herein as **Exhibit "A"** along with a copy of the Contractor's proposal and shall be based on the Unit Prices attached hereto and incorporated herein as **Exhibit "B"**. Upon receipt of the Contractor's proposed work order and proposal, the City shall decide in its sole discretion whether to award the work order to the Contractor. Depending on the lump sum amount of each work order, the work order may be awarded by the City Manager (if within City Manager's purchasing authority (currently not to exceed \$50,000)) or the City Commission. If the work order is approved by the City, the Contractor shall commence the identified services upon the City's approval of the work order for the services and issuance of a notice to proceed. The City reserves the right to reject any and all proposals submitted by the Contractor. A City-approved work order shall include (by reference) the plans and/or specifications provided by the City to the Contractor.

1.6 **Term.** The term of this Agreement shall be for an initial term commencing upon the expiration of the prior contract, May 6, 2024, and ending three (3) years therefrom, with two (2) additional single year renewal options. The option(s) to renew may be exercised by the City Manager. Notwithstanding the term, the parties may terminate this Agreement as stated herein.

1.7 **Unit Prices.** The Unit Prices set forth as **Exhibit "B"** shall remain fixed for the first three (3) years of this Contract. If due to applicable price escalations and/or reductions which impact the Contractor's Unit Prices, the City and Contractor may execute a written amendment to this Contract to establish new Unit Prices for the renewal term(s). The City Manager may approve changes in the Unit Prices based on the recommendation of the City's Public Works Director or designee.

Article 2. CONTRACT TIME.

2.1 Contract Time. Final completion of the work and all punch-list items (if any) shall be within the time frame as set forth in each Work Order for each project.

2.2 The Contractor shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the Contractor or its subcontractors (if authorized) and without the Contractor's or subcontractor's fault or negligence. Upon the Contractor's request, the City shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the Contractor and, if the Contractor's delay and failure to timely perform was without it or its subcontractors' fault or negligence, as reasonably determined by the City, the time of completion shall be extended for any reasonable time that the City may reasonably decide; subject to the City's rights to change, terminate, or stop any or all of the work at any time. If the Contractor is delayed at any time in the progress of the work by any act or neglect of the City or its employees, by an approved written change in the scope from the original Contract Documents, or by any other contractor employed by the City, or by changes ordered by the City or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the Contractor's reasonable control, or by delay authorized by the City pending negotiation or by any cause which the City shall reasonably decide justifies the delay, then the time of completion shall be extended for any reasonable time the City may reasonably decide. The Contractor must provide the City with written notice of any delay claims and no extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) claim is necessary. With the exception of an approved written change in the scope from the original Contract Documents, the Contractor's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and Contractor specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by Contractor due to a delay in completion of the work. Provided, however, and subject to sovereign immunity under section 768.28, Florida Statutes, that this provision shall not preclude recovery or damages by the Contractor for hindrances or delays due solely to fraud, bad faith or active interference on the part of the City. Otherwise, the Contractor shall be entitled only to extensions of the Contract Times as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

Article 3. PAYMENT PROCEDURES

3.1 Generally. The Contractor shall submit invoices on a monthly basis detailing all work accomplished in the prior month and all materials installed and used in the work pursuant to City approved work order. Contractor's invoices shall be submitted to:

City of Lake Worth Beach
Attn: Finance Department/Procurement Division
7 N. Dixie Highway
Lake Worth Beach, FL 33460



The City's Contract Administrator or designee will review each invoice submitted by the Contractor. If approved, the City will make payment in accordance with the Contract Documents. If not approved, the City will notify the Contractor within twenty (20) business days of the City's receipt and identify the action necessary to correct the invoice or a deficiency.

3.2 Payment to the Contractor shall be made pursuant Florida's Local Government Prompt Payment Act (for construction services), section 218.735, Florida Statutes, except as provided herein. Specifically, the City will withhold five percent (5%) of each payment from a work order to the Contractor as retainage. Retainage shall be released to the Contractor in accordance with Section 218.735, Florida Statutes and as set forth in this Contract

3.3 Upon substantial completion, the Contractor shall notify the City's Contract Administrator that the work is substantially complete and request an inspection. Within five (5) business days thereafter, the Contractor and City's Contract Administrator or designee shall make an inspection of the work and begin the development of a draft punch-list of items that must be completed by the Contractor prior to the Contractor submitting its final payment request (Punch List Walkthrough). The City shall submit the punch list to the Contractor within fifteen (15) days of the Punch List Walkthrough and the Contractor shall have ten (10) days to agree to the same. If the Contractor wishes to revise the punch list, it must send the revised punch list to the City's Contract Administrator no later than twenty-five (25) days after reaching substantial completion. Thereafter the parties shall agree on the final punch list no later than thirty (30) days after substantial completion. The punch list shall include every remaining item required to render complete, satisfactory, and acceptable services to the City and the estimated cost to complete each remaining item. The final agreed upon punch list shall be sent to the Contractor five (5) days after the punch list is finalized. In no event may the Contractor request payment of final retainage until the Contractor has completed all items on the punch list. All items that require correction under the Contract which are identified after the preparation and delivery of the punch list remain the obligation of the Contractor. The failure to include any corrective work or pending items not yet completed on the list does not alter the responsibility of the Contractor to complete all the construction services purchased pursuant to the Contract.

3.4 Final Payment. Upon final completion and acceptance of the work in accordance with the Contract Documents (including all punch-list items) and final inspection by the appropriate agency with jurisdiction over the project (if other than the City), the Contractor shall submit a "final invoice" to the City. In order for both parties to close their books and records, the Contractor will clearly state "FINAL" on the Contractor's final invoice. This certifies that all work under the applicable work order has been properly completed and all charges have been invoiced to the City. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the Contractor. If the Contractor's Final Invoice is approved as set forth above, the City shall pay the remainder of the work order price including any amount held as retainage.

3.5 Notwithstanding the foregoing, the City shall not be required to pay or release any amount of retainage that is subject of a good faith dispute, the subject of a claim brought pursuant to section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the City.

3.6 Final payment shall not become due until the Contractor and all of its subcontractors submit to the City releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract Documents or otherwise related to the Work.

3.7 Acceptance of final payment by the Contractor or a subcontractor shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final invoice.



Article 4. SUBCONTRACTS

The Contractor represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The Contractor shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind. The Contractor shall comply with all applicable laws in the provision of services under this Contract. The Contractor agrees that it is fully responsible to the City for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the City. All of the Contractor's personnel (and all subcontractors) while on City premises, will comply with all City requirements governing conduct, safety, and security. The City reserves the right to request replacement of any of subcontractor or subcontractor's personnel furnished by the Contractor upon written notice by City to Contractor of the cause for such replacement. All work performed by a subcontractor will be at cost to the City without any mark-up by the Contractor. All subcontractors must provide the same level and type of insurance as required of the Contractor under this Contract prior to commencing any services. The Contractor shall submit the subcontractors' proof of insurance upon receipt of a notice to proceed.

Article 5. INDEMNITY AND INSURANCE.

The Contractor agrees to assume liability for and indemnify, hold harmless, and defend the City, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor, its agents, officers, Contractors, subcontractors, employees, or anyone else utilized by the Contractor in the performance of this Contract. The Contractor's liability hereunder shall include all attorney's fees and costs incurred by the City in the enforcement of this indemnification provision. This includes claims made by the employees of the Contractor against the City and the Contractor hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Contract and shall not be limited by the amount of any insurance required to be obtained or maintained under this Contract.

Subject to the limitations set forth in this Section, Contractor shall assume control of the defense of any claim asserted by a third party against the City and, in connection with such defense, shall appoint lead counsel, in each case at the Contractor's expense. The City shall have the right, at its option, to participate in the defense of any third-party claim, without relieving Contractor of any of its obligations hereunder. If the Contractor assumes control of the defense of any third party claim in accordance with this paragraph, the Contractor shall obtain the prior written consent of the City before entering into any settlement of such claim. Notwithstanding anything to the contrary in this Section, the Contractor shall not assume or maintain control of the defense of any third party claim, but shall pay the fees of counsel retained by the City and all expenses, including experts' fees, if (i) an adverse determination with respect to the third party claim would, in the good faith judgment of the City, be detrimental in any material respect to the City's reputation; (ii) the third party claim seeks an injunction or equitable relief against the City; or (iii) the Contractor has failed or is failing to prosecute or defend vigorously the third party claim. Each party shall cooperate, and cause its agents to cooperate, in the defense or prosecution of any third party claim and shall furnish or cause to be furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith.



It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 725.06, Florida Statutes, as amended. The Contractor expressly agrees that it will not claim, and waives any claim, that this indemnification violates Section 725.06, Florida Statutes. Nothing contained in the foregoing indemnification or any other provision in the Contract Documents shall be construed as a waiver of any immunity or limitation of liability the City may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

INSURANCE: Prior to commencing any work, the Contractor shall provide proof of insurance coverage as required in the IFB. All such insurance policies may not be modified or terminated without the express written authorization of the City. Failure to comply with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract. Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the Contract Documents and/or performance of the work. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

Article 6. REIMBURSEMENT OF ENGINEER EXPENSES.

Should the completion of a work order be delayed beyond the specified or adjusted time limit, Contractor shall reimburse the City for all expenses of engineering and inspection incurred by the City during the period between said specified or adjusted time and the actual date of final completion. All such expenses for engineering and inspection incurred by the City will be charged to Contractor and be deducted from payments due Contractor as provided by this Contract. Said expenses shall be further defined as engineer charges associated with the construction contract administration, including resident project representative costs. All such expenses shall be separate from and in addition to any Liquidated Damages as provided for in an applicable Work Order.

Article 7. PUBLIC CONSTRUCTION BOND.

If the City approves a work order which exceeds \$200,000 in total construction cost, the Contractor must provide the City with a public construction bond in accordance with section 255.05, Florida Statutes. Said bond must be recorded in the Official Records in and for Palm Beach County and a copy of the recorded bond must be provided to the City prior to the Contractor providing any services under the work order. The City reserves the right to request a bond for any work order which is less than \$200,000. The cost of the bond shall be a direct pass through cost to the City without any mark-up by the Contractor.

The public construction bond shall be on forms attached hereto as **Exhibit "C"** or substantially similar as approved by the City. The bond shall be in an amount not less than the total Work Order price and shall incorporate by reference the terms of the Contract Documents in their entirety.

To be acceptable to the City, a Surety Company shall comply with the following provisions:

The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida Department of Insurance, authorizing it to write surety bonds in the State of Florida.

- (a) The Surety Company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
- (b) The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.

- (c) The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the Contractor submits its Work Order for City approval.
- (d) The Surety Company shall have at least the ratings of A-/Class V in the latest issue of Best's Key Rating Guide.
- (e) The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:
 - 1. **Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to do business in this state have been met.**
 - 2. In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

Article 8. TERMINATION.

8.1 **TERMINATION BY CITY:** The City may terminate any work order, the Contract and/or the Contract Documents if the Contractor is in default as follows:

- (a) refuses or fails to supply enough properly skilled workers or proper materials to timely and competently complete the work;
- (b) fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- (c) disregards or takes action contrary to any laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
- (d) takes action, short of declaring bankruptcy, evidencing insolvency;
- (e) fails to prosecute the services or work in a timely manner and reasonably be unable to reach substantial completion and/or final completion within the timeframe(s) required;
- (f) fails or refuses to provide and/or maintain insurance or proof of insurance as required by the Contract Documents; **or,**
- (g) otherwise is in breach of a provision of the Contract Documents.

When any of the above reasons exist, the City, may without prejudice to any other rights or remedies of the City and after giving the Contractor and the Contractor's surety (if applicable), written notice and five (5) days to cure, terminate the work order, Contract and/or Contract Documents and may:

- (a) take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by or paid for by the City; and,
- (b) finish the work by whatever reasonable method the City may deem expedient.

The Contractor and its surety (if any) shall be liable for any damage to the City, including additional attorney and engineering/architectural fees, resulting from the Contractor's termination under this provision by the City, including but not limited to, and any increased costs incurred by the City in completing the work.



When the City terminates the Contract for one of the reasons stated above, the Contractor shall not be entitled to receive further payment, if any, until the work is finished.

Should it be determined by a mediator or a court of competent jurisdiction that the City wrongfully terminated the Contract, then the Contractor agrees to treat such termination as a termination for convenience.

8.2 TERMINATION BY THE CITY FOR CONVENIENCE

The City may, at any time, terminate the Contract and Contract Documents for the City's convenience and without cause. Upon receipt of written notice from the City of such termination for the City's convenience, the Contractor shall:

- (a) cease operations as directed by the City in the notice;
- (b) take actions necessary, or that the City may direct, for the protection and preservation of the work; and
- (c) except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

In case of such termination for the City's convenience, the Contractor shall be entitled to receive payment for work executed, and costs incurred by reason of such termination including termination payments to subcontractors and demobilization costs.

Article 9. TAXES AND DIRECT PURCHASES.

9.1 TAXES: The City is exempt from payment of Florida State Sales and Use Tax. The Contractor is not authorized to use the City's Tax Exemption Number unless approved in writing.

9.2 DIRECT PURCHASES: For certain projects, the City may seek to make direct purchases of equipment or materials to be used by the Contractor. Pursuant to Section 212.08(6), Florida Statutes, and the Fla. Admin. Code Ann. R. 12A-1.094 and 12A-1.038, the Parties agree to the following procedure regarding the City's direct-purchase from vendors of certain equipment and materials to be used in specific projects:

9.2.1 The City reserves the right, at the City's option, to direct purchase equipment and materials involved in a specific project, including subcontracts, if any so as to save the sales tax which would otherwise have been due with regard to the same. The Contractor and its subcontractors shall comply with the City's direct purchase procedures, including but not limited to those listed below.

9.2.2 As specifically set forth in a City issued work order, within 30 days (or other time as specified in the work order), the Contractor will present a list of direct purchase equipment and materials for the City's consideration which will include the recommended vendors' name; the price quotes from all vendors provided to the Contractor; and, any terms and conditions the Contractor has negotiated with the recommended vendors. The City will then inform the Contractor as to which equipment and materials it will direct purchase. In the event the City fails to exercise its option to direct purchase equipment and materials and identify which equipment and materials are to be purchased by the City within thirty (30) calendar days of receipt of the list from the Contractor, the City shall waive its right to direct purchase any and all equipment and materials to be used in completion of the work under the applicable work order.

9.2.3 The Contractor is responsible for selecting each direct purchase vendor, subject to City approval. The Contractor is responsible for specifications, equipment and materials receipt,

inspecting shipments, and assuring that the equipment and materials are in accordance with the work order and the Contractor's specifications. The Contractor is also responsible for providing the City with enough advance notice of when the direct purchase equipment and materials will need to be ordered and delivered. In absence of the Contractor's receipt of a written notice of City's disapproval of a vendor within thirty (30) calendar days of City's receipt of the equipment/material list referenced in 9.2.2, the City shall be deemed to have waived any and all objections thereto.

9.2.4 The Contractor shall retain all responsibility for installing all equipment and materials relating to the work and for maintaining the construction schedule so long as the City timely orders and pays for the correct direct purchase equipment and materials. The City's direct purchase mechanism to effectuate tax savings in no way effects the obligation of the Contractor to meet all of the terms and conditions and all provisions and technical specifications of the Contract Documents. The Contractor shall be responsible for insuring all equipment once the equipment is in its care, custody and control, regardless of whether directly purchased by City.

9.2.5 The City will issue a direct purchase order to the vendor of the direct purchase equipment and materials at the price proposed in the Contractor's or its subcontractor's bid, less sales tax. The City will promptly send a copy of the issued purchase order to the Contractor.

9.2.6 It will be the Contractor's primary responsibility to properly expedite and follow up on direct purchase orders, thereby assuring delivery of the equipment and materials as ordered and at the time and place needed by the Contractor to complete the work in accordance with the work order and construction schedule. To the extent required by the Contractor, the City shall cooperate with all requests of the Contractor related to the expedition of and follow up on direct purchase orders.

9.2.7 The Contractor shall take delivery, unload, and install the equipment and materials purchased on the direct purchase order in accordance with the work order and the Contract Documents with the vendor to repair, replace, and make good any defect without cost to the City, until such time as the work has been completed and accepted by City in accordance with the Contract Documents. The City, with assistance from the Contractor, will be responsible for undertaking and completing any returns of direct purchase equipment and materials as requested by the Contractor and working with the vendor to effectuate any credits or warranties for the returned equipment and materials (if applicable). Any returns not replaced shall be credited to City and acknowledged by a supplement to the direct purchase order and, if applicable, amendment to the Contract Sum. The Contractor shall not be responsible for warranting the direct purchase equipment and materials to the City; however, the Contractor shall be responsible for facilitating the vendor's warranty of the direct purchase equipment and materials and the Contractor shall be responsible for warranting the work to install and/or incorporate the equipment and materials. The Contractor shall maintain records of all direct purchases received and incorporated into the work and provide the City with a monthly accounting until all direct purchase items that are received and accepted for inclusion in the specific project.

9.2.8 When delivery of a direct purchase order is complete, or a payment is to be made on a partial shipment, the Contractor will timely submit to City the documentation supporting the equipment and materials received. Invoices for direct purchase orders will be sent by the direct purchase vendor directly to City's Finance Department, with all such invoices addressed to and in the name of the City. The City's Finance Department will forward invoices to the City's Contract Administrator. The City's Contract Administrator will forward the invoices to the Contractor to verify delivery and sign the invoice and associated documentation supporting the amount of the payment. The City will make timely payment to all vendors in compliance with each vendor's payment procedures. The City will take title to all equipment ordered through direct purchase upon or at the time of purchase. The Contractor will assist City in assuring prompt payment by supplying the vendor's FEI numbers,



addresses, phone numbers, etc. All payments will be made in accordance with the Local Government Prompt Payment Act.

Article 10. CONTRACTOR'S REPRESENTATIONS AND AGREEMENTS.

In order to induce the City to enter into this Contract, the Contractor makes the following representations:

10.1 Contractor has or will familiarize itself with the nature and extent of the Contract Documents, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work prior to commencing the work under an applicable Work Order. All work shall be performed consistent with all applicable laws and regulations.

10.2 Contractor agrees to be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with the regulations and to reimburse the City for any loss incurred in connection therewith. This compliance provision specifically includes the Contractor's compliance with all applicable standards, orders or regulations including, without limitation, those 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).

10.3 Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the Contractor during the term of this Contract.

10.4 The Contractor represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the work required under the Contract Documents. Proof of such licenses and approvals shall be submitted to the City upon request.

Article 11. INFRINGEMENT INDEMNITY.

11.1 The Contractor will defend or settle at its expense a claim or suit brought by a third party against the City arising out of a claim asserting that the services, work, repair, materials or other deliverables ("deliverables" hereafter) provided by the Contractor under the Contract Documents (if any) infringes any U.S. copyright or any U.S. patent or misappropriates a trade secret. The Contractor will indemnify and hold harmless the City against and from damages, costs, and attorneys' fees, if any and at all levels of trial and appeal or mediation or arbitration, finally awarded in such suit or the amount of the settlement thereof; provided that (i) the Contractor is promptly notified in writing of such claim or suit, (ii) the Contractor will have the sole control of the defense and settlement thereof, and (iii) City furnishes the Contractor, on reasonable request, information available to City for such defense. The City will not admit any such claim without prior consent of the Contractor.

