



**AGENDA  
CITY OF LAKE WORTH BEACH  
REGULAR CITY COMMISSION MEETING  
CITY HALL COMMISSION CHAMBER  
TUESDAY, NOVEMBER 17, 2020 - 6:00 PM**

**ROLL CALL:**

**INVOCATION OR MOMENT OF SILENCE:** led by Commissioner Scott Maxwell

**PLEDGE OF ALLEGIANCE:** led by Vice Mayor Andy Amoroso

**AGENDA - Additions / Deletions / Reordering:**

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

- A. PBSO Presentation by Captain Todd Baer
- B. Proclamation for the Police
- C. Proclamation for First Appearance
- D. Presentation to Communications and Electric Utilities

**COMMISSION LIAISON REPORTS AND COMMENTS:**

**PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:**

**APPROVAL OF MINUTES:**

- A. Regular Meeting - October 20, 2020

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

- A. Proclamation declaring November 2020 as Native American Indian Heritage Month
- B. Proclamation declaring November 2020 as Retinoblastoma Awareness Month
- C. First Amendment to the existing agreement with R2 Unified Technologies, LLC, for information technology consulting services
- D. Microsoft Enterprise Agreement Contract Renewal
- E. Purchase Order with Nextran Truck for the purchase of a Mack Front Load Garbage Truck
- F. Purchase Order with Isuzu Truck of Ocala for the purchase of a Mini-Rear Load Garbage Truck
- G. Agreement with Shannon Chemical Corporation to purchase SNC-N2 (blend of phosphates) for distribution system corrosion inhibitor

- [H.](#) Resolution No. 49-2020 - Public Meeting - Approve a Historic Preservation Ad Valorem Tax Exemption for the property located at 631 Lucerne Avenue (The Hummingbird)
- [I.](#) Resolution No. 50-2020 – Public Meeting - Approve a Historic Preservation Ad Valorem Tax Exemption for the property located at 910 North M Street
- [J.](#) Resolution No. 51-2020 - Budget Amendment for the Regional Sewer fund for FY 2019 - 2020 Budget
- [K.](#) Ratification of Agreement with Coast Professional, Inc.
- [L.](#) Ratification of Contract Expenditures for CliftonLarsonAllen LLP and Robert Busch in FY 2019 -2020
- [M.](#) Third Agreement Extension Request from 14 S East Coast, LLC, for property located at 14 S. East Coast Street, Lake Worth Beach, Florida
- [N.](#) Third Amendment to Robert Half International, Inc., agreement
- [O.](#) Administrative Ratification of Bond Resolutions (No. 45-2020 and 47-2020) for the Consolidated Utility Revenue Bonds

#### **PUBLIC HEARINGS:**

- A. \*\*Ordinance No. 2020-19 - Second Reading - adopting the Florida Building Code 2020 7th Edition has been moved to the December 1, 2020 meeting

#### **NEW BUSINESS:**

- [A.](#) Ordinance No. 2020-15 – First Reading - amending Chapter 23 “Land Development Regulations” regarding changes to commercial vehicle parking, open air operations, temporary banner signage for new construction, landscaping requirements and artificial turf
- [B.](#) Ordinance No. 2020-17 – First Reading - Approve the establishment of a mixed-use urban planned development for Village Flats
- [C.](#) Ordinance 2020-18 (PZB 20-01300002) - First Reading - Request for a City-initiated rezoning for 118 North A Street, 116 North A Street, 127 North B Street, 121 North B Street, 119 North B Street, 113 North B Street, 1500 Lucerne Avenue, and 128 North C Street from either Single Family – Two Family Residential (SF-TF-14) or Multi-family Residential 20 (MF-20) to Mixed Use – East (MU-E)

#### **LAKE WORTH BEACH ELECTRIC UTILITY:**

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

- [1\)](#) Seventh Amendment to the existing agreement with Vantage Services Consulting LLC for additional consulting services for Fiscal Year 2021
- [2\)](#) Amended and Restated Directive with Gas South, LLC

- 3) Work Order No. 5 with The L.E. Myers Co., for Electric Distribution System construction services
- 4) First Amendment to the agreement with Leidos Engineering LLC for additional cost of rate design consulting services for Fiscal Year 2021

**CITY ATTORNEY'S REPORT:**

**CITY MANAGER'S REPORT:**

**ADJOURNMENT:**

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)