- a. In the event of a claim of infringement, the Contractor shall, at its option:
 1. procure for City the right to continue using the deliverables provided under the Contract Documents; or
 2. replace or modify the deliverables so that the same becomes non-infringing but substantially equivalent in functionality and performance.
 3. If neither of the above actions is reasonably feasible, the Contractor will refund to City the fee actually paid by City under the Contract Documents (as amortized on a straight-line basis over the time in which the City was able to use the deliverables.
- b. The Contractor will have no obligation under this section for infringement if and to the extent

that such claim arises from:

1. modification of the deliverables other than by the Contractor or by its recommendation; or
2. combination of the deliverables with products other than those supplied by the Contractor; and,
3. the alleged infringement or misappropriation relates to such modification or combination.

c. The Contractor will also not have any indemnification obligation with respect to a claim: (i) if it has provided City with reasonable changes that would have avoided the problem and the reasonable changes are not fully implemented by City within a reasonable time or (ii) arising out use of the deliverables not in accordance with the Contract Documents.

d. The Contractor's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the Contractor whether such injury or damage shall accrue, or may be discovered, before or after termination or expiration of the Contract Documents.

Article 12. MISCELLANEOUS.

12.1 The City and Contractor each binds itself, its partners, its successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

12.2 Additional work and/or changes to a work order's price and/or time, is subject to the City's prior written approval. Only the City Manager and City Commission (based on the procurement code) have the authority to approve such additional work and changes.

12.3 The headings contained in this Contract are inserted for convenience of reference only and shall not be a part or control or affect the meaning hereof.

12.4 This Contract may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall be deemed to be an original, but each of which together shall constitute one and the same instrument.

12.5 This Contract (together with the other Contract Documents) supersedes any and all prior negotiations and oral or written agreements heretofore made relating to the subject matter hereof and, except for written agreements, if any, executed and delivered simultaneously with or subsequent to the date of this Contract, constitutes the entire agreement of the parties relating to the subject matter hereof. This Contract may not be altered or amended except by a writing signed by the parties hereto. No waiver of any of the terms or conditions of this Contract shall be effective unless in writing and executed by the party to be changed therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Contract.

12.6 This Contract shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors and assigns.

12.7 This Contract shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto (a) irrevocably submit itself to the exclusive jurisdiction of the

Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida for state actions and jurisdiction of the United States District Court for the Southern District of Florida, Palm Beach Division, for federal actions, for the purposes of any suit, action or other proceeding arising out of, or relating to, this Contract; (b) waives and agrees not to assert against any party hereto, by way of motion, as a defense of otherwise, in any suit, action or other proceeding, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever; and (c) to the extent permitted by applicable law, any claim that such suit, action or proceeding by any part hereto is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper or that this Contract or the subject matter hereof may not be enforced in or by such courts.

12.8 This Contract shall create no rights or claims whatsoever in any third party.

12.9 If any one or more of the provisions of the Contract shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

12.10 The effective date of this Contract is the date the Contract is approved by the City Commission.

12.11 Public Records: The Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) 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 this Contract and following completion of this Contract if the Contractor does not transfer the records to the City.

(d) Upon completion of this Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City 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 records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT: ATTENTION CITY CLERK, (561) 586-1660 OR

**CITYCLERK@LAKEWORTHBEACHFL.GOV OR 7 NORTH DIXIE
HIGHWAY, LAKE WORTH BEACH, FL 33460.**

12.12 This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

12.13 In accordance with Palm Beach County ordinance number 2011-009, the Contractor acknowledges that this Contract may be subject to investigation and/or audit by the Palm Beach County Inspector General. The Contractor has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

12.14 If any legal action or other proceeding is brought for the enforcement of this Contract or the Contract Documents, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract or the Contract Documents, each party shall be responsible for their own attorney's fees at all levels. EACH PARTY ALSO AGREES AND VOLUNTARILY WAIVES ANY RIGHT TO A JURY TRIAL ARISING OUT OF ALLEGED DISPUTE, BREACH, DEFAULT, MISREPRESENTATION OR ANY OTHER CLAIM IN CONNECTION WITH OR ARISING FROM ANY PROVISION OF THIS CONTRACT OR THE CONTRACT DOCUMENTS

12.15 Each of the parties agrees to perform its obligations under the Contract Documents in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of the work and under the Contract Documents.

12.16 All documents, including but not limited to drawings, specifications, plans, reports, other items and data or programs stored in hard-copy, electronically or otherwise (collectively referred to as "Documents" hereafter), prepared by the Contractor or its subcontractors under this Contract shall be considered a "Work for Hire" and the exclusive property of the City. To the extent such Documents may not be deemed a "Work for Hire" under applicable law, Contractor and Contractor's Subcontractors will assign to the City all right, title and interest in and to Contractor and/or Contractor's Subcontractors' copyright(s) for such Documents. Contractor shall execute and deliver to City such instruments of transfer and take such other action that City may reasonable request, including, without limitation, executing and filing, at City's expense, copyright applications, assignments and other documents required for the protection of City's right to such Documents. The Contractor shall retain copies of the Documents for a period of three (3) years from the date of completion of the Work. The City grants to the Contractor and Contractor's subcontractors the right and/or limited license to use a portion of the Documents prepared by the Contractor or the Contractor's subcontractors in future projects of the Contractor or Contractor's subcontractors with said right and/or limited license to use a portion at Contractor's or Contractor's subcontractor's own risk and without any liability to City. Any modifications made by the City to any of the Contractor's Documents, or any use, partial use or reuse of the Documents without written authorization or adaptation by the Contractor will be at the City's sole risk and without liability to the Contractor.

12.17 Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

12.18 Any notice required to be given under the Contract Documents shall be sent by certified mail (return receipt requested) or by nationally recognized overnight courier as follows to the City:

City of Lake Worth Beach
Attn: City Manager/Finance Department/Procurement Division
7 N. Dixie Highway
Lake Worth Beach, FL 33460



and to the Contractor as follows:

Janice M. Riley, Inc. dba The Paving Lady
Attn: Mauro Comuzzi, President
1000 W Industrial Ave.
Boynton Beach, FL 33426

Either party may amend this provision by written notice to the other party.

12.19 The Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Section 112.311, Florida Statutes. The Contractor further represents that no person having any such conflicting interest shall be employed for said performance. The Contractor shall promptly notify the City's representative, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Contractor's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Contractor. The City agrees to notify the Contractor of its opinion within thirty (30) days of receipt of notification by the Contractor. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Contractor, the City shall so state in the notification and the Contractor shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by the Contractor under the terms of this Contract.

12.20 The Contractor warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation. Further, Contractor shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

12.21 This Contract is not intended to be and shall not be construed as an exclusive agreement, and the City may employ additional or other contractors to perform services contemplated by this Contract without liability to the City.

12.22 PUBLIC ENTITY CRIMES. The Contractor acknowledges and agrees that 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 contractor, supplier or sub-contractor 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, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Contractor will promptly advise the City if it becomes aware of any violation of this statute.

12.23 PURSUANT TO SECTION 558.005, FLORIDA STATUTES, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

12.24 The Contract shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of all services and work. This includes being responsible for all precautions for safety of, and reasonable protection to prevent damage, injury or loss to employees performing the services and work and other persons who may be affected thereby; the work, materials and equipment incorporated therein; and other property, equipment or materials at the site or adjacent thereto including, without limitation, trees, shrubs, lawns, sidewalks, pavements, roadways or structures and utilities not designated for removal, relocation or replacement in the course of the work. The Contractor shall comply with and give all notices required by applicable laws, statutes, ordinances, rules and regulations bearing on safety of persons or property, or their protection from damage, injury or loss. The Contractor shall implement, erect and maintain reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards reasonably related to the work or which could arise therefrom. The Contractor shall promptly remedy damage and loss (other than covered by applicable insurance) caused in whole or in part by the Contractor or anyone directly or indirectly employed by or utilized by the Contractor in the performance of the work, which is not attributable to the City's negligence.

12.25 The Contractor agrees that, in all matters relating to this Contract, it will be acting as an independent contractor with exclusive control of the manner and means of performing the work, its obligations and tasks in accordance with the requirements of this Contract and the Contract Documents. The Contractor has no authority to act or make any agreements or representations on behalf of the City. This Contract is not intended, and shall not be construed to create, between the City and the Contractor, the relationship of principal and agent, joint-venturers, co-partners or any other such relationship, the existence of which is hereby expressly denied. No employee or agent of Contractor shall be, or shall be deemed to be, an employee or agent of City.

Article 13. SCRUTINIZED COMPANIES

13.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

13.2 If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

13.3 The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

13.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.



13.5 The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.

13.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Article 14. E-VERIFY

Pursuant to Section 448.095(2), Florida Statutes, the CONTRACTOR shall:

14.1 Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

14.2 Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, Agreement with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

14.3 Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;

14.4 Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

14.5 Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,

14.6 Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, CONTRACTOR may not be awarded a Agreement for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

Remainder of this page intentionally left blank
Signature page follows



IN WITNESS WHEREOF, the City and Contractor have caused this Construction for Annual Contract for paving, Concrete, Striping and Associated Restoration Work to be executed the day and year shown below.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

By: _____
_____, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR:

JANICE M. RILEY dba THE PAVING LADY

By: _____

Print Name: MAURO COMUZZI

Title: President.

STATE OF Florida
COUNTY OF Palm Beach

THE FOREGOING instrument was acknowledged before me by means of physical presence or online notarization on this 27 day of March 2024, by mauro Comuzzi, as the President [title] of **Janice M. Riley dba The Paving Lady**, a Corporation, who is personally known to me or who has produced _____ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Notary Seal:



Jane C. Allen
Notary Public Signature



EXHIBIT "A"
SAMPLE WORK ORDER

**CONSTRUCTION CONTRACT FOR PAVING, CONCRETE, STRIPING AND ASSOCIATED
RESTORATION WORK
IFB#24-101**

WORK ORDER NO. _____

THIS WORK ORDER for the Construction Contract for Paving, Concrete, Striping and Associated Restoration Work ("Work Order" hereafter) is made on the _____, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460 ("City" hereafter) and **Janice M. Riley dba The Paving Lady** a corporation authorized to do business in State of Florida ("Contractor" hereafter).

1.0 Project Description:

The City desires the Contractor to provide all goods, services, materials and equipment as identified herein related to the Construction Contract for Paving, Concrete, Striping and Associated Restoration Work described as: _____ (the "Project"). The Project is more specifically described in the plans prepared by _____, dated _____, and which are incorporated herein by reference.

2.0 Scope

Under this Work Order, the Contractor will provide the City of Lake Worth Beach with construction services for the Project as specified in the **Contractor's proposal attached hereto and incorporated herein as Exhibit "1"**.

3.0 Schedule and Liquidated Damages

Substantial completion of all services and work under this Work Order shall be within _____ **calendar days** from the Effective Date of this Work Order. Final completion of all services and work (and all punch-list items (if any)) under this Work Order shall be within _____ **calendar days** from the Effective Date of this Work Order. The Effective Date of this Work Order is the date following the parties' execution of this Work Order and the City's delivery of a Notice to Proceed to the Contractor via e-mail, facsimile or other form of delivery as documented by the City. Substantial completion occurs when the services and work has progressed to the point where, in the opinion of the City, the work is sufficiently complete in accordance with the Contract Documents and this Work Order, so that the Project can be utilized for the purposes for which it is intended. Final completion occurs when all services and work (including punch-list items) has been completed and the project becomes fully operational and accepted by the City.

Liquidated Damages. The City and Contractor recognize that time is of the essence under this Work Order and the Contract Documents, and that the City will suffer financial loss if the services and work described in this Work Order and the Contract Documents are not completed within the times specified in this Work Order. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the services and work within the time specified. Accordingly, instead



of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City _____ hundred dollars (\$ _____ .00) for each day that expires after the time specified in this Work Order.

4.0 Compensation and Direct Purchases

This Work Order is issued for a lump sum, not to exceed amount of \$ _____ (_____). The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

The following Direct Purchases are to be made under this Work Order by the City:

_____.

5.0 Project Manager

The Project Manager for the Contractor is _____, phone: _____; email: _____; and, the Project Manager for the City is _____, phone: _____; email: _____.

6.0 Progress Meetings

The Contractor shall schedule periodic progress review meetings with the City Project Manager as necessary but every 30 days as a minimum.

7.0 Contractor's Representations

In order to induce the City to enter into this Work Order, the Contractor makes the following representations:

7.1 Contractor has familiarized itself with the nature and extent of the Contract Documents including this Work Order, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work.

7.2 Contractor has obtained at his/her own expense and carefully studied, or assumes responsibility for obtaining and carefully studying, soil investigations, explorations, and test reports which pertain to the subsurface conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the stated work order price within the Work Order stated time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the IFB; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes.

7.3 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional



examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or is deemed necessary by the Contractor in order to perform and furnish the work under this Work Order price, within the Work Order time and in accordance with the other terms and conditions of the Contract Documents.

7.4 Contractor has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.5 Contractor has given the City's Contract Administrator written notice of all conflicts, errors or discrepancies that he or she has discovered in the Contract Documents and the written resolution thereof by City or its designee is acceptable to the Contractor.

8.0 Warranty. The Contractor warrants and guarantees to the City that all services and work provided under this Work Order will be in accordance with this Work Order and the other Contract Documents. The Contractor warrants that (a) all materials and parts supplied under this Work Order shall be free from defects for one (1) year from the final completion of all work (unless a longer manufacturer warranty applies); (b) all services and work performed under this Work Order will be free from defects for one (1) year from the final completion of all work and the project shall be fully operational without unreasonable downtime or failures; and (c) that the services and work will conform to the requirements of the Contract Documents. If, at any time prior to the expiration of the one (1) year warranty period, the City discovers any failure or breach of the Contractor's warranties or the Contractor discovers any failure or breach of the Contractor's warranties, the Contractor will, upon written notice from City or of its own accord, at the Contractor's sole cost and expense, promptly correct such failure or breach (which corrective action must include, without limitation, any necessary removal, disassembly, reinstallation, repair, replacement, reassembly, retesting, and/or re-inspection of any part or portion of the work and any other property damaged or affected by such failure, breach, or corrective action). The Contractor will remedy any such failure or breach so, to the extent possible, to avoid unnecessary disruptions to the operations of City or its systems. In the event the Contractor fails to initiate and diligently pursue corrective action within five (5) days of the Contractor's receipt of the City's notice or the Contractor's discovery of the same, the City may undertake such corrective action at the Contractor's expense.

9.0 Authorization

This Work Order is issued pursuant to the Construction Contract for Paving, Concrete, Striping and Associated Restoration Work Contract IFB#24-101 between the City of Lake Worth Beach and the Contractor, dated _____, ("Contract" hereafter). If there are any conflicts between the terms and conditions of this Work Order and the Contract, the terms and conditions of the Contract shall prevail.

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SIGNATURE PAGE FOLLOWS



IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order No. as of the day and year set forth above.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

By: DO NOT SIGN – SAMPLE ONLY _____
Betty Resch, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR: **JANICE M. RILEY dba THE PAVING LADY**

By: DO NOT SIGN – SAMPLE ONLY _____

[Corporate Seal]

Print Name: _____

Title: _____

STATE OF _____)
COUNTY OF _____)

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this ____ day of _____ 2024, by _____, as the _____ [title] of **Janice M. Riley dba The Paving Lady**, a Corporation, who is personally known to me or who has produced _____ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Notary Public Signature

Notary Seal:

EXHIBIT "B"

SCHEDULE OF UNIT PRICES

(B4)

**IFB #24-101 Annual Contract for Paving, Concrete, Striping and
Associated Restoration Work**

SCHEDULE OF UNIT PRICES

In order to evaluate the total bid amount, each Bidder must identify the unit prices for the work set forth in the Scope of Work. In the event additional work is added to this contract by Change Order, the following unit prices will be utilized (as applicable).

<u>ITEM #</u>	<u>DESCRIPTION</u>	<u>QTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>
PAVEMENT				
1	MOBILIZATION (LESS THAN 100 SY)	1	LS	\$4,500.00
2	MOBILIZATION (OVER 100 SY)	1	LS	\$3,250.00
3	MOT -- TYPE 2 BARRICADES OR CONES (PER DAY)	1	EA	\$ 15.00
4	MOT -- SIGNAGE (PER DAY)	1	EA	\$ 125.00
5	REMOVE/HAULOFF EX. PAVEMENT AND BASE (UP TO 14" DEEP)	1	SY	\$ 38.00
6	12" COMPACTED SUBGRADE	1	SY	\$ 15.00
7	8" BASEROCK (LIMEROCK OR CR. CONC.) (PRIMED)	1	SY	\$ 22.00
8	REWORK EXIST. BASE AND PRIME	1	SY	\$ 15.00
9	1" TYPE S-3 ASPHALTIC CONCRETE	1	SY	\$ 12.50
10	2" TYPE S-3 ASPHALTIC CONCRETE	1	SY	\$ 18.00
11	MILL EXIST. ASPHALT 1.5" AVG. DEPTH (3/4" TO 2" DEPTH)	1	SY	\$ 8.00
12	MISC. ASPHALT (TYPE S-3) OVERBUILD/LEVELING	1	TN	\$ 155.00
13	ASPHALT SPEED HUMP COMPLETE W/ STRIPING (PER CITY DETAIL)	1	EA	\$ 5,000.00
14	ASPHALT MILLINGS F&I	1	TN	\$ 65.00
15	SEALCOATING (PARKING LOTS)	1	SY	\$0.89
CONCRETE				
16	MOBILIZATION (LESS THAN 100 LF)	1	LS	\$ 3,000.00
17	MOBILIZATION (OVER 100 LF)	1	LS	\$ 2,150.00
18	REMOVE EX. 4" CONCRETE	1	SF	\$ 2.50
19	REMOVE EX. 6" CONCRETE	1	SF	\$ 3.00
20	4" CONCRETE SIDEWALK (3,000 PSI)	1	SF	\$ 7.15
21	6" CONCRETE SIDEWALK / DRIVEWAY (3,000 PSI)	1	SF	\$ 9.00
22	MONOLITHIC CURB AND SIDEWALK	1	SF	\$ 9.50
23	REMOVE EX. CONCRETE CURBING (ALL TYPES)	1	LF	\$ 11.00
24	TYPE F CURB AND GUTTER	1	LF	\$ 40.00
25	VALLEY GUTTER	1	LF	\$ 33.00
26	TYPE D CURBING	1	LF	\$ 30.00
27	ADA TACTILE DOME SURFACE (YELLOW) CAST-IN-PLACE	1	SF	\$125.00
STRIPING				
28	MOBILIZATION (LESS THAN 100 LF)	1	LS	\$ 1,350.00
29	MOBILIZATION (OVER 100 LF)	1	LS	\$ 1,200.00
30	REMOVAL OF EX. STRIPING (GRIND OR WATERBLAST)	1	LF	\$ 2.35

31	4" DOUBLE YELLOW THERMO	1	LF	\$ 2.25
32	4" SINGLE YELLOW THERMO	1	LF	\$ 1.20
33	4" SINGLE WHITE THERMO	1	LF	\$ 1.20
34	6" DOUBLE YELLOW THERMO	1	LF	\$ 2.50
35	6" SINGLE YELLOW THERMO	1	LF	\$ 1.30
36	6" SINGLE WHITE THERMO	1	LF	\$ 1.30
37	12" SINGLE WHITE THERMO	1	LF	\$ 3.75
38	18" SINGLE WHITE THERMO	1	LF	\$ 4.65
39	24" STOP BAR WHITE THERMO	1	LF	\$ 8.00
40	RPM'S	1	EA	\$ 9.00
41	BIKE LANE SYMBOL STRIPING (THERMO)	1	EA	\$ 525.00
42	HANDICAP PARKING STALL COMPLETE W/ SIGN (PAINT)	1	EA	\$ 425.00
MISC. WORK				
43	BAHIA SODDING (INCL. GRADING WORK)	1	SY	\$ 8.00
44	FLORATAM SODDING (INCL. GRADING WORK)	1	SY	\$ 10.00
45	ADJUST EX. MANHOLE RING AND COVER	1	EA	\$ 650.00
46	ADJUST EX. VALVE BOX	1	EA	\$ 400.00
47	ADJUST EX. CURB INLET / DRAINAGE INLET	1	EA	\$ 875.00
48	PAVER BRICK REPAIR (EXIST. BRICKS)	1	SF	\$ 7.50

Name of Bidder: Janice M. Riley Inc dba The Paving Lady

Address: 1000 W. Industrial Ave

City: Boynton Beach ST FL Zip 33426

Phone: (561) 572-2600 Email: Estimating@pavinglady.com

Print Name: Mauro Comuzzi Title: President

SIGNATURE:  Date: 2/21/24



EXHIBIT "C"
PUBLIC CONSTRUCTION BOND FORMS

Record and Return to:

CITY OF LAKE WORTH BEACH
PAYMENT AND PERFORMANCE BOND
(Pursuant to sec. 255.05, Fla. Stat.)

Surety Bond No. _____

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR:

Name:
Principal Business Address:

Telephone Number:

SURETY:

Name:
Principal Business Address

Telephone Number:

OWNER:

City of Lake Worth Beach
7 North Dixie Highway
Lake Worth Beach, FL 33460
(561) 586-1600

CONTRACT:

Contract Work Order No:
Date:
Amount:
Description (Name and Location):
General Description of Work:

BOND

Date (not earlier than Work Order Date):
Amount:
Modifications to this Bond Form:

This Bond is issued in favor of the City of Lake Worth Beach/Owner conditioned on the full and faithful performance of the Contract.

1. Contractor has entered into Project No. _____ with the City for the project titled " _____ " (the "Contract"), with conditions and provisions as are further described in the aforementioned Contract, which Contract, including all of its attachments, exhibits and incorporated documents (hereinafter, collectively, the "Contract Documents") is by reference made a part hereof for the purposes of explaining this bond.
2. Principal and Surety are bound to the Owner in the sum of the Contract Amount set forth above for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.
3. THE CONDITION OF THIS BOND is that if Principal:
 - a. Performs the Work required of and in accordance with the Contract Documents at the times and in the manner prescribed in the Contract Documents, which are made a part of this bond by reference; and

b. In accordance with sec. 255.05 and sec. 337.18, Florida Statutes, promptly makes payment s to all persons, defined in sec. 713.01, Florida Statutes, who furnish labor, services or materials for prosecution of the work set forth in the Contract Documents described above; and

c. Pays Owner all losses, damages (including liquidated damages), expenses, costs, and professional fees, including but not limited to attorneys' fees, including appellate proceedings, that Owner sustains because of a default by Principal under the Contract Documents; and

d. Performs the warranty and guarantee of all work and materials furnished under the Contract Documents for the time specified in the Contract Documents, then this bond is void; otherwise it remains in full force.

4. Section 255.05, Fla. Stat., as amended, together with all notice and time provisions contained therein, is incorporated herein by reference.

5. Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in secs. 255.05(2) and (10), Fla. Stat., and those of sec. 337.18, Fla. Stat.

6. Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract Documents or the changes does not affect Surety's obligation under this bond, and Surety waives notice of such changes.

7. Principal and Surety expressly acknowledge that any and all provisions relating to consequential, delay and liquidated damages contained in the contract are expressly covered by and made a part of this Performance, Labor and Material Payment Bond. Principal and Surety acknowledge that any such provisions lie within their obligations and within the policy coverages and limitations of this instrument.

8. Any action brought under this instrument shall be brought in the state court of competent jurisdiction in Palm Beach County, Florida, and not elsewhere.

Surety and Contractor, intending to be legally bound hereby, subject to the terms included herein and as required under Florida Statutes, do each cause this Performance and Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

Signed and sealed this _____ day of _____, 20__.

Witness

Principal

(Corporate Seal)

Title

Witness

Surety

Attorney-in-Fact
(Attach Power of Attorney)

Print Name

(Corporate Seal)

**CONSTRUCTION CONTRACT FOR
(Annual Contract for Paving, Concrete, Striping and Associated Restoration Work)
IFB #24-101**

THIS CONSTRUCTION CONTRACT for Annual Contract for Paving, Concrete, Striping and Associated Restoration Work (“Contract”) is entered on _____, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **M&M Asphalt Maintenance Inc., dba All County Paving**, a Corporation authorized to do business in the State of Florida with its principal office located at 1180 SW 10th Street, Delray Beach, FL 33444. (“Contractor”)

WHEREAS, the City is a Municipal organized and existing pursuant to the Charter and the Constitution of the State of Florida; and

WHEREAS, the City issued Invitation for Bids # 24-101 (including but not limited to the addendum, Plans & Drawings, Special Terms and General Conditions and Terms issued therewith) (“IFB”) for the construction and maintenance services for Roadway pothole repair, Full depth pavement repair, patching and reconstruction, Mill and Overlay, Thermoplastic striping/Signage, Concrete sidewalk and driveway removal and installation, ADA concrete ramps, Concrete curbing removal and replacement, Green area grading and sodding, Associated Misc. Restoration Work; and

WHEREAS, the Contractor submitted a unit price bid to perform the work generally described and set out in response to the IFB; and

WHEREAS, the City desires to accept Contractor’s bid in order for Contractor to render the services to the City as provided herein; and

WHEREAS, the Contractor further warrants that it is experienced and capable of performing the Task hereunder in a professional and competent manner; and

WHEREAS, the City finds awarding the IFB to the Contractor as described herein serves a valid public purpose.

NOW THEREFORE, the City hereby engages the services of the Contractor, and in consideration of the mutual promises herein contained, the sufficient of which is hereby acknowledged by both parties, the parties agree as follows:

Article 1. GENERAL INFORMATION.

1.1 The foregoing recitals are incorporated into this Contract as true and correct statements.

1.2 **Scope of Services/Work.** The Contractor shall provide the services and work requested by the City and required under a City approved work order as described herein. The general nature of the services and work to be provided by the Contractor under this Contract are the construction and maintenance services for the City’s Public Works Departments for the Annual Contract for Paving, Concrete, Striping and Associated Restoration Work.

1.3 **Contract Documents.** The Contract Documents are incorporated herein by reference as if set forth in this Contract and comprise the entire agreement between the City and Contractor. The Contract Documents consist of this Contract, the IFB (including, but not limited to, the documents issued with the IFB as the scope and specifications, the drawings, addenda, attachments and exhibits); and, any duly executed and issued work

orders, change orders and Contract amendments relating thereto. If, during the performance of the work, the Contractor finds an ambiguity, error or discrepancy in the Contract Documents, the Contractor shall so notify the City, in writing, within five (5) business days and before proceeding shall obtain a written interpretation or clarification. Failure to obtain a written interpretation or clarification will be deemed a waiver of the ambiguity, error or discrepancy by the Contractor. The City will not be responsible for any oral instructions, clarifications, or other communications except those provided in writing in response to Contractor's request for clarification of an ambiguity, discrepancy or error.

In resolving conflicts in any of the Contract Documents, the order of precedence shall be as follows:

First Priority:	Fully executed Change Orders or Contract amendments
Second Priority:	Work Order (for each project) (sample attached as Exhibit A)
Third Priority:	Drawings/Specifications
Fourth Priority:	This Contract
Fifth Priority:	Special Terms (in the IFB)
Sixth Priority:	General Conditions and Terms (in the IFB)
Seventh Priority:	Remainder of the IFB
Eighth Priority:	Contractor's Bid (Schedule of Unit Prices attached as Exhibit B)

The City will not be responsible for any oral instructions, clarifications, or other communications except those provided in writing in response to Contractor's request for clarification of an ambiguity, discrepancy or error.

1.4 **Contract Administrator.** Whenever the term Contract Administrator is used herein, it is intended to mean the City Manager or designee, City of Lake Worth Beach, Florida. In the administration of this Contract, all parties may rely upon instructions or determinations made by the Contract Administrator except that all requests and/or determinations that result in an increase in change in time of completion and/or an increase in the contract price shall require a formal change order or contract amendment executed by the City Manager or the City Commission (depending on the authority set forth in the City's Procurement Code).

1.5 **Work Orders.** This Contract does not guarantee that the City will utilize the Contractor in any capacity or for any services hereunder. When the City identifies a need for the Contractor's services, the City will request a proposal from the Contractor to provide the services requested. The City will provide the Contractor with plans and/or specifications in order for the Contractor to develop its proposal. The Contractor's proposal shall be submitted in the format of the sample work order, attached hereto and incorporated herein as **Exhibit "A"** along with a copy of the Contractor's proposal and shall be based on the Unit Prices attached hereto and incorporated herein as **Exhibit "B"**. Upon receipt of the Contractor's proposed work order and proposal, the City shall decide in its sole discretion whether to award the work order to the Contractor. Depending on the lump sum amount of each work order, the work order may be awarded by the City Manager (if within City Manager's purchasing authority (currently not to exceed \$50,000)) or the City Commission. If the work order is approved by the City, the Contractor shall commence the identified services upon the City's approval of the work order for the services and issuance of a notice to proceed. The City reserves the right to reject any and all proposals submitted by the Contractor. A City-approved work order shall include (by reference) the plans and/or specifications provided by the City to the Contractor.

1.6 **Term.** The term of this Agreement shall be for an initial term commencing upon the expiration of the prior contract, May 6, 2024, and ending three (3) years therefrom, with two (2) additional single year renewal options. The option(s) to renew may be exercised by the City Manager. Notwithstanding the term, the parties may terminate this Agreement as stated herein.

1.7 **Unit Prices.** The Unit Prices set forth as **Exhibit “B”** shall remain fixed for the first three (3) years of this Contract. If due to applicable price escalations and/or reductions which impact the Contractor’s Unit Prices, the City and Contractor may execute a written amendment to this Contract to establish new Unit Prices for the renewal term(s). The City Manager may approve changes in the Unit Prices based on the recommendation of the City’s Public Works Director or designee.

Article 2. CONTRACT TIME.

2.1 **Contract Time.** Final completion of the work and all punch-list items (if any) shall be within the time frame as set forth in each Work Order for each project.

2.2 The Contractor shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the Contractor or its subcontractors (if authorized) and without the Contractor’s or subcontractor’s fault or negligence. Upon the Contractor’s request, the City shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the Contractor and, if the Contractor’s delay and failure to timely perform was without it or its subcontractors’ fault or negligence, as reasonably determined by the City, the time of completion shall be extended for any reasonable time that the City may reasonably decide; subject to the City’s rights to change, terminate, or stop any or all of the work at any time. If the Contractor is delayed at any time in the progress of the work by any act or neglect of the City or its employees, by an approved written change in the scope from the original Contract Documents, or by any other contractor employed by the City, or by changes ordered by the City or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the Contractor’s reasonable control, or by delay authorized by the City pending negotiation or by any cause which the City shall reasonably decide justifies the delay, then the time of completion shall be extended for any reasonable time the City may reasonably decide. The Contractor must provide the City with written notice of any delay claims and no extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) claim is necessary. With the exception of an approved written change in the scope from the original Contract Documents, the Contractor’s sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and Contractor specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by Contractor due to a delay in completion of the work. Provided, however, and subject to sovereign immunity under section 768.28, Florida Statutes, that this provision shall not preclude recovery or damages by the Contractor for hindrances or delays due solely to fraud, bad faith or active interference on the part of the City. Otherwise, the Contractor shall be entitled only to extensions of the Contract Times as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

Article 3. PAYMENT PROCEDURES

3.1 **Generally.** The Contractor shall submit invoices on a monthly basis detailing all work accomplished in the prior month and all materials installed and used in the work pursuant to City approved work order. Contractor’s invoices shall be submitted to:

City of Lake Worth Beach
Attn: Finance Department/Procurement Division
7 N. Dixie Highway
Lake Worth Beach, FL 33460

The City’s Contract Administrator or designee will review each invoice submitted by the Contractor. If

approved, the City will make payment in accordance with the Contract Documents. If not approved, the City will notify the Contractor within twenty (20) business days of the City's receipt and identify the action necessary to correct the invoice or a deficiency.

3.2 Payment to the Contractor shall be made pursuant Florida's Local Government Prompt Payment Act (for construction services), section 218.735, Florida Statutes, except as provided herein. Specifically, the City will withhold five percent (5%) of each payment from a work order to the Contractor as retainage. Retainage shall be released to the Contractor in accordance with Section 218.735, Florida Statutes and as set forth in this Contract

3.3 Upon substantial completion, the Contractor shall notify the City's Contract Administrator that the work is substantially complete and request an inspection. Within five (5) business days thereafter, the Contractor and City's Contract Administrator or designee shall make an inspection of the work and begin the development of a draft punch-list of items that must be completed by the Contractor prior to the Contractor submitting its final payment request (Punch List Walkthrough). The City shall submit the punch list to the Contractor within fifteen (15) days of the Punch List Walkthrough and the Contractor shall have ten (10) days to agree to the same. If the Contractor wishes to revise the punch list, it must send the revised punch list to the City's Contract Administrator no later than twenty-five (25) days after reaching substantial completion. Thereafter the parties shall agree on the final punch list no later than thirty (30) days after substantial completion. The punch list shall include every remaining item required to render complete, satisfactory, and acceptable services to the City and the estimated cost to complete each remaining item. The final agreed upon punch list shall be sent to the Contractor five (5) days after the punch list is finalized. In no event may the Contractor request payment of final retainage until the Contractor has completed all items on the punch list. All items that require correction under the Contract which are identified after the preparation and delivery of the punch list remain the obligation of the Contractor. The failure to include any corrective work or pending items not yet completed on the list does not alter the responsibility of the Contractor to complete all the construction services purchased pursuant to the Contract.

3.4 Final Payment. Upon final completion and acceptance of the work in accordance with the Contract Documents (including all punch-list items) and final inspection by the appropriate agency with jurisdiction over the project (if other than the City), the Contractor shall submit a "final invoice" to the City. In order for both parties to close their books and records, the Contractor will clearly state "FINAL" on the Contractor's final invoice. This certifies that all work under the applicable work order has been properly completed and all charges have been invoiced to the City. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the Contractor. If the Contractor's Final Invoice is approved as set forth above, the City shall pay the remainder of the work order price including any amount held as retainage.

3.5 Notwithstanding the foregoing, the City shall not be required to pay or release any amount of retainage that is subject of a good faith dispute, the subject of a claim brought pursuant to section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the City.

3.6 Final payment shall not become due until the Contractor and all of its subcontractors submit to the City releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract Documents or otherwise related to the Work.

3.7 Acceptance of final payment by the Contractor or a subcontractor shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final invoice.

Article 4. SUBCONTRACTS

The Contractor represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The Contractor shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind. The Contractor shall comply with all applicable laws in the provision of services under this Contract. The Contractor agrees that it is fully responsible to the City for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the City. All of the Contractor's personnel (and all subcontractors) while on City premises, will comply with all City requirements governing conduct, safety, and security. The City reserves the right to request replacement of any of subcontractor or subcontractor's personnel furnished by the Contractor upon written notice by City to Contractor of the cause for such replacement. All work performed by a subcontractor will be at cost to the City without any mark-up by the Contractor. All subcontractors must provide the same level and type of insurance as required of the Contractor under this Contract prior to commencing any services. The Contractor shall submit the subcontractors' proof of insurance upon receipt of a notice to proceed.

Article 5. INDEMNITY AND INSURANCE.

The Contractor agrees to assume liability for and indemnify, hold harmless, and defend the City, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor, its agents, officers, Contractors, subcontractors, employees, or anyone else utilized by the Contractor in the performance of this Contract. The Contractor's liability hereunder shall include all attorney's fees and costs incurred by the City in the enforcement of this indemnification provision. This includes claims made by the employees of the Contractor against the City and the Contractor hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Contract and shall not be limited by the amount of any insurance required to be obtained or maintained under this Contract.

Subject to the limitations set forth in this Section, Contractor shall assume control of the defense of any claim asserted by a third party against the City and, in connection with such defense, shall appoint lead counsel, in each case at the Contractor's expense. The City shall have the right, at its option, to participate in the defense of any third-party claim, without relieving Contractor of any of its obligations hereunder. If the Contractor assumes control of the defense of any third party claim in accordance with this paragraph, the Contractor shall obtain the prior written consent of the City before entering into any settlement of such claim. Notwithstanding anything to the contrary in this Section, the Contractor shall not assume or maintain control of the defense of any third party claim, but shall pay the fees of counsel retained by the City and all expenses, including experts' fees, if (i) an adverse determination with respect to the third party claim would, in the good faith judgment of the City, be detrimental in any material respect to the City's reputation; (ii) the third party claim seeks an injunction or equitable relief against the City; or (iii) the Contractor has failed or is failing to prosecute or defend vigorously the third party claim. Each party shall cooperate, and cause its agents to cooperate, in the defense or prosecution of any third party claim and shall furnish or cause to be furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 725.06, Florida Statutes, as amended. The Contractor expressly agrees that it will not claim, and waives any claim, that this indemnification violates Section 725.06, Florida Statutes. Nothing contained in the foregoing indemnification or any other provision in the Contract Documents shall be construed as a waiver of any immunity or limitation of liability the City may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

INSURANCE: Prior to commencing any work, the Contractor shall provide proof of insurance coverage as required in the IFB. All such insurance policies may not be modified or terminated without the express written authorization of the City. Failure to comply with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract. Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the Contract Documents and/or performance of the work. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

Article 6. REIMBURSEMENT OF ENGINEER EXPENSES.

Should the completion of a work order be delayed beyond the specified or adjusted time limit, Contractor shall reimburse the City for all expenses of engineering and inspection incurred by the City during the period between said specified or adjusted time and the actual date of final completion. All such expenses for engineering and inspection incurred by the City will be charged to Contractor and be deducted from payments due Contractor as provided by this Contract. Said expenses shall be further defined as engineer charges associated with the construction contract administration, including resident project representative costs. All such expenses shall be separate from and in addition to any Liquidated Damages as provided for in an applicable Work Order.