**PRESS RELEASE  
FOR RELEASE UPON RECEIPT**

City of Lake Worth Beach  
7 North Dixie Highway  
Lake Worth Beach, FL 33460  
[www.lakeworthbeachfl.gov](http://www.lakeworthbeachfl.gov)

**October 30, 2020**

Contact: Ben Kerr

Phone: 561.586.1631

Email: [bkerr@lakeworthbeachfl.gov](mailto:bkerr@lakeworthbeachfl.gov)

LAKE WORTH, FL – The Florida Municipal Electric Association (FMEA) recently recognized Lake Worth Beach Electric Utility with a “Building Strong Communities” award for offering our community extra services and programs beyond those normally supplied. Lake Worth Beach was recognized for our Customer Outreach Program and our partnership with Palm Beach County School District in the School Wifi Project.

Winners were selected for community programs that included: environmental improvement, community education, public safety, charitable donations and sponsorships and other special services, such as lighting ball fields and playgrounds, parade and festival participation and building car and phone charging stations.

Efforts related to the COVID-19 pandemic were also recognized. Public power utilities across the state suspended disconnects for unpaid bills, waived late

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and reconnect fees and offered payment assistance plans to help customers financially impacted by the pandemic. In response to the COVID-19 Pandemic, the City of Lake Worth Beach Electric Utility suspended utility cutoffs on March 18, 2020. Knowing that just suspending the cut off was only a partial solution the energy audit team and other members of our customer service teams pivoted their roles to provide residents who would have been cut off, or who were displaying signs of a potential future cut off, assistance in applying for funding through the CARES act and other funding opportunities that had become available. Throughout the pandemic this team reached out tirelessly to residents and assisted them in their applications and to date they have secured 195 grants totaling \$91,377 for customers in need and have submitted a further 700 applications that are currently being processed. In addition the team recognized that residents who were in this predicament may struggle to pay off their balance in future and so they made 8667 phone calls and were able to assist 1274 residents with getting on to a payment plan so as to reduce the burden. Between these two actions this team has successfully been able to minimize the number of customers at risk of having their utilities cut off.

Lake Worth Beach Electric Utility will be announced as an award recipient on November 2 at the FMEA Energy Connections Virtual Conference, which runs through November 6. Lake Worth Beach Electric Utility joins 21 other Florida public power communities in receiving this award.

“Public power utilities have always been community-focused and invested in programs that give back to their communities. This year, with the pandemic impacting nearly every facet of our daily lives, public power utilities have found many ways to assist their communities during this difficult time. From easing financial hardships for customers to providing distance learning resources to

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students and teachers to providing food for those in need, public power utilities have stepped forward to help community members navigate the challenges COVID-19 has brought,” said Amy Zubaly, FMEA Executive Director.

“We commend Lake Worth Beach Electric Utility for everything they have done to positively impact the lives of their families, friends and neighbors, especially in a year that has been everything but normal. We thank all the recipients for doing what they do best by putting the community they serve first,” added Zubaly.

Florida’s 33 public power utilities, combined, are the third largest electric provider in the state, serving 14 percent of Florida’s customers. Florida’s public power utilities serve more than 3 million customers and are a statewide employment leader with more than 5,400 employees.

Here in Lake Worth Beach, our citizen owned electric utility serves all of Lake Worth Beach’s residents. For 107 years, Lake Worth Beach Electric Utility has made it possible for residents of Lake Worth Beach to own and control their energy future while receiving affordable, reliable and environmentally responsible power.

Please contact Ben Kerr, the City of Lake Worth Beach Public Information Officer with any questions or comments.

*Located in central Palm Beach County, Lake Worth Beach is a dynamic, multi-cultural city with an individualistic style. People are drawn to the City by its acceptance of different cultures and lifestyles, historic districts, hip downtown and colorful arts district.*

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Ben Kerr  
Public Information Officer

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"We are LAKE WORTH BEACH. A hometown City that is committed to delivering the highest level of customer service through a commitment to integrity, hard work and a friendly attitude. We strive to exceed the expectations of our citizens, our businesses, our elected officials and our fellow employees."

CITY OF LAKE WORTH BEACH E-MAIL DISCLAIMER:

Please note: Florida has a very broad public records law. Most written communications to or from local

officials regarding city business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.