Article 7. PUBLIC CONSTRUCTION BOND.

If the City approves a work order which exceeds \$200,000 in total construction cost, the Contractor must provide the City with a public construction bond in accordance with section 255.05, Florida Statutes. Said bond must be recorded in the Official Records in and for Palm Beach County and a copy of the recorded bond must be provided to the City prior to the Contractor providing any services under the work order. The City reserves the right to request a bond for any work order which is less than \$200,000. The cost of the bond shall be a direct pass through cost to the City without any mark-up by the Contractor.

The public construction bond shall be on forms attached hereto as **Exhibit "C"** or substantially similar as approved by the City. The bond shall be in an amount not less than the total Work Order price and shall incorporate by reference the terms of the Contract Documents in their entirety.

To be acceptable to the City, a Surety Company shall comply with the following provisions:

The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida Department of Insurance, authorizing it to write surety bonds in the State of Florida.

- (a) The Surety Company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
- (b) The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.

- (c) The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the Contractor submits its Work Order for City approval.
- (d) The Surety Company shall have at least the ratings of A-/Class V in the latest issue of Best's Key Rating Guide.
- (e) The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:
 - 1. **Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to do business in this state have been met.**
 - 2. In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

Article 8. TERMINATION.

8.1 **TERMINATION BY CITY:** The City may terminate any work order, the Contract and/or the Contract Documents if the Contractor is in default as follows:

- (a) refuses or fails to supply enough properly skilled workers or proper materials to timely and competently complete the work;
- (b) fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- (c) disregards or takes action contrary to any laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
- (d) takes action, short of declaring bankruptcy, evidencing insolvency;
- (e) fails to prosecute the services or work in a timely manner and reasonably be unable to reach substantial completion and/or final completion within the timeframe(s) required;
- (f) fails or refuses to provide and/or maintain insurance or proof of insurance as required by the Contract Documents; **or,**
- (g) otherwise is in breach of a provision of the Contract Documents.

When any of the above reasons exist, the City, may without prejudice to any other rights or remedies of the City and after giving the Contractor and the Contractor's surety (if applicable), written notice and five (5) days to cure, terminate the work order, Contract and/or Contract Documents and may:

- (a) take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by or paid for by the City; and,
- (b) finish the work by whatever reasonable method the City may deem expedient.

The Contractor and its surety (if any) shall be liable for any damage to the City, including additional attorney and engineering/architectural fees, resulting from the Contractor's termination under this provision by the City, including but not limited to, and any increased costs incurred by the City in completing the work.

When the City terminates the Contract for one of the reasons stated above, the Contractor shall not be entitled to receive further payment, if any, until the work is finished.

Should it be determined by a mediator or a court of competent jurisdiction that the City wrongfully terminated the Contract, then the Contractor agrees to treat such termination as a termination for convenience.

8.2 TERMINATION BY THE CITY FOR CONVENIENCE

The City may, at any time, terminate the Contract and Contract Documents for the City's convenience and without cause. Upon receipt of written notice from the City of such termination for the City's convenience, the Contractor shall:

- (a) cease operations as directed by the City in the notice;
- (b) take actions necessary, or that the City may direct, for the protection and preservation of the work; and
- (c) except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

In case of such termination for the City's convenience, the Contractor shall be entitled to receive payment for work executed, and costs incurred by reason of such termination including termination payments to subcontractors and demobilization costs.

Article 9. TAXES AND DIRECT PURCHASES.

9.1 TAXES: The City is exempt from payment of Florida State Sales and Use Tax. The Contractor is not authorized to use the City's Tax Exemption Number unless approved in writing.

9.2 DIRECT PURCHASES: For certain projects, the City may seek to make direct purchases of equipment or materials to be used by the Contractor. Pursuant to Section 212.08(6), Florida Statutes, and the Fla. Admin. Code Ann. R. 12A-1.094 and 12A-1.038, the Parties agree to the following procedure regarding the City's direct-purchase from vendors of certain equipment and materials to be used in specific projects:

9.2.1 The City reserves the right, at the City's option, to direct purchase equipment and materials involved in a specific project, including subcontracts, if any so as to save the sales tax which would otherwise have been due with regard to the same. The Contractor and its subcontractors shall comply with the City's direct purchase procedures, including but not limited to those listed below.

9.2.2 As specifically set forth in a City issued work order, within 30 days (or other time as specified in the work order), the Contractor will present a list of direct purchase equipment and materials for the City's consideration which will include the recommended vendors' name; the price quotes from all vendors provided to the Contractor; and, any terms and conditions the Contractor has negotiated with the recommended vendors. The City will then inform the Contractor as to which equipment and materials it will direct purchase. In the event the City fails to exercise its option to direct purchase equipment and materials and identify which equipment and materials are to be purchased by the City within thirty (30) calendar days of receipt of the list from the Contractor, the City shall waive its right to direct purchase any and all equipment and materials to be used in completion of the work under the applicable work order.

9.2.3 The Contractor is responsible for selecting each direct purchase vendor, subject to City approval. The Contractor is responsible for specifications, equipment and materials receipt,

inspecting shipments, and assuring that the equipment and materials are in accordance with the work order and the Contractor's specifications. The Contractor is also responsible for providing the City with enough advance notice of when the direct purchase equipment and materials will need to be ordered and delivered. In absence of the Contractor's receipt of a written notice of City's disapproval of a vendor within thirty (30) calendar days of City's receipt of the equipment/material list referenced in 9.2.2, the City shall be deemed to have waived any and all objections thereto.

9.2.4 The Contractor shall retain all responsibility for installing all equipment and materials relating to the work and for maintaining the construction schedule so long as the City timely orders and pays for the correct direct purchase equipment and materials. The City's direct purchase mechanism to effectuate tax savings in no way effects the obligation of the Contractor to meet all of the terms and conditions and all provisions and technical specifications of the Contract Documents. The Contractor shall be responsible for insuring all equipment once the equipment is in its care, custody and control, regardless of whether directly purchased by City.

9.2.5 The City will issue a direct purchase order to the vendor of the direct purchase equipment and materials at the price proposed in the Contractor's or its subcontractor's bid, less sales tax. The City will promptly send a copy of the issued purchase order to the Contractor.

9.2.6 It will be the Contractor's primary responsibility to properly expedite and follow up on direct purchase orders, thereby assuring delivery of the equipment and materials as ordered and at the time and place needed by the Contractor to complete the work in accordance with the work order and construction schedule. To the extent required by the Contractor, the City shall cooperate with all requests of the Contractor related to the expedition of and follow up on direct purchase orders.

9.2.7 The Contractor shall take delivery, unload, and install the equipment and materials purchased on the direct purchase order in accordance with the work order and the Contract Documents with the vendor to repair, replace, and make good any defect without cost to the City, until such time as the work has been completed and accepted by City in accordance with the Contract Documents. The City, with assistance from the Contractor, will be responsible for undertaking and completing any returns of direct purchase equipment and materials as requested by the Contractor and working with the vendor to effectuate any credits or warranties for the returned equipment and materials (if applicable). Any returns not replaced shall be credited to City and acknowledged by a supplement to the direct purchase order and, if applicable, amendment to the Contract Sum. The Contractor shall not be responsible for warranting the direct purchase equipment and materials to the City; however, the Contractor shall be responsible for facilitating the vendor's warranty of the direct purchase equipment and materials and the Contractor shall be responsible for warranting the work to install and/or incorporate the equipment and materials. The Contractor shall maintain records of all direct purchases received and incorporated into the work and provide the City with a monthly accounting until all direct purchase items that are received and accepted for inclusion in the specific project.

9.2.8 When delivery of a direct purchase order is complete, or a payment is to be made on a partial shipment, the Contractor will timely submit to City the documentation supporting the equipment and materials received. Invoices for direct purchase orders will be sent by the direct purchase vendor directly to City's Finance Department, with all such invoices addressed to and in the name of the City. The City's Finance Department will forward invoices to the City's Contract Administrator. The City's Contract Administrator will forward the invoices to the Contractor to verify delivery and sign the invoice and associated documentation supporting the amount of the payment. The City will make timely payment to all vendors in compliance with each vendor's payment procedures. The City will take title to all equipment ordered through direct purchase upon or at the time of purchase. The Contractor will assist City in assuring prompt payment by supplying the vendor's FEI numbers,

addresses, phone numbers, etc. All payments will be made in accordance with the Local Government Prompt Payment Act.

Article 10. CONTRACTOR'S REPRESENTATIONS AND AGREEMENTS.

In order to induce the City to enter into this Contract, the Contractor makes the following representations:

10.1 Contractor has or will familiarize itself with the nature and extent of the Contract Documents, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work prior to commencing the work under an applicable Work Order. All work shall be performed consistent with all applicable laws and regulations.

10.2 Contractor agrees to be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with the regulations and to reimburse the City for any loss incurred in connection therewith. This compliance provision specifically includes the Contractor's compliance with all applicable standards, orders or regulations including, without limitation, those 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).

10.3 Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the Contractor during the term of this Contract.

10.4 The Contractor represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the work required under the Contract Documents. Proof of such licenses and approvals shall be submitted to the City upon request.

Article 11. INFRINGEMENT INDEMNITY.

11.1 The Contractor will defend or settle at its expense a claim or suit brought by a third party against the City arising out of a claim asserting that the services, work, repair, materials or other deliverables ("deliverables" hereafter) provided by the Contractor under the Contract Documents (if any) infringes any U.S. copyright or any U.S. patent or misappropriates a trade secret. The Contractor will indemnify and hold harmless the City against and from damages, costs, and attorneys' fees, if any and at all levels of trial and appeal or mediation or arbitration, finally awarded in such suit or the amount of the settlement thereof; provided that (i) the Contractor is promptly notified in writing of such claim or suit, (ii) the Contractor will have the sole control of the defense and settlement thereof, and (iii) City furnishes the Contractor, on reasonable request, information available to City for such defense. The City will not admit any such claim without prior consent of the Contractor.

- a. In the event of a claim of infringement, the Contractor shall, at its option:
 - 1. procure for City the right to continue using the deliverables provided under the Contract Documents; or
 - 2. replace or modify the deliverables so that the same becomes non-infringing but substantially equivalent in functionality and performance.
 - 3. If neither of the above actions is reasonably feasible, the Contractor will refund to City the fee actually paid by City under the Contract Documents (as amortized on a straight-line basis over the time in which the City was able to use the deliverables.
- b. The Contractor will have no obligation under this section for infringement if and to the extent

that such claim arises from:

1. modification of the deliverables other than by the Contractor or by its recommendation; or
 2. combination of the deliverables with products other than those supplied by the Contractor;
- and,
3. the alleged infringement or misappropriation relates to such modification or combination.

c. The Contractor will also not have any indemnification obligation with respect to a claim: (i) if it has provided City with reasonable changes that would have avoided the problem and the reasonable changes are not fully implemented by City within a reasonable time or (ii) arising out use of the deliverables not in accordance with the Contract Documents.

d. The Contractor's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the Contractor whether such injury or damage shall accrue, or may be discovered, before or after termination or expiration of the Contract Documents.

Article 12. MISCELLANEOUS.

12.1 The City and Contractor each binds itself, its partners, its successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

12.2 Additional work and/or changes to a work order's price and/or time, is subject to the City's prior written approval. Only the City Manager and City Commission (based on the procurement code) have the authority to approve such additional work and changes.

12.3 The headings contained in this Contract are inserted for convenience of reference only and shall not be a part or control or affect the meaning hereof.

12.4 This Contract may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall be deemed to be an original, but each of which together shall constitute one and the same instrument.

12.5 This Contract (together with the other Contract Documents) supersedes any and all prior negotiations and oral or written agreements heretofore made relating to the subject matter hereof and, except for written agreements, if any, executed and delivered simultaneously with or subsequent to the date of this Contract, constitutes the entire agreement of the parties relating to the subject matter hereof. This Contract may not be altered or amended except by a writing signed by the parties hereto. No waiver of any of the terms or conditions of this Contract shall be effective unless in writing and executed by the party to be changed therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Contract.

12.6 This Contract shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors and assigns.

12.7 This Contract shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto (a) irrevocably submit itself to the exclusive jurisdiction of the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida for state actions and jurisdiction of the United States District Court for the Southern District of Florida, Palm Beach Division, for federal actions, for the purposes of any suit, action or other proceeding arising out of, or relating to, this Contract; (b) waives and agrees not to assert against any party hereto, by way of motion, as a defense of otherwise, in any suit, action or other proceeding, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever; and (c) to the extent permitted by applicable law, any claim that such suit, action or proceeding by any part hereto is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper or that this Contract or the subject matter hereof may not be enforced in or by such courts.

12.8 This Contract shall create no rights or claims whatsoever in any third party.

12.9 If any one or more of the provisions of the Contract shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

12.10 The effective date of this Contract is the date the Contract is approved by the City Commission.

12.11 Public Records: The Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) 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 this Contract and following completion of this Contract if the Contractor does not transfer the records to the City.
- (d) Upon completion of this Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City 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 records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT: ATTENTION CITY CLERK, (561) 586-1660 OR

**CITYCLERK@LAKEWORTHBEACHFL.GOV OR 7 NORTH DIXIE
HIGHWAY, LAKE WORTH BEACH, FL 33460.**

12.12 This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

12.13 In accordance with Palm Beach County ordinance number 2011-009, the Contractor acknowledges that this Contract may be subject to investigation and/or audit by the Palm Beach County Inspector General. The Contractor has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

12.14 If any legal action or other proceeding is brought for the enforcement of this Contract or the Contract Documents, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract or the Contract Documents, each party shall be responsible for their own attorney's fees at all levels. EACH PARTY ALSO AGREES AND VOLUNTARILY WAIVES ANY RIGHT TO A JURY TRIAL ARISING OUT OF ALLEGED DISPUTE, BREACH, DEFAULT, MISREPRESENTATION OR ANY OTHER CLAIM IN CONNECTION WITH OR ARISING FROM ANY PROVISION OF THIS CONTRACT OR THE CONTRACT DOCUMENTS

12.15 Each of the parties agrees to perform its obligations under the Contract Documents in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of the work and under the Contract Documents.

12.16 All documents, including but not limited to drawings, specifications, plans, reports, other items and data or programs stored in hard-copy, electronically or otherwise (collectively referred to as "Documents" hereafter), prepared by the Contractor or its subcontractors under this Contract shall be considered a "Work for Hire" and the exclusive property of the City. To the extent such Documents may not be deemed a "Work for Hire" under applicable law, Contractor and Contractor's Subcontractors will assign to the City all right, title and interest in and to Contractor and/or Contractor's Subcontractors' copyright(s) for such Documents. Contractor shall execute and deliver to City such instruments of transfer and take such other action that City may reasonable request, including, without limitation, executing and filing, at City's expense, copyright applications, assignments and other documents required for the protection of City's right to such Documents. The Contractor shall retain copies of the Documents for a period of three (3) years from the date of completion of the Work. The City grants to the Contractor and Contractor's subcontractors the right and/or limited license to use a portion of the Documents prepared by the Contractor or the Contractor's subcontractors in future projects of the Contractor or Contractor's subcontractors with said right and/or limited license to use a portion at Contractor's or Contractor's subcontractor's own risk and without any liability to City. Any modifications made by the City to any of the Contractor's Documents, or any use, partial use or reuse of the Documents without written authorization or adaptation by the Contractor will be at the City's sole risk and without liability to the Contractor.

12.17 Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

12.18 Any notice required to be given under the Contract Documents shall be sent by certified mail (return receipt requested) or by nationally recognized overnight courier as follows to the City:

City of Lake Worth Beach
Attn: City Manager/Finance Department/Procurement Division
7 N. Dixie Highway

Lake Worth Beach, FL 33460

and to the Contractor as follows:

M&M Asphalt Maintenance Inc., dba All County Paving
Attn: Kenneth Golberg, President
1180 SW 10th Street
Delray Beach, Fl 33444

Either party may amend this provision by written notice to the other party.

12.19 The Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Section 112.311, Florida Statutes. The Contractor further represents that no person having any such conflicting interest shall be employed for said performance. The Contractor shall promptly notify the City's representative, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Contractor's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Contractor. The City agrees to notify the Contractor of its opinion within thirty (30) days of receipt of notification by the Contractor. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Contractor, the City shall so state in the notification and the Contractor shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by the Contractor under the terms of this Contract.

12.20 The Contractor warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation. Further, Contractor shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

12.21 This Contract is not intended to be and shall not be construed as an exclusive agreement, and the City may employ additional or other contractors to perform services contemplated by this Contract without liability to the City.

12.22 PUBLIC ENTITY CRIMES. The Contractor acknowledges and agrees that 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 contractor, supplier or sub-contractor 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, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Contractor will promptly advise the City if it becomes aware of any violation of this statute.

12.23 PURSUANT TO SECTION 558.005, FLORIDA STATUTES, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

12.24 The Contract shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of all services and work. This includes being responsible for all precautions for safety of, and reasonable protection to prevent damage, injury or loss to employees performing the services and work and other persons who may be affected thereby; the work, materials and equipment incorporated therein; and other property, equipment or materials at the site or adjacent thereto including, without limitation, trees, shrubs, lawns, sidewalks, pavements, roadways or structures and utilities not designated for removal, relocation or replacement in the course of the work. The Contractor shall comply with and give all notices required by applicable laws, statutes, ordinances, rules and regulations bearing on safety of persons or property, or their protection from damage, injury or loss. The Contractor shall implement, erect and maintain reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards reasonably related to the work or which could arise therefrom. The Contractor shall promptly remedy damage and loss (other than covered by applicable insurance) caused in whole or in part by the Contractor or anyone directly or indirectly employed by or utilized by the Contractor in the performance of the work, which is not attributable to the City's negligence.

12.25 The Contractor agrees that, in all matters relating to this Contract, it will be acting as an independent contractor with exclusive control of the manner and means of performing the work, its obligations and tasks in accordance with the requirements of this Contract and the Contract Documents. The Contractor has no authority to act or make any agreements or representations on behalf of the City. This Contract is not intended, and shall not be construed to create, between the City and the Contractor, the relationship of principal and agent, joint-venturers, co-partners or any other such relationship, the existence of which is hereby expressly denied. No employee or agent of Contractor shall be, or shall be deemed to be, an employee or agent of City.

Article 13. SCRUTINIZED COMPANIES

13.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

13.2 If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

13.3 The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

13.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.

13.5 The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.

13.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Article 14. E-VERIFY

Pursuant to Section 448.095(2), Florida Statutes, the CONTRACTOR shall:

14.1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

14.2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, Agreement with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

14.3. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;

14.4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

14.5. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,

14.6. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, CONTRACTOR may not be awarded a Agreement for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

Remainder of this page intentionally left blank
Signature page follows

IN WITNESS WHEREOF, the City and Contractor have caused this Construction for Annual Contract for paving, Concrete, Striping and Associated Restoration Work to be executed the day and year shown below.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

By: _____
_____, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR:

**M&M ASPHALT MAINTENANCE, INC., dba ALL
COUNTY PAVING**

[Corporate Seal]

By: _____

Print Name: Kenneth Goldberg

Title: President

STATE OF FLORIDA)
COUNTY OF PAUM BEACH)

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 27th day of MARCH 2024, by KENNETH GOLDBERG, as the PRESIDENT [title] of M&M Asphalt Maintenance, Inc., dba All County Paving a Corporation, who is personally known to me or who has produced _____ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Maureen Norton
Notary Public Signature

Notary Seal:

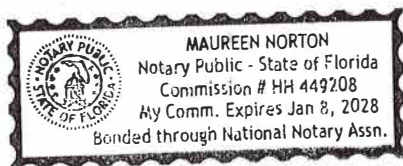


EXHIBIT "A"
SAMPLE WORK ORDER

**CONSTRUCTION CONTRACT FOR PAVING, CONCRETE, STRIPING AND ASSOCIATED
RESTORATION WORK
IFB#24-101**

WORK ORDER NO. _____

THIS WORK ORDER for the Construction Contract for Paving, Concrete, Striping and Associated Restoration Work ("Work Order" hereafter) is made on the _____, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460 ("City" hereafter) and **M&M Asphalt Maintenance, Inc., dba All County Paving** a corporation authorized to do business in State of Florida ("Contractor" hereafter).

1.0 Project Description:

The City desires the Contractor to provide all goods, services, materials and equipment as identified herein related to the Construction Contract for Paving, Concrete, Striping and Associated Restoration Work described as: _____ (the "Project"). The Project is more specifically described in the plans prepared by _____, dated _____, and which are incorporated herein by reference.

2.0 Scope

Under this Work Order, the Contractor will provide the City of Lake Worth Beach with construction services for the Project as specified in the **Contractor's proposal attached hereto and incorporated herein as Exhibit "1"**.

3.0 Schedule and Liquidated Damages

Substantial completion of all services and work under this Work Order shall be within _____ **calendar days** from the Effective Date of this Work Order. Final completion of all services and work (and all punch-list items (if any)) under this Work Order shall be within _____ **calendar days** from the Effective Date of this Work Order. The Effective Date of this Work Order is the date following the parties' execution of this Work Order and the City's delivery of a Notice to Proceed to the Contractor via e-mail, facsimile or other form of delivery as documented by the City. Substantial completion occurs when the services and work has progressed to the point where, in the opinion of the City, the work is sufficiently complete in accordance with the Contract Documents and this Work Order, so that the Project can be utilized for the purposes for which it is intended. Final completion occurs when all services and work (including punch-list items) has been completed and the project becomes fully operational and accepted by the City.

Liquidated Damages. The City and Contractor recognize that time is of the essence under this Work Order and the Contract Documents, and that the City will suffer financial loss if the services and work described in this Work Order and the Contract Documents are not completed within the times specified in this Work Order. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the services and work within the time specified. Accordingly, instead

of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City _____ hundred dollars (\$_____.00) for each day that expires after the time specified in this Work Order.

4.0 Compensation and Direct Purchases

This Work Order is issued for a lump sum, not to exceed amount of \$_____ (_____). The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

The following Direct Purchases are to be made under this Work Order by the City:

_____.

5.0 Project Manager

The Project Manager for the Contractor is _____, phone:_____; email: _____; and, the Project Manager for the City is _____, phone:_____; email:_____.

6.0 Progress Meetings

The Contractor shall schedule periodic progress review meetings with the City Project Manager as necessary but every 30 days as a minimum.

7.0 Contractor's Representations

In order to induce the City to enter into this Work Order, the Contractor makes the following representations:

7.1 Contractor has familiarized itself with the nature and extent of the Contract Documents including this Work Order, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work.

7.2 Contractor has obtained at his/her own expense and carefully studied, or assumes responsibility for obtaining and carefully studying, soil investigations, explorations, and test reports which pertain to the subsurface conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the stated work order price within the Work Order stated time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the IFB; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes.

7.3 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional

examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or is deemed necessary by the Contractor in order to perform and furnish the work under this Work Order price, within the Work Order time and in accordance with the other terms and conditions of the Contract Documents.

7.4 Contractor has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.5 Contractor has given the City's Contract Administrator written notice of all conflicts, errors or discrepancies that he or she has discovered in the Contract Documents and the written resolution thereof by City or its designee is acceptable to the Contractor.

8.0 Warranty. The Contractor warrants and guarantees to the City that all services and work provided under this Work Order will be in accordance with this Work Order and the other Contract Documents. The Contractor warrants that (a) all materials and parts supplied under this Work Order shall be free from defects for one (1) year from the final completion of all work (unless a longer manufacturer warranty applies); (b) all services and work performed under this Work Order will be free from defects for one (1) year from the final completion of all work and the project shall be fully operational without unreasonable downtime or failures; and (c) that the services and work will conform to the requirements of the Contract Documents. If, at any time prior to the expiration of the one (1) year warranty period, the City discovers any failure or breach of the Contractor's warranties or the Contractor discovers any failure or breach of the Contractor's warranties, the Contractor will, upon written notice from City or of its own accord, at the Contractor's sole cost and expense, promptly correct such failure or breach (which corrective action must include, without limitation, any necessary removal, disassembly, reinstallation, repair, replacement, reassembly, retesting, and/or re-inspection of any part or portion of the work and any other property damaged or affected by such failure, breach, or corrective action). The Contractor will remedy any such failure or breach so, to the extent possible, to avoid unnecessary disruptions to the operations of City or its systems. In the event the Contractor fails to initiate and diligently pursue corrective action within five (5) days of the Contractor's receipt of the City's notice or the Contractor's discovery of the same, the City may undertake such corrective action at the Contractor's expense.

9.0 Authorization

This Work Order is issued pursuant to the Construction Contract for Paving, Concrete, Striping and Associated Restoration Work Contract IFB#24-101 between the City of Lake Worth Beach and the Contractor, dated _____, ("Contract" hereafter). If there are any conflicts between the terms and conditions of this Work Order and the Contract, the terms and conditions of the Contract shall prevail.

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SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order No. as of the day and year set forth above.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

By: DO NOT SIGN – SAMPLE ONLY _____
Betty Resch, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR:

**M&M ASPHALT MAINTENANCE, INC., dba ALL
COUNTY PAVING**

By: DO NOT SIGN – SAMPLE ONLY _____

[Corporate Seal]

Print Name: _____

Title: _____

STATE OF _____)
COUNTY OF _____)

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this ____ day of _____ 2024, by _____, as the _____ [title] of **M&M Asphalt Maintenance, Inc., dba All County Paving**, a Corporation, who is personally known to me or who has produced _____ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Notary Public Signature

Notary Seal:

**EXHIBIT “B”
SCHEDULE OF UNIT PRICES**

(B4)

**IFB #24-101 Annual Contract for Paving, Concrete, Striping and Associated Restoration Work
SCHEDULE OF UNIT PRICES**

In order to evaluate the total bid amount, each Bidder must identify the unit prices for the work set forth in the Scope of Work. In the event additional work is added to this contract by Change Order, the following unit prices will be utilized (as applicable).

ITEM #	DESCRIPTION	QTY	UNIT	UNIT PRICE
PAVEMENT				
1	MOBILIZATION (LESS THAN 100 SY)	1	LS	\$ 1,295.00
2	MOBILIZATION (OVER 100 SY)	1	LS	\$ 4,895.00
3	MOT – TYPE 2 BARRICADES OR CONES (PER DAY)	1	EA	\$ 2.00
4	MOT – SIGNAGE (PER DAY)	1	EA	\$ 2.00
5	REMOVE/HAULOFF EX. PAVEMENT AND BASE (UP TO 14”	1	SY	\$ 20.00
6	12” COMPACTED SUBGRADE	1	SY	\$ 20.00
7	8” BASEROCK (LIMEROCK OR CR. CONC.) (PRIMED)	1	SY	\$ 45.00
8	REWORK EXIST. BASE AND PRIME	1	SY	\$ 10.00
9	1” TYPE S-3 ASPHALTIC CONCRETE	1	SY	\$ 9.90
10	2” TYPE S-3 ASPHALTIC CONCRETE	1	SY	\$ 16.20
11	MILL EXIST. ASPHALT 1.5” AVG. DEPTH (3/4” TO 2” DEPTH)	1	SY	\$ 4.85
12	MISC. ASPHALT (TYPE S-3) OVERBUILD/LEVELING	1	TN	\$ 250.00
13	ASPHALT SPEED HUMP COMPLETE W/ STRIPING (PER CITY DETAIL)	1	EA	\$ 3,495.00
14	ASPHALT MILLINGS F&I	1	TN	\$ 65.00
15	SEALCOATING (PARKING LOTS)	1	SY	\$ 2.00
CONCRETE				
16	MOBILIZATION (LESS THAN 100 LF)	1	LS	\$ 2,500.00
17	MOBILIZATION (OVER 100 LF)	1	LS	\$ 1,500.00
18	REMOVE EX. 4” CONCRETE	1	SF	\$ 3.00
19	REMOVE EX. 6” CONCRETE	1	SF	\$ 5.00
20	4” CONCRETE SIDEWALK (3,000 PSI)	1	SF	\$ 8.50
21	6” CONCRETE SIDEWALK / DRIVEWAY (3,000 PSI)	1	SF	\$ 9.50
22	MONOLITHIC CURB AND SIDEWALK	1	SF	\$ 20.00
23	REMOVE EX. CONCRETE CURBING (ALL TYPES)	1	LF	\$ 20.00
24	TYPE F CURB AND GUTTER	1	LF	\$ 35.00
25	VALLEY GUTTER	1	LF	\$ 35.00
26	TYPE D CURBING	1	LF	\$ 30.00
27	ADA TACTILE DOME SURFACE (YELLOW) CAST-IN-PLACE	1	SF	\$ 40.00
STRIPING				
28	MOBILIZATION (LESS THAN 100 LF)	1	LS	\$ 1,350.00
29	MOBILIZATION (OVER 100 LF)	1	LS	\$ 1,000.00
30	REMOVAL OF EX. STRIPING (GRIND OR WATERBLAST)	1	LF	\$ 10.00
31	4” DOUBLE YELLOW THERMO	1	LF	\$ 3.50
32	4” SINGLE YELLOW THERMO	1	LF	\$ 1.50
33	4” SINGLE WHITE THERMO	1	LF	\$ 1.50
34	6” DOUBLE YELLOW THERMO	1	LF	\$ 4.00
35	6” SINGLE YELLOW THERMO	1	LF	\$ 2.00

36	6" SINGLE WHITE THERMO	1	LF	\$	2.00
37	12" SINGLE WHITE THERMO	1	LF	\$	4.00
38	18" SINGLE WHITE THERMO	1	LF	\$	6.00
39	24" STOP BAR WHITE THERMO	1	LF	\$	8.00
40	RPM'S	1	EA	\$	10.00
41	BIKE LANE SYMBOL STRIPING (THERMO)	1	EA	\$	650.00
42	HANDICAP PARKING STALL COMPLETE W/ SIGN (PAINT)	1	EA	\$	500.00
MISC. WORK					
43	BAHIA SODDING (INCL. GRADING WORK)	1	SY	\$	20.00
44	FLORATAM SODDING (INCL. GRADING WORK)	1	SY	\$	20.00
45	ADJUST EX. MANHOLE RING AND COVER	1	EA	\$	325.00
46	ADJUST EX. VALVE BOX	1	EA	\$	150.00
47	ADJUST EX. CURB INLET / DRAINAGE INLET	1	EA	\$	1,500.00
48	PAVER BRICK REPAIR (EXIST. BRICKS)	1	SF	\$	20.00
			TOTAL	\$	19,925.45


Name of Bidder: MGM Asphalt Maintenance Inc DBA All County Paving
Address: 1180 SW 10th Street
City: Delray Beach ST FL Zip 33444
Phone: (561) 588-0949 Email: Publicworks@AllCountyPaving.com
Print Name: Kenneth Goldberg Title: President
SIGNATURE:  Date: 02/21/24

EXHIBIT "C"
PUBLIC CONSTRUCTION BOND FORMS

Record and Return to:

CITY OF LAKE WORTH BEACH
PAYMENT AND PERFORMANCE BOND
(Pursuant to sec. 255.05, Fla. Stat.)

Surety Bond No. _____

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR:

Name:

Principal Business Address:

Telephone Number:

SURETY:

Name:

Principal Business Address

Telephone Number:

OWNER:

City of Lake Worth Beach
7 North Dixie Highway
Lake Worth Beach, FL 33460
(561) 586-1600

CONTRACT:

Contract Work Order No:

Date:

Amount:

Description (Name and Location):

General Description of Work:

BOND

Date (not earlier than Work Order Date):

Amount:

Modifications to this Bond Form:

This Bond is issued in favor of the City of Lake Worth Beach/Owner conditioned on the full and faithful performance of the Contract.

1. Contractor has entered into Project No. _____ with the City for the project titled "_____" (the "Contract"), with conditions and provisions as are further described in the aforementioned Contract, which Contract, including all of its attachments, exhibits and incorporated documents (hereinafter, collectively, the "Contract Documents") is by reference made a part hereof for the purposes of explaining this bond.

2. Principal and Surety are bound to the Owner in the sum of the Contract Amount set forth above for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

3. THE CONDITION OF THIS BOND is that if Principal:

a. Performs the Work required of and in accordance with the Contract Documents at the times and in the manner prescribed in the Contract Documents, which are made a part of this bond by reference; and

b. In accordance with sec. 255.05 and sec. 337.18, Florida Statutes, promptly makes payment s to all persons, defined in sec. 713.01, Florida Statutes, who furnish labor, services or materials for prosecution of the work set forth in the Contract Documents described above; and

c. Pays Owner all losses, damages (including liquidated damages), expenses, costs, and professional fees, including but not limited to attorneys' fees, including appellate proceedings, that Owner sustains because of a default by Principal under the Contract Documents; and

d. Performs the warranty and guarantee of all work and materials furnished under the Contract Documents for the time specified in the Contract Documents, then this bond is void; otherwise it remains in full force.

4. Section 255.05, Fla. Stat., as amended, together with all notice and time provisions contained therein, is incorporated herein by reference.

5. Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in secs. 255.05(2) and (10), Fla. Stat., and those of sec. 337.18, Fla. Stat.

6. Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract Documents or the changes does not affect Surety's obligation under this bond, and Surety waives notice of such changes.

7. Principal and Surety expressly acknowledge that any and all provisions relating to consequential, delay and liquidated damages contained in the contract are expressly covered by and made a part of this Performance, Labor and Material Payment Bond. Principal and Surety acknowledge that any such provisions lie within their obligations and within the policy coverages and limitations of this instrument.

8. Any action brought under this instrument shall be brought in the state court of competent jurisdiction in Palm Beach County, Florida, and not elsewhere.

Surety and Contractor, intending to be legally bound hereby, subject to the terms included herein and as required under Florida Statutes, do each cause this Performance and Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

Signed and sealed this _____ day of _____, 20__.

Witness

Principal

(Corporate Seal)

Title

Witness

Surety

Attorney-in-Fact
(Attach Power of Attorney)

Print Name

(Corporate Seal)

**CONSTRUCTION CONTRACT FOR
(Annual Contract for Paving, Concrete, Striping and Associated Restoration Work)
IFB #24-101**

THIS CONSTRUCTION CONTRACT for Annual Contract for Paving, Concrete, Striping and Associated Restoration Work ("Contract") is entered on _____, by and between the **City of Lake Worth Beach**, a Florida municipal corporation ("City") and **Wynn and Sons Environmental Construction Co. LLC**, a Limited Liability Company authorized to do business in the State of Florida with its principal office located at 7268 Belvedere Rd, West Palm Beach, FL 33411. ("Contractor")

WHEREAS, the City is a Municipal organized and existing pursuant to the Charter and the Constitution of the State of Florida; and

WHEREAS, the City issued Invitation for Bids # 24-101 (including but not limited to the addendum, Plans & Drawings, Special Terms and General Conditions and Terms issued therewith) ("IFB") for the construction and maintenance services for Roadway pothole repair, Full depth pavement repair, patching and reconstruction, Mill and Overlay, Thermoplastic striping/Signage, Concrete sidewalk and driveway removal and installation, ADA concrete ramps, Concrete curbing removal and replacement, Green area grading and sodding, Associated Misc. Restoration Work; and

WHEREAS, the Contractor submitted a unit price bid to perform the work generally described and set out in response to the IFB; and

WHEREAS, the City desires to accept Contractor's bid in order for Contractor to render the services to the City as provided herein; and

WHEREAS, the Contractor further warrants that it is experienced and capable of performing the Task hereunder in a professional and competent manner; and

WHEREAS, the City finds awarding the IFB to the Contractor as described herein serves a valid public purpose.

NOW THEREFORE, the City hereby engages the services of the Contractor, and in consideration of the mutual promises herein contained, the sufficient of which is hereby acknowledged by both parties, the parties agree as follows:

Article 1. GENERAL INFORMATION.

1.1 The foregoing recitals are incorporated into this Contract as true and correct statements.

1.2 **Scope of Services/Work.** The Contractor shall provide the services and work requested by the City and required under a City approved work order as described herein. The general nature of the services and work to be provided by the Contractor under this Contract are the construction and maintenance services for the City's Public Works Departments for the Annual Contract for Paving, Concrete, Striping and Associated Restoration Work.

1.3 **Contract Documents.** The Contract Documents are incorporated herein by reference as if set forth in this Contract and comprise the entire agreement between the City and Contractor. The Contract Documents consist of this Contract, the IFB (including, but not limited to, the documents issued with the IFB as the scope and specifications, the drawings, addenda, attachments and exhibits); and, any duly executed and issued work

orders, change orders and Contract amendments relating thereto. If, during the performance of the work, the Contractor finds an ambiguity, error or discrepancy in the Contract Documents, the Contractor shall so notify the City, in writing, within five (5) business days and before proceeding shall obtain a written interpretation or clarification. Failure to obtain a written interpretation or clarification will be deemed a waiver of the ambiguity, error or discrepancy by the Contractor. The City will not be responsible for any oral instructions, clarifications, or other communications except those provided in writing in response to Contractor's request for clarification of an ambiguity, discrepancy or error.

In resolving conflicts in any of the Contract Documents, the order of precedence shall be as follows:

- First Priority: Fully executed Change Orders or Contract amendments
- Second Priority: Work Order (for each project) (sample attached as Exhibit A)
- Third Priority: Drawings/Specifications
- Fourth Priority: This Contract
- Fifth Priority: Special Terms (in the IFB)
- Sixth Priority: General Conditions and Terms (in the IFB)
- Seventh Priority: Remainder of the IFB
- Eighth Priority: Contractor's Bid (Schedule of Unit Prices attached as Exhibit B)

The City will not be responsible for any oral instructions, clarifications, or other communications except those provided in writing in response to Contractor's request for clarification of an ambiguity, discrepancy or error.

1.4 **Contract Administrator.** Whenever the term Contract Administrator is used herein, it is intended to mean the City Manager or designee, City of Lake Worth Beach, Florida. In the administration of this Contract, all parties may rely upon instructions or determinations made by the Contract Administrator except that all requests and/or determinations that result in an increase in change in time of completion and/or an increase in the contract price shall require a formal change order or contract amendment executed by the City Manager or the City Commission (depending on the authority set forth in the City's Procurement Code).