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**MINUTES  
CITY OF LAKE WORTH BEACH  
REGULAR CITY COMMISSION MEETING  
BY TELECONFERENCE  
TUESDAY, OCTOBER 20, 2020 - 6:00 PM**

The meeting was called to order by Mayor Triolo on the above date at 6:00 PM by teleconference from City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

**ROLL CALL:** Present were Mayor Pam Triolo; Vice Mayor Andy Amoroso; and Commissioners Scott Maxwell and Herman Robinson. Also present were City Manager Michael Bornstein, City Attorney Christy L. Goddeau and City Clerk Deborah M. Andrea.

**INVOCATION OR MOMENT OF SILENCE:** was led by Commissioner Herman Robinson.

**PLEDGE OF ALLEGIANCE:** was led by Vice Mayor Andy Amoroso.

**AGENDA - Additions/Deletions/Reordering:**

There were no changes to the agenda.

Commissioner Robinson stated that an item he had requested to be on the agenda was not included and asked that a discussion about the process of appointments based on the charter be added.

Mayor Triolo said that the matter was to be brought up in the future and asked City Manager Bornstein to update her on the timeline.

City Manager Bornstein stated that the issue related to the District 2 vacancy was to be discussed in December after the qualifying period ended. He said that Commissioner Robinson and City Attorney Goddeau had spoken about the issue.

Commissioner Robinson clarified that his item was to discuss the policy to fill Commission vacancies, not regarding a vote.

City Attorney Goddeau explained that the intent of the motion to table the item had been interpreted that the entire issue was tabled until after qualifications.

Commissioner Robinson stated that his interest was in the process to fill the seat and said that the residents of District 2 deserved to know how the vacant seat would be filled.

Mayor Triolo said that the issue would not be discussed because it was not on the current agenda, but that Commissioner Robinson had a valid point. She requested that Commissioner Robinson continue his conversation with City Attorney Goddeau and then speak with City Manager Bornstein about adding the item to an agenda. She suggested a two-phase approach, one regarding the process and the second regarding an appointment.

City Attorney Goddeau asked for direction to work with Commissioner Robinson to assist him with putting his item on an upcoming agenda.

**PRESENTATIONS:** (there was no public comment on Presentation items)

- A. Mayor Triolo read the proclamation celebrating Florida City Government Week. She announced that there would be messages from staff on the City's social media websites.
- B. Mayor Triolo read the proclamation declaring October 2020 as Breast Cancer Awareness Month.
- C. Mayor Triolo said that she had been a victim and the City would support and assist any victims in the City. She read the proclamation declaring October 2020 as Domestic Violence Awareness Month.

**COMMISSION LIAISON REPORTS AND COMMENTS:**

Commissioner Maxwell: had no comments.

Commissioner Robinson: thanked PBSO for all of their hard work and said that the City's Electric Company should be recognized for its compassionate and excellent work. He said that Drew Martin received a special service award from the Sierra Club and had expressed interest in working with Vice Mayor Amoroso on banning plastics in the City. He reported that he attended the long Treasure Coast Regional Planning Council meeting and said that he looked forward to addressing the look of outdoor dining downtown. He said that he would miss the passion and thought process that Commissioner Hardy put into his efforts as Commissioner. He questioned whether there would be a presentation on public private partnerships for the oceanfront park.

Vice Mayor Amoroso: thanked the City staff and its residents for their participation in the 2020 Census. He announced that there would be a house decorating contest for Halloween, Little Scream at Bryant Park with social distancing and Day of the Dead events would take place in November. He stated that there would be virtual events for Veterans' Day. He said that there should be a work session regarding term limits in the future.

Mayor Triolo: said that children have returned to school either in person or virtually. She thanked Principal Denise at Barton Elementary who had been disseminating information. She stated that the Commission would work with all of the schools. She announced that there would be a "if I were elected Mayor" contest for 6<sup>th</sup> through 8<sup>th</sup> grade students with a deadline in January. She reported that she had met with the TPA and that there would be funding available for projects; she thanked Jamie Brown, Public Works Director, who applied for several grants for work west of Dixie Highway.

**PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:**

Deborah Andrea, City Clerk read the comment submitted by the following:

Todd Kimberlain recommended postponing any increase to the sewer rates until after the pandemic ended.

**APPROVAL OF MINUTES:**

**Action:** Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to approve the following minutes:

A. Regular Meeting - October 6, 2020

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None.