1.5 **Work Orders.** This Contract does not guarantee that the City will utilize the Contractor in any capacity or for any services hereunder. When the City identifies a need for the Contractor's services, the City will request a proposal from the Contractor to provide the services requested. The City will provide the Contractor with plans and/or specifications in order for the Contractor to develop its proposal. The Contractor's proposal shall be submitted in the format of the sample work order, attached hereto and incorporated herein as **Exhibit "A"** along with a copy of the Contractor's proposal and shall be based on the Unit Prices attached hereto and incorporated herein as **Exhibit "B"**. Upon receipt of the Contractor's proposed work order and proposal, the City shall decide in its sole discretion whether to award the work order to the Contractor. Depending on the lump sum amount of each work order, the work order may be awarded by the City Manager (if within City Manager's purchasing authority (currently not to exceed \$50,000)) or the City Commission. If the work order is approved by the City, the Contractor shall commence the identified services upon the City's approval of the work order for the services and issuance of a notice to proceed. The City reserves the right to reject any and all proposals submitted by the Contractor. A City-approved work order shall include (by reference) the plans and/or specifications provided by the City to the Contractor.

1.6 **Term.** The term of this Agreement shall be for an initial term commencing upon the expiration of the prior contract, May 6, 2024, and ending three (3) years therefrom, with two (2) additional single year renewal options. The option(s) to renew may be exercised by the City Manager. Notwithstanding the term, the parties may terminate this Agreement as stated herein.

1.7 **Unit Prices.** The Unit Prices set forth as **Exhibit "B"** shall remain fixed for the first three (3) years of this Contract. If due to applicable price escalations and/or reductions which impact the Contractor's Unit Prices, the City and Contractor may execute a written amendment to this Contract to establish new Unit Prices for the renewal term(s). The City Manager may approve changes in the Unit Prices based on the recommendation of the City's Public Works Director or designee.

Article 2. CONTRACT TIME.

2.1 Contract Time. Final completion of the work and all punch-list items (if any) shall be within the time frame as set forth in each Work Order for each project.

2.2 The Contractor shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the Contractor or its subcontractors (if authorized) and without the Contractor's or subcontractor's fault or negligence. Upon the Contractor's request, the City shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the Contractor and, if the Contractor's delay and failure to timely perform was without it or its subcontractors' fault or negligence, as reasonably determined by the City, the time of completion shall be extended for any reasonable time that the City may reasonably decide; subject to the City's rights to change, terminate, or stop any or all of the work at any time. If the Contractor is delayed at any time in the progress of the work by any act or neglect of the City or its employees, by an approved written change in the scope from the original Contract Documents, or by any other contractor employed by the City, or by changes ordered by the City or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the Contractor's reasonable control, or by delay authorized by the City pending negotiation or by any cause which the City shall reasonably decide justifies the delay, then the time of completion shall be extended for any reasonable time the City may reasonably decide. The Contractor must provide the City with written notice of any delay claims and no extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) claim is necessary. With the exception of an approved written change in the scope from the original Contract Documents, the Contractor's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and Contractor specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by Contractor due to a delay in completion of the work. Provided, however, and subject to sovereign immunity under section 768.28, Florida Statutes, that this provision shall not preclude recovery or damages by the Contractor for hindrances or delays due solely to fraud, bad faith or active interference on the part of the City. Otherwise, the Contractor shall be entitled only to extensions of the Contract Times as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

Article 3. PAYMENT PROCEDURES

3.1 Generally. The Contractor shall submit invoices on a monthly basis detailing all work accomplished in the prior month and all materials installed and used in the work pursuant to City approved work order. Contractor's invoices shall be submitted to:

City of Lake Worth Beach
Attn: Finance Department/Procurement Division
7 N. Dixie Highway
Lake Worth Beach, FL 33460

The City's Contract Administrator or designee will review each invoice submitted by the Contractor. If approved, the City will make payment in accordance with the Contract Documents. If not approved, the City will notify the Contractor within twenty (20) business days of the City's receipt and identify the action necessary to correct the invoice or a deficiency.

3.2 Payment to the Contractor shall be made pursuant Florida's Local Government Prompt Payment Act (for construction services), section 218.735, Florida Statutes, except as provided herein. Specifically, the City will withhold five percent (5%) of each payment from a work order to the Contractor as retainage. Retainage shall be released to the Contractor in accordance with Section 218.735, Florida Statutes and as set forth in this Contract

3.3 Upon substantial completion, the Contractor shall notify the City's Contract Administrator that the work is substantially complete and request an inspection. Within five (5) business days thereafter, the Contractor and City's Contract Administrator or designee shall make an inspection of the work and begin the development of a draft punch-list of items that must be completed by the Contractor prior to the Contractor submitting its final payment request (Punch List Walkthrough). The City shall submit the punch list to the Contractor within fifteen (15) days of the Punch List Walkthrough and the Contractor shall have ten (10) days to agree to the same. If the Contractor wishes to revise the punch list, it must send the revised punch list to the City's Contract Administrator no later than twenty-five (25) days after reaching substantial completion. Thereafter the parties shall agree on the final punch list no later than thirty (30) days after substantial completion. The punch list shall include every remaining item required to render complete, satisfactory, and acceptable services to the City and the estimated cost to complete each remaining item. The final agreed upon punch list shall be sent to the Contractor five (5) days after the punch list is finalized. In no event may the Contractor request payment of final retainage until the Contractor has completed all items on the punch list. All items that require correction under the Contract which are identified after the preparation and delivery of the punch list remain the obligation of the Contractor. The failure to include any corrective work or pending items not yet completed on the list does not alter the responsibility of the Contractor to complete all the construction services purchased pursuant to the Contract.

3.4 Final Payment. Upon final completion and acceptance of the work in accordance with the Contract Documents (including all punch-list items) and final inspection by the appropriate agency with jurisdiction over the project (if other than the City), the Contractor shall submit a "final invoice" to the City. In order for both parties to close their books and records, the Contractor will clearly state "FINAL" on the Contractor's final invoice. This certifies that all work under the applicable work order has been properly completed and all charges have been invoiced to the City. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the Contractor. If the Contractor's Final Invoice is approved as set forth above, the City shall pay the remainder of the work order price including any amount held as retainage.

3.5 Notwithstanding the foregoing, the City shall not be required to pay or release any amount of retainage that is subject of a good faith dispute, the subject of a claim brought pursuant to section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the City.

3.6 Final payment shall not become due until the Contractor and all of its subcontractors submit to the City releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract Documents or otherwise related to the Work.

3.7 Acceptance of final payment by the Contractor or a subcontractor shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final invoice.

Article 4. SUBCONTRACTS

The Contractor represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The Contractor shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind. The Contractor shall comply with all applicable laws in the provision of services under this Contract. The Contractor agrees that it is fully responsible to the City for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the City. All of the Contractor's personnel (and all subcontractors) while on City premises, will comply with all City requirements governing conduct, safety, and security. The City reserves the right to request replacement of any of subcontractor or subcontractor's personnel furnished by the Contractor upon written notice by City to Contractor of the cause for such replacement. All work performed by a subcontractor will be at cost to the City without any mark-up by the Contractor. All subcontractors must provide the same level and type of insurance as required of the Contractor under this Contract prior to commencing any services. The Contractor shall submit the subcontractors' proof of insurance upon receipt of a notice to proceed.

Article 5. INDEMNITY AND INSURANCE.

The Contractor agrees to assume liability for and indemnify, hold harmless, and defend the City, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor, its agents, officers, Contractors, subcontractors, employees, or anyone else utilized by the Contractor in the performance of this Contract. The Contractor's liability hereunder shall include all attorney's fees and costs incurred by the City in the enforcement of this indemnification provision. This includes claims made by the employees of the Contractor against the City and the Contractor hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Contract and shall not be limited by the amount of any insurance required to be obtained or maintained under this Contract.

Subject to the limitations set forth in this Section, Contractor shall assume control of the defense of any claim asserted by a third party against the City and, in connection with such defense, shall appoint lead counsel, in each case at the Contractor's expense. The City shall have the right, at its option, to participate in the defense of any third-party claim, without relieving Contractor of any of its obligations hereunder. If the Contractor assumes control of the defense of any third party claim in accordance with this paragraph, the Contractor shall obtain the prior written consent of the City before entering into any settlement of such claim. Notwithstanding anything to the contrary in this Section, the Contractor shall not assume or maintain control of the defense of any third party claim, but shall pay the fees of counsel retained by the City and all expenses, including experts' fees, if (i) an adverse determination with respect to the third party claim would, in the good faith judgment of the City, be detrimental in any material respect to the City's reputation; (ii) the third party claim seeks an injunction or equitable relief against the City; or (iii) the Contractor has failed or is failing to prosecute or defend vigorously the third party claim. Each party shall cooperate, and cause its agents to cooperate, in the defense or prosecution of any third party claim and shall furnish or cause to be furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 725.06, Florida Statutes, as amended. The Contractor expressly agrees that it will not claim, and waives any claim, that this indemnification violates Section 725.06, Florida Statutes. Nothing contained in the foregoing indemnification or any other provision in the Contract Documents shall be construed as a waiver of any immunity or limitation of liability the City may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

INSURANCE: Prior to commencing any work, the Contractor shall provide proof of insurance coverage as required in the IFB. All such insurance policies may not be modified or terminated without the express written authorization of the City. Failure to comply with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract. Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the Contract Documents and/or performance of the work. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

Article 6. REIMBURSEMENT OF ENGINEER EXPENSES.

Should the completion of a work order be delayed beyond the specified or adjusted time limit, Contractor shall reimburse the City for all expenses of engineering and inspection incurred by the City during the period between said specified or adjusted time and the actual date of final completion. All such expenses for engineering and inspection incurred by the City will be charged to Contractor and be deducted from payments due Contractor as provided by this Contract. Said expenses shall be further defined as engineer charges associated with the construction contract administration, including resident project representative costs. All such expenses shall be separate from and in addition to any Liquidated Damages as provided for in an applicable Work Order.

Article 7. PUBLIC CONSTRUCTION BOND.

If the City approves a work order which exceeds \$200,000 in total construction cost, the Contractor must provide the City with a public construction bond in accordance with section 255.05, Florida Statutes. Said bond must be recorded in the Official Records in and for Palm Beach County and a copy of the recorded bond must be provided to the City prior to the Contractor providing any services under the work order. The City reserves the right to request a bond for any work order which is less than \$200,000. The cost of the bond shall be a direct pass through cost to the City without any mark-up by the Contractor.

The public construction bond shall be on forms attached hereto as **Exhibit "C"** or substantially similar as approved by the City. The bond shall be in an amount not less than the total Work Order price and shall incorporate by reference the terms of the Contract Documents in their entirety.

To be acceptable to the City, a Surety Company shall comply with the following provisions:

The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida Department of Insurance, authorizing it to write surety bonds in the State of Florida.

- (a) The Surety Company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
- (b) The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.

- (c) The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the Contractor submits its Work Order for City approval.
- (d) The Surety Company shall have at least the ratings of A-/Class V in the latest issue of Best's Key Rating Guide.
- (e) The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:
 1. **Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to do business in this state have been met.**
 2. In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

Article 8. TERMINATION.

8.1 TERMINATION BY CITY: The City may terminate any work order, the Contract and/or the Contract Documents if the Contractor is in default as follows:

- (a) refuses or fails to supply enough properly skilled workers or proper materials to timely and competently complete the work;
- (b) fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- (c) disregards or takes action contrary to any laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
- (d) takes action, short of declaring bankruptcy, evidencing insolvency;
- (e) fails to prosecute the services or work in a timely manner and reasonably be unable to reach substantial completion and/or final completion within the timeframe(s) required;
- (f) fails or refuses to provide and/or maintain insurance or proof of insurance as required by the Contract Documents; **or,**
- (g) otherwise is in breach of a provision of the Contract Documents.

When any of the above reasons exist, the City, may without prejudice to any other rights or remedies of the City and after giving the Contractor and the Contractor's surety (if applicable), written notice and five (5) days to cure, terminate the work order, Contract and/or Contract Documents and may

- (a) take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by or paid for by the City; and,
- (b) finish the work by whatever reasonable method the City may deem expedient.

The Contractor and its surety (if any) shall be liable for any damage to the City, including additional attorney and engineering/architectural fees, resulting from the Contractor's termination under this provision by the City, including but not limited to, and any increased costs incurred by the City in completing the work.

When the City terminates the Contract for one of the reasons stated above, the Contractor shall not be entitled to receive further payment, if any, until the work is finished.

Should it be determined by a mediator or a court of competent jurisdiction that the City wrongfully terminated the Contract, then the Contractor agrees to treat such termination as a termination for convenience.

8.2 TERMINATION BY THE CITY FOR CONVENIENCE

The City may, at any time, terminate the Contract and Contract Documents for the City's convenience and without cause. Upon receipt of written notice from the City of such termination for the City's convenience, the Contractor shall:

- (a) cease operations as directed by the City in the notice;
- (b) take actions necessary, or that the City may direct, for the protection and preservation of the work; and
- (c) except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

In case of such termination for the City's convenience, the Contractor shall be entitled to receive payment for work executed, and costs incurred by reason of such termination including termination payments to subcontractors and demobilization costs.

Article 9. TAXES AND DIRECT PURCHASES.

9.1 TAXES: The City is exempt from payment of Florida State Sales and Use Tax. The Contractor is not authorized to use the City's Tax Exemption Number unless approved in writing.

9.2 DIRECT PURCHASES: For certain projects, the City may seek to make direct purchases of equipment or materials to be used by the Contractor. Pursuant to Section 212.08(6), Florida Statutes, and the Fla. Admin. Code Ann. R. 12A-1.094 and 12A-1.038, the Parties agree to the following procedure regarding the City's direct-purchase from vendors of certain equipment and materials to be used in specific projects:

9.2.1 The City reserves the right, at the City's option, to direct purchase equipment and materials involved in a specific project, including subcontracts, if any so as to save the sales tax which would otherwise have been due with regard to the same. The Contractor and its subcontractors shall comply with the City's direct purchase procedures, including but not limited to those listed below.

9.2.2 As specifically set forth in a City issued work order, within 30 days (or other time as specified in the work order), the Contractor will present a list of direct purchase equipment and materials for the City's consideration which will include the recommended vendors' name; the price quotes from all vendors provided to the Contractor; and, any terms and conditions the Contractor has negotiated with the recommended vendors. The City will then inform the Contractor as to which equipment and materials it will direct purchase. In the event the City fails to exercise its option to direct purchase equipment and materials and identify which equipment and materials are to be purchased by the City within thirty (30) calendar days of receipt of the list from the Contractor, the City shall waive its right to direct purchase any and all equipment and materials to be used in completion of the work under the applicable work order.

9.2.3 The Contractor is responsible for selecting each direct purchase vendor, subject to City approval. The Contractor is responsible for specifications, equipment and materials receipt,

inspecting shipments, and assuring that the equipment and materials are in accordance with the work order and the Contractor's specifications. The Contractor is also responsible for providing the City with enough advance notice of when the direct purchase equipment and materials will need to be ordered and delivered. In absence of the Contractor's receipt of a written notice of City's disapproval of a vendor within thirty (30) calendar days of City's receipt of the equipment/material list referenced in 9.2.2, the City shall be deemed to have waived any and all objections thereto.

9.2.4 The Contractor shall retain all responsibility for installing all equipment and materials relating to the work and for maintaining the construction schedule so long as the City timely orders and pays for the correct direct purchase equipment and materials. The City's direct purchase mechanism to effectuate tax savings in no way effects the obligation of the Contractor to meet all of the terms and conditions and all provisions and technical specifications of the Contract Documents. The Contractor shall be responsible for insuring all equipment once the equipment is in its care, custody and control, regardless of whether directly purchased by City.

9.2.5 The City will issue a direct purchase order to the vendor of the direct purchase equipment and materials at the price proposed in the Contractor's or its subcontractor's bid, less sales tax. The City will promptly send a copy of the issued purchase order to the Contractor.

9.2.6 It will be the Contractor's primary responsibility to properly expedite and follow up on direct purchase orders, thereby assuring delivery of the equipment and materials as ordered and at the time and place needed by the Contractor to complete the work in accordance with the work order and construction schedule. To the extent required by the Contractor, the City shall cooperate with all requests of the Contractor related to the expedition of and follow up on direct purchase orders.

9.2.7 The Contractor shall take delivery, unload, and install the equipment and materials purchased on the direct purchase order in accordance with the work order and the Contract Documents with the vendor to repair, replace, and make good any defect without cost to the City, until such time as the work has been completed and accepted by City in accordance with the Contract Documents. The City, with assistance from the Contractor, will be responsible for undertaking and completing any returns of direct purchase equipment and materials as requested by the Contractor and working with the vendor to effectuate any credits or warranties for the returned equipment and materials (if applicable). Any returns not replaced shall be credited to City and acknowledged by a supplement to the direct purchase order and, if applicable, amendment to the Contract Sum. The Contractor shall not be responsible for warranting the direct purchase equipment and materials to the City; however, the Contractor shall be responsible for facilitating the vendor's warranty of the direct purchase equipment and materials and the Contractor shall be responsible for warranting the work to install and/or incorporate the equipment and materials. The Contractor shall maintain records of all direct purchases received and incorporated into the work and provide the City with a monthly accounting until all direct purchase items that are received and accepted for inclusion in the specific project.

9.2.8 When delivery of a direct purchase order is complete, or a payment is to be made on a partial shipment, the Contractor will timely submit to City the documentation supporting the equipment and materials received. Invoices for direct purchase orders will be sent by the direct purchase vendor directly to City's Finance Department, with all such invoices addressed to and in the name of the City. The City's Finance Department will forward invoices to the City's Contract Administrator. The City's Contract Administrator will forward the invoices to the Contractor to verify delivery and sign the invoice and associated documentation supporting the amount of the payment. The City will make timely payment to all vendors in compliance with each vendor's payment procedures. The City will take title to all equipment ordered through direct purchase upon or at the time of purchase. The Contractor will assist City in assuring prompt payment by supplying the vendor's FEI numbers,

addresses, phone numbers, etc. All payments will be made in accordance with the Local Government Prompt Payment Act.

Article 10. CONTRACTOR'S REPRESENTATIONS AND AGREEMENTS.

In order to induce the City to enter into this Contract, the Contractor makes the following representations:

10.1 Contractor has or will familiarize itself with the nature and extent of the Contract Documents, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work prior to commencing the work under an applicable Work Order. All work shall be performed consistent with all applicable laws and regulations.

10.2 Contractor agrees to be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with the regulations and to reimburse the City for any loss incurred in connection therewith. This compliance provision specifically includes the Contractor's compliance with all applicable standards, orders or regulations including, without limitation, those 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).

10.3 Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the Contractor during the term of this Contract.

10.4 The Contractor represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the work required under the Contract Documents. Proof of such licenses and approvals shall be submitted to the City upon request.

Article 11. INFRINGEMENT INDEMNITY.

11.1 The Contractor will defend or settle at its expense a claim or suit brought by a third party against the City arising out of a claim asserting that the services, work, repair, materials or other deliverables ("deliverables" hereafter) provided by the Contractor under the Contract Documents (if any) infringes any U.S. copyright or any U.S. patent or misappropriates a trade secret. The Contractor will indemnify and hold harmless the City against and from damages, costs, and attorneys' fees, if any and at all levels of trial and appeal or mediation or arbitration, finally awarded in such suit or the amount of the settlement thereof; provided that (i) the Contractor is promptly notified in writing of such claim or suit, (ii) the Contractor will have the sole control of the defense and settlement thereof, and (iii) City furnishes the Contractor, on reasonable request, information available to City for such defense. The City will not admit any such claim without prior consent of the Contractor.

- a. In the event of a claim of infringement, the Contractor shall, at its option:
 1. procure for City the right to continue using the deliverables provided under the Contract Documents; or
 2. replace or modify the deliverables so that the same becomes non-infringing but substantially equivalent in functionality and performance.
 3. If neither of the above actions is reasonably feasible, the Contractor will refund to City the fee actually paid by City under the Contract Documents (as amortized on a straight-line basis over the time in which the City was able to use the deliverables).
- b. The Contractor will have no obligation under this section for infringement if and to the extent

that such claim arises from:

1. modification of the deliverables other than by the Contractor or by its recommendation; or
2. combination of the deliverables with products other than those supplied by the Contractor; and,
3. the alleged infringement or misappropriation relates to such modification or combination.

c. The Contractor will also not have any indemnification obligation with respect to a claim: (i) if it has provided City with reasonable changes that would have avoided the problem and the reasonable changes are not fully implemented by City within a reasonable time or (ii) arising out of use of the deliverables not in accordance with the Contract Documents.

d. The Contractor's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the Contractor whether such injury or damage shall accrue, or may be discovered, before or after termination or expiration of the Contract Documents.

Article 12. MISCELLANEOUS.

12.1 The City and Contractor each binds itself, its partners, its successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

12.2 Additional work and/or changes to a work order's price and/or time, is subject to the City's prior written approval. Only the City Manager and City Commission (based on the procurement code) have the authority to approve such additional work and changes.

12.3 The headings contained in this Contract are inserted for convenience of reference only and shall not be a part or control or affect the meaning hereof.

12.4 This Contract may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall be deemed to be an original, but each of which together shall constitute one and the same instrument.

12.5 This Contract (together with the other Contract Documents) supersedes any and all prior negotiations and oral or written agreements heretofore made relating to the subject matter hereof and, except for written agreements, if any, executed and delivered simultaneously with or subsequent to the date of this Contract, constitutes the entire agreement of the parties relating to the subject matter hereof. This Contract may not be altered or amended except by a writing signed by the parties hereto. No waiver of any of the terms or conditions of this Contract shall be effective unless in writing and executed by the party to be changed therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Contract.

12.6 This Contract shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors and assigns.

12.7 This Contract shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto (a) irrevocably submit itself to the exclusive jurisdiction of the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida for state actions and jurisdiction of the United States District Court for the Southern District of Florida, Palm Beach Division, for federal actions, for the purposes of any suit, action or other proceeding arising out of, or relating to, this Contract; (b) waives and agrees not to assert against any party hereto, by way of motion, as a defense of otherwise, in any suit, action or other proceeding, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever; and (c) to the extent permitted by applicable law, any claim that such suit, action or proceeding by any part hereto is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper or that this Contract or the subject matter hereof may not be enforced in or by such courts.

12.8 This Contract shall create no rights or claims whatsoever in any third party.

12.9 If any one or more of the provisions of the Contract shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

12.10 The effective date of this Contract is the date the Contract is approved by the City Commission.

12.11 Public Records: The Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) 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 this Contract and following completion of this Contract if the Contractor does not transfer the records to the City.

(d) Upon completion of this Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City 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 records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT: ATTENTION CITY CLERK, (561) 586-1660 OR

**CITYCLERK@LAKEWORTHBEACHFL.GOV OR 7 NORTH DIXIE
HIGHWAY, LAKE WORTH BEACH, FL 33460.**

12.12 This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

12.13 In accordance with Palm Beach County ordinance number 2011-009, the Contractor acknowledges that this Contract may be subject to investigation and/or audit by the Palm Beach County Inspector General. The Contractor has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

12.14 If any legal action or other proceeding is brought for the enforcement of this Contract or the Contract Documents, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract or the Contract Documents, each party shall be responsible for their own attorney's fees at all levels. EACH PARTY ALSO AGREES AND VOLUNTARILY WAIVES ANY RIGHT TO A JURY TRIAL ARISING OUT OF ALLEGED DISPUTE, BREACH, DEFAULT, MISREPRESENTATION OR ANY OTHER CLAIM IN CONNECTION WITH OR ARISING FROM ANY PROVISION OF THIS CONTRACT OR THE CONTRACT DOCUMENTS

12.15 Each of the parties agrees to perform its obligations under the Contract Documents in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of the work and under the Contract Documents.

12.16 All documents, including but not limited to drawings, specifications, plans, reports, other items and data or programs stored in hard-copy, electronically or otherwise (collectively referred to as "Documents" hereafter), prepared by the Contractor or its subcontractors under this Contract shall be considered a "Work for Hire" and the exclusive property of the City. To the extent such Documents may not be deemed a "Work for Hire" under applicable law, Contractor and Contractor's Subcontractors will assign to the City all right, title and interest in and to Contractor and/or Contractor's Subcontractors' copyright(s) for such Documents. Contractor shall execute and deliver to City such instruments of transfer and take such other action that City may reasonable request, including, without limitation, executing and filing, at City's expense, copyright applications, assignments and other documents required for the protection of City's right to such Documents. The Contractor shall retain copies of the Documents for a period of three (3) years from the date of completion of the Work. The City grants to the Contractor and Contractor's subcontractors the right and/or limited license to use a portion of the Documents prepared by the Contractor or the Contractor's subcontractors in future projects of the Contractor or Contractor's subcontractors with said right and/or limited license to use a portion at Contractor's or Contractor's subcontractor's own risk and without any liability to City. Any modifications made by the City to any of the Contractor's Documents, or any use, partial use or reuse of the Documents without written authorization or adaptation by the Contractor will be at the City's sole risk and without liability to the Contractor.

12.17 Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

12.18 Any notice required to be given under the Contract Documents shall be sent by certified mail (return receipt requested) or by nationally recognized overnight courier as follows to the City:

City of Lake Worth Beach
Attn: City Manager/Finance Department/Procurement Division
7 N. Dixie Highway
Lake Worth Beach, FL 33460

and to the Contractor as follows:

Wynn And Sons Environmental Construction Co, LLC.
Attn: Daniel Wynn, President
7268 Belvedere Rd
West Palm Beach, Fl 33411

Either party may amend this provision by written notice to the other party.

12.19 The Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Section 112.311, Florida Statutes. The Contractor further represents that no person having any such conflicting interest shall be employed for said performance. The Contractor shall promptly notify the City's representative, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Contractor's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Contractor. The City agrees to notify the Contractor of its opinion within thirty (30) days of receipt of notification by the Contractor. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Contractor, the City shall so state in the notification and the Contractor shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by the Contractor under the terms of this Contract.

12.20 The Contractor warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation. Further, Contractor shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

12.21 This Contract is not intended to be and shall not be construed as an exclusive agreement, and the City may employ additional or other contractors to perform services contemplated by this Contract without liability to the City.

12.22 PUBLIC ENTITY CRIMES. The Contractor acknowledges and agrees that 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 contractor, supplier or sub-contractor 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, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Contractor will promptly advise the City if it becomes aware of any violation of this statute.

12.23 PURSUANT TO SECTION 558.005, FLORIDA STATUTES, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

12.24 The Contract shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of all services and work. This includes being responsible for all precautions for safety of, and reasonable protection to prevent damage, injury or loss to employees performing the services and work and other persons who may be affected thereby; the work, materials and equipment incorporated therein; and other property, equipment or materials at the site or adjacent thereto including, without limitation, trees, shrubs, lawns, sidewalks, pavements, roadways or structures and utilities not designated for removal, relocation or replacement in the course of the work. The Contractor shall comply with and give all notices required by applicable laws, statutes, ordinances, rules and regulations bearing on safety of persons or property, or their protection from damage, injury or loss. The Contractor shall implement, erect and maintain reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards reasonably related to the work or which could arise therefrom. The Contractor shall promptly remedy damage and loss (other than covered by applicable insurance) caused in whole or in part by the Contractor or anyone directly or indirectly employed by or utilized by the Contractor in the performance of the work, which is not attributable to the City's negligence.

12.25 The Contractor agrees that, in all matters relating to this Contract, it will be acting as an independent contractor with exclusive control of the manner and means of performing the work, its obligations and tasks in accordance with the requirements of this Contract and the Contract Documents. The Contractor has no authority to act or make any agreements or representations on behalf of the City. This Contract is not intended, and shall not be construed to create, between the City and the Contractor, the relationship of principal and agent, joint-venturers, co-partners or any other such relationship, the existence of which is hereby expressly denied. No employee or agent of Contractor shall be, or shall be deemed to be, an employee or agent of City.

Article 13. SCRUTINIZED COMPANIES

13.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

13.2 If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

13.3 The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

13.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.

13.5 The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.

13.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Article 14. E-VERIFY

Pursuant to Section 448.095(2), Florida Statutes, the CONTRACTOR shall:

14.1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

14.2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, Agreement with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

14.3. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;

14.4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

14.5. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,

14.6. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, CONTRACTOR may not be awarded a Agreement for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

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Signature page follows

IN WITNESS WHEREOF, the City and Contractor have caused this Construction for Annual Contract for paving, Concrete, Striping and Associated Restoration Work to be executed the day and year shown below.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

By: _____
_____, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR:

WYNN AND SONS ENVIRONMENTAL CONSTRUCTION CO, LLC

By: _____

Print Name: Daniel P. Wynn

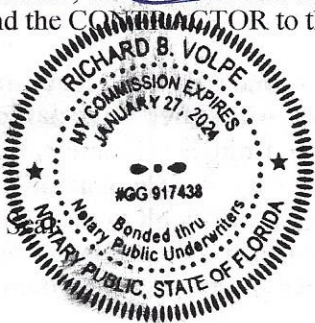
Title: Pres.



STATE OF FL
COUNTY OF Palm Beach

THE FOREGOING instrument was acknowledged before me by means of physical presence or online notarization on this 27 day of March 2024, by Daniel Wynn, as the [title] of Wynn & Sons Environmental Construction Co, LLC, a Limited Liability Company, who is personally known to me or who has produced _____ as identification, and who ~~did~~ take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Notary



Notary Public Signature

EXHIBIT "A"
SAMPLE WORK ORDER

**CONSTRUCTION CONTRACT FOR PAVING, CONCRETE, STRIPING AND ASSOCIATED
RESTORATION WORK
IFB#24-101**

WORK ORDER NO. _____

THIS WORK ORDER for the Construction Contract for Paving, Concrete, Striping and Associated Restoration Work ("Work Order" hereafter) is made on the _____, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460 ("City" hereafter) and **Wynn and Sons Environmental Construction Co, LLC** a Limited Liability Company authorized to do business in State of Florida ("Contractor" hereafter).

1.0 Project Description:

The City desires the Contractor to provide all goods, services, materials and equipment as identified herein related to the Construction Contract for Paving, Concrete, Striping and Associated Restoration Work described as: _____ (the "Project"). The Project is more specifically described in the plans prepared by _____, dated _____, and which are incorporated herein by reference.

2.0 Scope

Under this Work Order, the Contractor will provide the City of Lake Worth Beach with construction services for the Project as specified in the **Contractor's proposal attached hereto and incorporated herein as Exhibit "1"**.

3.0 Schedule and Liquidated Damages

Substantial completion of all services and work under this Work Order shall be within _____ **calendar days** from the Effective Date of this Work Order. Final completion of all services and work (and all punch-list items (if any)) under this Work Order shall be within _____ **calendar days** from the Effective Date of this Work Order. The Effective Date of this Work Order is the date following the parties' execution of this Work Order and the City's delivery of a Notice to Proceed to the Contractor via e-mail, facsimile or other form of delivery as documented by the City. Substantial completion occurs when the services and work has progressed to the point where, in the opinion of the City, the work is sufficiently complete in accordance with the Contract Documents and this Work Order, so that the Project can be utilized for the purposes for which it is intended. Final completion occurs when all services and work (including punch-list items) has been completed and the project becomes fully operational and accepted by the City.

Liquidated Damages. The City and Contractor recognize that time is of the essence under this Work Order and the Contract Documents, and that the City will suffer financial loss if the services and work described in this Work Order and the Contract Documents are not completed within the times specified in this Work Order. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the services and work within the time specified. Accordingly, instead

of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City _____ hundred dollars (\$ _____ .00) for each day that expires after the time specified in this Work Order.

4.0 Compensation and Direct Purchases

This Work Order is issued for a lump sum, not to exceed amount of \$ _____ (_____). The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

The following Direct Purchases are to be made under this Work Order by the City:

_____.

5.0 Project Manager

The Project Manager for the Contractor is _____, phone: _____; email: _____; and, the Project Manager for the City is _____, phone: _____; email: _____.

6.0 Progress Meetings

The Contractor shall schedule periodic progress review meetings with the City Project Manager as necessary but every 30 days as a minimum.

7.0 Contractor's Representations

In order to induce the City to enter into this Work Order, the Contractor makes the following representations:

7.1 Contractor has familiarized itself with the nature and extent of the Contract Documents including this Work Order, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work.

7.2 Contractor has obtained at his/her own expense and carefully studied, or assumes responsibility for obtaining and carefully studying, soil investigations, explorations, and test reports which pertain to the subsurface conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the stated work order price within the Work Order stated time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the IFB; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes.

7.3 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional

examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or is deemed necessary by the Contractor in order to perform and furnish the work under this Work Order price, within the Work Order time and in accordance with the other terms and conditions of the Contract Documents.

7.4 Contractor has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.5 Contractor has given the City's Contract Administrator written notice of all conflicts, errors or discrepancies that he or she has discovered in the Contract Documents and the written resolution thereof by City or its designee is acceptable to the Contractor.

8.0 Warranty. The Contractor warrants and guarantees to the City that all services and work provided under this Work Order will be in accordance with this Work Order and the other Contract Documents. The Contractor warrants that (a) all materials and parts supplied under this Work Order shall be free from defects for one (1) year from the final completion of all work (unless a longer manufacturer warranty applies); (b) all services and work performed under this Work Order will be free from defects for one (1) year from the final completion of all work and the project shall be fully operational without unreasonable downtime or failures; and (c) that the services and work will conform to the requirements of the Contract Documents. If, at any time prior to the expiration of the one (1) year warranty period, the City discovers any failure or breach of the Contractor's warranties or the Contractor discovers any failure or breach of the Contractor's warranties, the Contractor will, upon written notice from City or of its own accord, at the Contractor's sole cost and expense, promptly correct such failure or breach (which corrective action must include, without limitation, any necessary removal, disassembly, reinstallation, repair, replacement, reassembly, retesting, and/or re-inspection of any part or portion of the work and any other property damaged or affected by such failure, breach, or corrective action). The Contractor will remedy any such failure or breach so, to the extent possible, to avoid unnecessary disruptions to the operations of City or its systems. In the event the Contractor fails to initiate and diligently pursue corrective action within five (5) days of the Contractor's receipt of the City's notice or the Contractor's discovery of the same, the City may undertake such corrective action at the Contractor's expense.

9.0 Authorization

This Work Order is issued pursuant to the Construction Contract for Paving, Concrete, Striping and Associated Restoration Work Contract IFB#24-101 between the City of Lake Worth Beach and the Contractor, dated _____, ("Contract" hereafter). If there are any conflicts between the terms and conditions of this Work Order and the Contract, the terms and conditions of the Contract shall prevail.

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SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order No. _____ as of the day and year set forth above.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

By: DO NOT SIGN – SAMPLE ONLY _____
Betty Resch, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR:

**WYNN & SONS ENVIRONMENTAL
CONSTRUCTION CO, LLC**

By: DO NOT SIGN – SAMPLE ONLY _____

[Corporate Seal]

Print Name: _____

Title: _____

STATE OF _____)
COUNTY OF _____)

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this ____ day of _____ 2024, by _____, as the _____ [title] of **Wynn & Sons Environmental Construction Co, LLC**, a Limited Liability Company, who is personally known to me or who has produced _____ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Notary Seal:

Notary Public Signature

EXHIBIT "B"
SCHEDULE OF UNIT PRICES

(B4)

**IFB #24-101 Annual Contract for Paving, Concrete, Striping and
Associated Restoration Work**

SCHEDULE OF UNIT PRICES

In order to evaluate the total bid amount, each Bidder must identify the unit prices for the work set forth in the Scope of Work. In the event additional work is added to this contract by Change Order, the following unit prices will be utilized (as applicable).