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

**Action:** Motion made by Commissioner Maxwell and seconded by Commissioner Robinson to approve the Consent Agenda.

A. Resolution No. 46-2020 – Local Agency Program Supplemental Agreement 442094-1-58-01 (SA#1) with Florida Department of Transportation

B. Work Order #5 for The Paving Lady

C. Task Order 22 with Wantman Group (WGI) for the Neighborhood Road Program Year 4 projects

D. Resolution No. 48-2020 - Establish the rates, fees and charges for the Local Sewer System

E. Amendment 1 to Task Order No. 18 with Wantman Group, Inc., for construction engineering and inspection services for Park of Commerce Phase 1B Infrastructure Improvements project

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None.

**PUBLIC HEARINGS:**

A. Ordinance No. 2020-13 – Second Reading - Amend the City’s Code of Ordinances Chapter 23 Land Development Regulations (development orders)

City Attorney Goddeau read the ordinance by title only.

ORDINANCE 2020-13 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS,” ARTICLE 2, “ADMINISTRATION,” DIVISION 3 “PERMITS,” BY ADDING A NEW SECTION “EXPIRATION OF DEVELOPMENT ORDERS” TO PROVIDE FINALITY TO APPROVALS AND CONSTRUCTION PROJECTS; AMENDING ARTICLE 1 “GENERAL PROVISIONS,” DIVISION 1 “GENERALLY,” SECTION 23.1-11 “TIME LIMITATIONS OF APPROVALS,” TO PROVIDE UNIFORM TIME LIMITATIONS ON BUILDING PERMITS FOR ALL USES IN THE LAND DEVELOPMENT REGULATIONS AND AMENDING THE SPECIFIC REGULATIONS TO REFLECT THE UNIFORMITY; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

**Action:** Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to approve Ordinance 2020-13 amending the City’s Code of Ordinances Chapter 23 Land Development Regulations (development orders).

Mayor Triolo stated that the ordinance was back for a second reading.

City Clerk Andrea stated that there were no public comments.

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None.

- B. Ordinance No. 2020-14 – Second Reading - Amend the City’s Code of Ordinances Chapter 23 Land Development Regulations to update and clarify the quasi-judicial process for land use and zoning matters

City Attorney Goddeau read the ordinance by title only.

ORDINANCE 2020-14 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS,” ARTICLE 2, “ADMINISTRATION”, DIVISION 2 “PROCEDURES,” SECTION 23.2-16 “QUASI-JUDICIAL PROCEDURES” AND SECTION 23.2-17 “APPEALS” TO UPDATE AND CLARIFY THE QUASI-JUDICIAL PROCESS FOR LAND USE AND ZONING MATTERS; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

**Action:** Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to approve Ordinance 2020-14 amending the City’s Code of Ordinances Chapter 23 Land Development Regulations to update and clarify the quasi-judicial process for land use and zoning matters.

Comments/requests summary:

1. Commissioner Maxwell asked where the requested changes concerning notifications could be found.

William Waters, Community Sustainability Director, responded that the changes were under 13G; the applicant or affected party could request a 30 day or longer continuance.

Commissioner Maxwell stated that he had requested that the 10 day notification be extended to 30 days. He explained that affected parties would be given an automatic right to a 30 day continuance.

Mr. Waters stated that the verbiage would be included in all public notices and there would not be a fee for a continuance.

Commissioner Maxwell thanked Mr. Waters for the compromise.

2. Commissioner Robinson thanked Mr. Waters and spoke positively about the compromise.
3. Mayor Triolo stated that residents should be comfortable to reach out to City staff for assistance. She thanked Mr. Waters and staff.

City Clerk Andrea stated that there were no public comments.

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None.

- C. Ordinance No. 2020-16 – Second Reading -- providing authority for the issuance of taxable utility bonds to fully fund reserves

City Attorney Goddeau read the ordinance by title only.

ORDINANCE NO. 2020-16 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AUTHORIZING THE INCURRENCE BY THE CITY OF DEBT OBLIGATIONS TO FUND RESERVES FOR CASH FLOW PURPOSES RELATED TO THE CITY'S CONSOLIDATED UTILITY SYSTEM; PROVIDING THAT SUCH OBLIGATIONS OF THE CITY DO NOT CREATE A GENERAL DEBT OR OBLIGATION OF THE CITY OR THE STATE BUT SHALL BE PAYABLE SOLELY FROM UTILITY REVENUES; AND PROVIDING AN EFFECTIVE DATE

**Action:** Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to approve Ordinance 2020-16 providing authority for the issuance of taxable utility bonds to fully fund reserves.

Mayor Triolo announced that this was the second reading and asked if anyone had any questions or if there was a presentation. There were no questions nor any presentation.

City Clerk Andrea stated that there were no public comments.

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None

**UNFINISHED BUSINESS:**

There were no Unfinished Business items on the agenda.

**NEW BUSINESS:**

- A. Ordinance No. 2020-19 - First Reading - adopting the Florida Building Code 2020 7th Edition with recommended local amendments to Chapter One

City Attorney Goddeau read the ordinance by title only.

ORDINANCE NO. 2020-19 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 9, "BUILDINGS AND STRUCTURAL REGULATIONS", ARTICLE I, "IN GENERAL", SECTION 9-2, "BUILDING CODE ADOPTED", BY ADOPTING THE 2020 BUILDING CODE; AMENDING SECTION 9-2.1, "CITY OF LAKE WORTH ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODES ADOPTED", BY ADOPTING BY REFERENCE THE CITY OF LAKE WORTH BEACH ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODE 2020 EDITION; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE

**Action:** Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to approve Ordinance No. 2020-19 on first reading and set the second reading and public hearing for November 17, 2020.

Mr. Waters said that there was no formal presentation, but a lot of time had been spent clarifying the administrative code by Peter Ringle, the City's Building Official, and Pamala Ryan, Assistant City Attorney. He stated that the City had adopted the Building Codes three previous times.

City Clerk Andrea stated that there were no public comments.

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None.

B. Resolution No. 47-2020 – authorizing the issuance of Consolidated Utility Revenue Bonds of the City

City Attorney Goddeau did not read the resolution.

RESOLUTION NO. 47-2020 OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING AND SUPPLEMENTING RESOLUTION NO. 45-2020 OF THE CITY; AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$123,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF LAKE WORTH BEACH, FLORIDA CONSOLIDATED UTILITY REVENUE BONDS, SERIES 2020A AND SERIES 2020B (FEDERALLY TAXABLE), TO PROVIDE FUNDS FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CAPITAL IMPROVEMENTS TO THE CITY'S CONSOLIDATED UTILITY SYSTEM AND FINANCING CERTAIN COSTS OF THE CITY; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS; PROVIDING CERTAIN TERMS AND DETAILS OF SUCH BONDS, INCLUDING AUTHORIZING A NEGOTIATED SALE OF SAID BONDS AND THE EXECUTION AND DELIVERY OF A BOND PURCHASE CONTRACT WITH RESPECT THERETO UPON COMPLIANCE WITH CERTAIN PARAMETERS; APPOINTING THE PAYING AGENT AND REGISTRAR WITH RESPECT TO SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT WITH RESPECT THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE CERTIFICATE; AUTHORIZING THE PURCHASE OF BOND INSURANCE AND THE EXECUTION AND DELIVERY OF AN INSURANCE AGREEMENT WITH RESPECT THERETO AUTHORIZING THE EXECUTION AND PROVIDING AN EFFECTIVE DATE

**Action:** Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to approve Resolution No. 47-2020 authorizing the issuance of Consolidated Utility Revenue Bonds of the City and authorizing Bond Counsel to make any necessary updates to the resolution.

Mayor Triolo asked if there were any questions from the Commissioners or if City Manager Bornstein would give a brief overview.

City Manager Bornstein explained that the bonds would fuel the anticipated changes in the utilities as money was invested back into the electric utility for system hardening. He thanked the Commission for their leadership.

Mayor Triolo said that the City was making an investment in its utilities as they did with the roads. She stated that great strides had been made.

City Attorney Goddeau announced that there were some changes to the documentation since the agenda had been published. She suggested that authorization be given to Bond Counsel for any changes; authorization was added to the motion.

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None.

**CITY ATTORNEY'S REPORT:**

City Attorney Goddeau did not provide a report.

**CITY MANAGER'S REPORT:**

City Manager Bornstein did not provide a report.

**ADJOURNMENT:**

**Action:** Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to adjourn the meeting at 6:54 PM.

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None.