ITEM #	DESCRIPTION	QTY	UNIT	UNIT PRICE
PAVEMENT				
1	MOBILIZATION (LESS THAN 100 SY)	1	LS	\$ 2,500.00
2	MOBILIZATION (OVER 100 SY)	1	LS	\$ 5,000.00
3	MOT – TYPE 2 BARRICADES OR CONES (PER DAY)	1	EA	\$ 25.00
4	MOT – SIGNAGE (PER DAY)	1	EA	\$ 60.00
5	REMOVE/HAULOFF EX. PAVEMENT AND BASE (UP TO 14" DEEP)	1	SY	\$ 20.00
6	12" COMPACTED SUBGRADE	1	SY	\$ 5.00
7	8" BASEROCK (LIMEROCK OR CR. CONC.) (PRIMED)	1	SY	\$ 40.00
8	REWORK EXIST. BASE AND PRIME	1	SY	\$ 7.50
9	1" TYPE S-3 ASPHALTIC CONCRETE	1	SY	\$ 10.00
10	2" TYPE S-3 ASPHALTIC CONCRETE	1	SY	\$ 18.00
11	MILL EXIST. ASPHALT 1.5" AVG. DEPTH (3/4" TO 2" DEPTH)	1	SY	\$ 8.00
12	MISC. ASPHALT (TYPE S-3) OVERBUILD/LEVELING	1	TN	\$ 200.00
13	ASPHALT SPEED HUMP COMPLETE W/ STRIPING (PER CITY DETAIL)	1	EA	\$ 6,000.00
14	ASPHALT MILLINGS F&I	1	TN	\$ 47.00
15	SEALCOATING (PARKING LOTS)	1	SY	\$ 5.00
CONCRETE				
16	MOBILIZATION (LESS THAN 100 LF)	1	LS	\$ 2,500.00
17	MOBILIZATION (OVER 100 LF)	1	LS	\$ 5,000.00
18	REMOVE EX. 4" CONCRETE	1	SF	\$ 2.25
19	REMOVE EX. 6" CONCRETE	1	SF	\$ 3.00
20	4" CONCRETE SIDEWALK (3,000 PSI)	1	SF	\$ 8.80
21	6" CONCRETE SIDEWALK / DRIVEWAY (3,000 PSI)	1	SF	\$ 9.80
22	MONOLITHIC CURB AND SIDEWALK	1	SF	\$ 12.50
23	REMOVE EX. CONCRETE CURBING (ALL TYPES)	1	LF	\$ 15.00
24	TYPE F CURB AND GUTTER	1	LF	\$ 30.00
25	VALLEY GUTTER	1	LF	\$ 40.00
26	TYPE D CURBING	1	LF	\$ 25.00
27	ADA TACTILE DOME SURFACE (YELLOW) CAST-IN-PLACE	1	SF	\$ 44.00
STRIPING				
28	MOBILIZATION (LESS THAN 100 LF)	1	LS	\$ 2,500.00
29	MOBILIZATION (OVER 100 LF)	1	LS	\$ 5,000.00
30	REMOVAL OF EX. STRIPING (GRIND OR WATERBLAST)	1	LF	\$ 4.50

31	4" DOUBLE YELLOW THERMO	1	LF	\$	5.20
32	4" SINGLE YELLOW THERMO	1	LF	\$	2.60
33	4" SINGLE WHITE THERMO	1	LF	\$	2.60
34	6" DOUBLE YELLOW THERMO	1	LF	\$	5.60
35	6" SINGLE YELLOW THERMO	1	LF	\$	2.80
36	6" SINGLE WHITE THERMO	1	LF	\$	2.80
37	12" SINGLE WHITE THERMO	1	LF	\$	6.00
38	18" SINGLE WHITE THERMO	1	LF	\$	9.80
39	24" STOP BAR WHITE THERMO	1	LF	\$	17.00
40	RPM'S	1	EA	\$	11.60
41	BIKE LANE SYMBOL STRIPING (THERMO)	1	EA	\$	780.00
42	HANDICAP PARKING STALL COMPLETE W/ SIGN (PAINT)	1	EA	\$	1120
MISC. WORK					
43	BAHIA SODDING (INCL. GRADING WORK)	1	SY	\$	6.55
44	FLORATAM SODDING (INCL. GRADING WORK)	1	SY	\$	6.99
45	ADJUST EX. MANHOLE RING AND COVER	1	EA	\$	1250
46	ADJUST EX. VALVE BOX	1	EA	\$	200
47	ADJUST EX. CURB INLET / DRAINAGE INLET	1	EA	\$	2200
48	PAVER BRICK REPAIR (EXIST. BRICKS)	1	SF	\$	18

Name of Bidder: WYNN AND SONS ENVIRONMENTAL CONSTRUCTION CO LLC

Address: 7268 BELVEDERE RD

City: WEST PALM BEACH ST FL Zip 33411

Phone: (561) 718 6948 Email: DANWYNN24@YAHOO.COM

Print Name: DANIEL WYNN Title: PRESIDENT

SIGNATURE: *DW Pres.* Date: 02/13/2024

EXHIBIT "C"
PUBLIC CONSTRUCTION BOND FORMS

Record and Return to:

CITY OF LAKE WORTH BEACH
PAYMENT AND PERFORMANCE BOND
(Pursuant to sec. 255.05, Fla. Stat.)

Surety Bond No. _____

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR:

Name:

Principal Business Address:

Telephone Number:

SURETY:

Name:

Principal Business Address

Telephone Number:

OWNER:

City of Lake Worth Beach
7 North Dixie Highway
Lake Worth Beach, FL 33460
(561) 586-1600

CONTRACT:

Contract Work Order No:

Date:

Amount:

Description (Name and Location):

General Description of Work:

BOND

Date (not earlier than Work Order Date):

Amount:

Modifications to this Bond Form:

This Bond is issued in favor of the City of Lake Worth Beach/Owner conditioned on the full and faithful performance of the Contract.

1. Contractor has entered into Project No. _____ with the City for the project titled "_____" (the "Contract"), with conditions and provisions as are further described in the aforementioned Contract, which Contract, including all of its attachments, exhibits and incorporated documents (hereinafter, collectively, the "Contract Documents") is by reference made a part hereof for the purposes of explaining this bond.
2. Principal and Surety are bound to the Owner in the sum of the Contract Amount set forth above for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.
3. **THE CONDITION OF THIS BOND** is that if Principal:
 - a. Performs the Work required of and in accordance with the Contract Documents at the times and in the manner prescribed in the Contract Documents, which are made a part of this bond by reference; and

b. In accordance with sec. 255.05 and sec. 337.18, Florida Statutes, promptly makes payments to all persons, defined in sec. 713.01, Florida Statutes, who furnish labor, services or materials for prosecution of the work set forth in the Contract Documents described above; and

c. Pays Owner all losses, damages (including liquidated damages), expenses, costs, and professional fees, including but not limited to attorneys' fees, including appellate proceedings, that Owner sustains because of a default by Principal under the Contract Documents; and

d. Performs the warranty and guarantee of all work and materials furnished under the Contract Documents for the time specified in the Contract Documents, then this bond is void; otherwise it remains in full force.

4. Section 255.05, Fla. Stat., as amended, together with all notice and time provisions contained therein, is incorporated herein by reference.

5. Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in secs. 255.05(2) and (10), Fla. Stat., and those of sec. 337.18, Fla. Stat.

6. Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract Documents or the changes does not affect Surety's obligation under this bond, and Surety waives notice of such changes.

7. Principal and Surety expressly acknowledge that any and all provisions relating to consequential, delay and liquidated damages contained in the contract are expressly covered by and made a part of this Performance, Labor and Material Payment Bond. Principal and Surety acknowledge that any such provisions lie within their obligations and within the policy coverages and limitations of this instrument.

8. Any action brought under this instrument shall be brought in the state court of competent jurisdiction in Palm Beach County, Florida, and not elsewhere.

Surety and Contractor, intending to be legally bound hereby, subject to the terms included herein and as required under Florida Statutes, do each cause this Performance and Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

Signed and sealed this _____ day of _____, 20__.

Witness

Principal

(Corporate Seal)

Title

Witness

Surety

Attorney-in-Fact
(Attach Power of Attorney)

Print Name

(Corporate Seal)



City of Lake Worth Beach

Bid Tabulation

IFB#24-101 Annual Contract for Paving, Concrete, Striping and Associated Restoration Work

Unit Price Description		ARROW ASPHALT & ENGINEERING, INC.			JANICE M. RILEY INC dba THE PAVING LADY			FG CONSTRUCTION, LLC			J.W. CHEATHAM, LLC			WYNN AND SONS ENVIRONMENTAL CONSTRUCTION CO LLC			R & D PAVING, LLC			M&M ASPHALT MAINTENANCE, INC. dba ALL COUNTY PAVING		
		QUANTITY	UNIT	UNIT PRICE	QUANTITY	UNIT	UNIT PRICE	QUANTITY	UNIT	UNIT PRICE	QUANTITY	UNIT	UNIT PRICE	QUANTITY	UNIT	UNIT PRICE	QUANTITY	UNIT	UNIT PRICE	QUANTITY	UNIT	UNIT PRICE
PAVEMENT																						
1	MOBILIZATION (LESS THAN 100 SY)	1	LS	\$2,500.00	1	LS	\$4,500.00	1	LS	\$5,000.00	1	LS	\$5,000.00	1	LS	\$2,500.00	1	LS	\$7,750.00	1	LS	\$1,295.00
2	MOBILIZATION (OVER 100 SY)	1	LS	\$2,500.00	1	LS	\$3,250.00	1	LS	\$3,500.00	1	LS	\$8,000.00	1	LS	\$5,000.00	1	LS	\$12,600.00	1	LS	\$4,895.00
3	MOT – TYPE 2 BARRICADES OR CONES (PER DAY)	1	EA	\$0.50	1	EA	\$15.00	1	EA	\$5.00	1	EA	\$5.00	1	EA	\$25.00	1	EA	\$0.45	1	EA	\$2.00
4	MOT – SIGNAGE (PER DAY)	1	EA	\$50.00	1	EA	\$125.00	1	EA	\$5.00	1	EA	\$5.00	1	EA	\$60.00	1	EA	\$0.55	1	EA	\$2.00
5	REMOVE/HAULOFF EX. PAVEMENT AND BASE (UP TO 14" DEEP)	1	SY	\$27.00	1	SY	\$38.00	1	SY	\$45.00	1	SY	\$150.00	1	SY	\$20.00	1	SY	\$52.90	1	SY	\$20.00
6	12" COMPACTED SUBGRADE	1	SY	\$5.00	1	SY	\$15.00	1	SY	\$15.00	1	SY	\$100.00	1	SY	\$5.00	1	SY	\$15.00	1	SY	\$20.00
7	8" BASEROCK (LIMEROCK OR CR. CONC.) (PRIMED)	1	SY	\$14.00	1	SY	\$22.00	1	SY	\$35.00	1	SY	\$200.00	1	SY	\$40.00	1	SY	\$49.25	1	SY	\$45.00
8	REWORK EXIST. BASE AND PRIME	1	SY	\$6.50	1	SY	\$15.00	1	SY	\$15.00	1	SY	\$50.00	1	SY	\$7.50	1	SY	\$31.10	1	SY	\$10.00
9	1" TYPE S-3 ASPHALTIC CONCRETE	1	SY	\$9.50	1	SY	\$12.50	1	SY	\$27.00	1	SY	\$50.00	1	SY	\$10.00	1	SY	\$13.50	1	SY	\$9.90
10	2" TYPE S-3 ASPHALTIC CONCRETE	1	SY	\$16.50	1	SY	\$18.00	1	SY	\$43.00	1	SY	\$100.00	1	SY	\$18.00	1	SY	\$33.30	1	SY	\$16.20
11	MILL EXIST. ASPHALT 1.5" AVG. DEPTH (3/4" TO 2" DEPTH)	1	SY	\$3.00	1	SY	\$8.00	1	SY	\$12.00	1	SY	\$50.00	1	SY	\$8.00	1	SY	\$7.50	1	SY	\$4.85
12	MISC. ASPHALT (TYPE S-3) OVERBUILD/LEVELING	1	TN	\$175.00	1	TN	\$155.00	1	TN	\$400.00	1	TN	\$500.00	1	TN	\$200.00	1	TN	\$300.00	1	TN	\$250.00
13	ASPHALT SPEED HUMP COMPLETE W/ STRIPING (PER CITY DETAIL)	1	EA	\$3,500.00	1	EA	\$5,000.00	1	EA	\$10,000.00	1	EA	\$5,000.00	1	EA	\$6,000.00	1	EA	\$7,000.00	1	EA	\$3,495.00
14	ASPHALT MILLINGS F&I	1	TN	\$25.00	1	TN	\$65.00	1	TN	\$200.00	1	TN	\$200.00	1	TN	\$47.00	1	TN	\$83.00	1	TN	\$65.00
15	SEALCOATING (PARKING LOTS)	1	SY	\$1.50	1	SY	\$0.89	1	SY	\$0.40	1	SY	\$200.00	1	SY	\$5.00	1	SY	\$2.65	1	SY	\$2.00
CONCRETE																						
16	MOBILIZATION (LESS THAN 100 LF)	1	LS	\$3,500.00	1	LS	\$3,000.00	1	LS	\$5,000.00	1	LS	\$2,000.00	1	LS	\$2,500.00	1	LS	\$4,675.00	1	LS	\$2,500.00
17	MOBILIZATION (OVER 100 LF)	1	LS	\$3,500.00	1	LS	\$2,150.00	1	LS	\$3,500.00	1	LS	\$3,000.00	1	LS	\$5,000.00	1	LS	\$6,350.00	1	LS	\$1,500.00
18	REMOVE EX. 4" CONCRETE	1	SF	\$2.50	1	SF	\$2.50	1	SF	\$3.50	1	SF	\$10.00	1	SF	\$2.25	1	SF	\$6.90	1	SF	\$3.00
19	REMOVE EX. 6" CONCRETE	1	SF	\$3.50	1	SF	\$3.00	1	SF	\$3.50	1	SF	\$20.00	1	SF	\$3.00	1	SF	\$8.05	1	SF	\$5.00
20	4" CONCRETE SIDEWALK (3,000 PSI)	1	SF	\$8.00	1	SF	\$7.15	1	SF	\$7.00	1	SF	\$20.00	1	SF	\$8.80	1	SF	\$15.00	1	SF	\$8.50
21	6" CONCRETE SIDEWALK / DRIVEWAY (3,000 PSI)	1	SF	\$10.50	1	SF	\$9.00	1	SF	\$9.00	1	SF	\$30.00	1	SF	\$9.80	1	SF	\$17.00	1	SF	\$9.50
22	MONOLITHIC CURB AND SIDEWALK	1	SF	\$20.00	1	SF	\$9.50	1	SF	\$9.00	1	SF	\$50.00	1	SF	\$12.50	1	SF	\$20.00	1	SF	\$20.00
23	REMOVE EX. CONCRETE CURBING (ALL TYPES)	1	LF	\$7.00	1	LF	\$11.00	1	LF	\$30.00	1	LF	\$20.00	1	LF	\$15.00	1	LF	\$38.30	1	LF	\$20.00
24	TYPE F CURB AND GUTTER	1	LF	\$35.00	1	LF	\$40.00	1	LF	\$45.00	1	LF	\$75.00	1	LF	\$30.00	1	LF	\$37.00	1	LF	\$35.00
25	VALLEY GUTTER	1	LF	\$30.00	1	LF	\$33.00	1	LF	\$35.00	1	LF	\$75.00	1	LF	\$40.00	1	LF	\$37.00	1	LF	\$35.00
26	TYPE D CURBING	1	LF	\$20.00	1	LF	\$30.00	1	LF	\$30.00	1	LF	\$75.00	1	LF	\$25.00	1	LF	\$35.20	1	LF	\$30.00
27	ADA TACTILE DOME SURFACE (YELLOW) CAST-IN-PLACE	1	SF	\$55.00	1	SF	\$125.00	1	SF	\$50.00	1	SF	\$50.00	1	SF	\$44.00	1	SF	\$49.50	1	SF	\$40.00
STRIPING																						
28	MOBILIZATION (LESS THAN 100 LF)	1	LS	\$600.00	1	LS	\$1,350.00	1	LS	\$4,000.00	1	LS	\$2,750.00	1	LS	\$2,500.00	1	LS	\$4,900.00	1	LS	\$1,350.00
29	MOBILIZATION (OVER 100 LF)	1	LS	\$600.00	1	LS	\$1,200.00	1	LS	\$3,000.00	1	LS	\$1,875.00	1	LS	\$5,000.00	1	LS	\$5,800.00	1	LS	\$1,000.00
30	REMOVAL OF EX. STRIPING (GRIND OR WATERBLAST)	1	LF	\$150.00	1	LF	\$2.35	1	LF	\$10.00	1	LF	\$3.75	1	LF	\$4.50	1	LF	\$2.20	1	LF	\$10.00
31	4" DOUBLE YELLOW THERMO	1	LF	\$1.50	1	LF	\$2.25	1	LF	\$6.00	1	LF	\$3.00	1	LF	\$5.20	1	LF	\$1.90	1	LF	\$3.50
32	4" SINGLE YELLOW THERMO	1	LF	\$0.78	1	LF	\$1.20	1	LF	\$3.50	1	LF	\$1.50	1	LF	\$2.60	1	LF	\$1.00	1	LF	\$1.50
33	4" SINGLE WHITE THERMO	1	LF	\$0.78	1	LF	\$1.20	1	LF	\$3.50	1	LF	\$1.50	1	LF	\$2.60	1	LF	\$1.00	1	LF	\$1.50
34	6" DOUBLE YELLOW THERMO	1	LF	\$1.86	1	LF	\$2.50	1	LF	\$7.00	1	LF	\$3.00	1	LF	\$5.60	1	LF	\$2.45	1	LF	\$4.00
35	6" SINGLE YELLOW THERMO	1	LF	\$0.93	1	LF	\$1.30	1	LF	\$4.00	1	LF	\$1.50	1	LF	\$2.80	1	LF	\$1.25	1	LF	\$2.00
36	6" SINGLE WHITE THERMO	1	LF	\$0.93	1	LF	\$1.30	1	LF	\$4.00	1	LF	\$1.50	1	LF	\$2.80	1	LF	\$1.25	1	LF	\$2.00
37	12" SINGLE WHITE THERMO	1	LF	\$3.24	1	LF	\$3.75	1	LF	\$7.50	1	LF	\$3.75	1	LF	\$6.00	1	LF	\$2.95	1	LF	\$4.00
38	18" SINGLE WHITE THERMO	1	LF	\$4.84	1	LF	\$4.65	1	LF	\$9.00	1	LF	\$6.25	1	LF	\$9.80	1	LF	\$3.80	1	LF	\$6.00
39	24" STOP BAR WHITE THERMO	1	LF	\$84.00	1	LF	\$8.00	1	LF	\$12.00	1	LF	\$10.00	1	LF	\$17.00	1	LF	\$6.40	1	LF	\$8.00
40	RPM'S	1	EA	\$12.00	1	EA	\$9.00	1	EA	\$10.00	1	EA	\$10.00	1	EA	\$11.60	1	EA	\$5.65	1	EA	\$10.00
41	BIKE LANE SYMBOL STRIPING (THERMO)	1	EA	\$540.00	1	EA	\$525.00	1	EA	\$450.00	1	EA	\$575.00	1	EA	\$780.00	1	EA	\$374.00	1	EA	\$650.00
42	HANDICAP PARKING STALL COMPLETE W/ SIGN (PAINT)	1	EA	\$306.00	1	EA	\$425.00	1	EA	\$250.00	1	EA	\$750.00	1	EA	\$1,120.00	1	EA	\$231.00	1	EA	\$500.00
MISC. WORK																						
43	BAHIA SODDING (INCL. GRADING WORK)	1	SY	\$20.00	1	SY	\$8.00	1	SY	\$15.00	1	SY	\$20.00	1	SY	\$6.55	1	SY	\$37.90	1	SY	\$20.00
44	FLORATAM SODDING (INCL. GRADING WORK)	1	SY	\$18.00	1	SY	\$10.00	1	SY	\$18.00	1	SY	\$30.00	1	SY	\$6.99	1	SY	\$43.90	1	SY	\$20.00
45	ADJUST EX. MANHOLE RING AND COVER	1	EA	\$500.00	1	EA	\$650.00	1	EA	\$2,000.00	1	EA	\$3,000.00	1	EA	\$1,250.00	1	EA	\$935.00	1	EA	\$325.00
46	ADJUST EX. VALVE BOX	1	EA	\$350.00	1	EA	\$400.00	1	EA	\$750.00	1	EA	\$1,000.00	1	EA	\$200.00	1	EA	\$770.00	1	EA	\$150.00
47	ADJUST EX. CURB INLET / DRAINAGE INLET	1	EA	\$1,800.00	1	EA	\$675.00	1	EA	\$2,500.00	1	EA	\$3,000.00	1	EA	\$2,200.00	1	EA	\$935.00	1	EA	\$1,500.00
48	PAVER BRICK REPAIR (EXIST. BRICKS)	1	SF	\$9.00	1	SF	\$7.50	1	SF	\$10.00	1	SF	\$100.00	1	SF	\$18.00	1	SF	\$11.00	1	SF	\$20.00