\_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

\_\_\_\_\_  
Deborah M. Andrea, CMC, City Clerk

Minutes Approved: November 17, 2020

**CITY OF LAKE WORTH BEACH  
LAKE WORTH BEACH, FLORIDA**

**PROCLAMATION**

- WHEREAS,** The history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and
- WHEREAS,** The contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today; and
- WHEREAS,** Their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and
- WHEREAS,** Native American Awareness Week began in 1976 and recognition was expanded by Congress and approved by President Bush in August 1990, designating the month of November as National American Indian Heritage Month.

**NOW, THEREFORE,** I, PAM TRIOLO, Mayor of the City of Lake Worth Beach, Florida by virtue of the authority vested in me, do hereby proclaim:

**NOVEMBER 2020**

as

**NATIONAL AMERICAN INDIAN HERITAGE MONTH**

and urge all citizens to observe this month with appropriate programs, ceremonies, and activities.

**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 17<sup>th</sup> day of November, 2020.

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Pam Triolo, Mayor

ATTEST:

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Deborah M. Andrea, City Clerk



**CITY OF LAKE WORTH BEACH  
LAKE WORTH BEACH, FLORIDA**

**PROCLAMATION**

- WHEREAS,** Retinoblastoma, the most common eye tumor in children, is a rare disease now occurring in 1 out of every 12,000 children; and
- WHEREAS,** Retinoblastoma is a disease that causes the growth of malignant tumors in the retinal cell layer of the eye; and
- WHEREAS,** Left untreated, Retinoblastoma is almost always fatal; therefore, early diagnosis and treatment are crucial in saving lives and preserving visual function; and
- WHEREAS,** Eye dilation examinations performed on infants at birth during the six to eight week and six to nine month well-baby exams are vital to saving the vision and lives of our children. Such infant eye dilation exams are very inexpensive; and
- WHEREAS,** The City of Lake Worth Beach supports eye pathology screening at birth and at each well-baby exam thereafter to assist in the detection of all ocular diseases in newborns, infants, and toddlers; and
- WHEREAS,** Vision and lives have been saved through awareness.

**NOW, THEREFORE,** I, Pam Triolo, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me, do hereby proclaim:

**NOVEMBER 2020**

as

**“JOEY BERGSMA RETINOBLASTOMA AWARENESS MONTH”**

and urge all citizens of the City of Lake Worth Beach, Florida to make themselves and their families aware of the risk of Retinoblastoma and the need for appropriate screening, early diagnosis, and referral.

**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 17th day of November, 2020.

\_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

\_\_\_\_\_  
Deborah M. Andrea, City Clerk

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Information Technology

**TITLE:**

First Amendment to the existing agreement with R2 Unified Technologies, LLC, for information technology consulting services

**SUMMARY:**

The First Amendment authorizes a one (1) year renewal with R2 Unified Technologies, LLC, to provide further services to the City for a not-to-exceed amount of \$50,000.

**BACKGROUND AND JUSTIFICATION:**

In 2020, the City's Information Technology Department entered into an agreement with R2 Unified Technologies, LLC. (R2) to provide information technology support and services to the City.

The purpose of this First Amendment is to renew the term for one (1) year and set for the terms and conditions for the provision of additional services by the consultant to the City. R2 Unified Technologies has submitted a proposal for services as requested by the City. The City's Information Technology Department has reviewed the proposal and concluded the scope of services and rates are acceptable. The not-to-exceed amount for the First Amendment is \$50,000. It is anticipated that further services may be needed; thus, City Commission approval is sought for this First Amendment.

**MOTION:**

Move to approve/disapprove First Amendment to the existing agreement with R2 Unified Technologies, LLC, for consulting services in an amount not to exceed \$50,000.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
First Amendment

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$50,000	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
<b>Net Fiscal Impact</b>	<b>\$50,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
510-1520-519.31-90	Professional Services / Other	N/A	\$227,450	\$170,590	\$50,000	\$120,590

**FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
FOR INFORMATION TECHNOLOGY SERVICES**

THIS FIRST AMENDMENT (“Amendment”) to the Professional Services Agreement for Information Technology Services is made as of \_\_\_\_\_, by and between the City of Lake Worth Beach, Florida, a municipal corporation of the State of Florida (“CITY”) and R2 Unified Technologies, LLC, a Florida limited liability company (“CONSULTANT”).

**WHEREAS**, on April 13, 2020 the CITY and Consultant entered into a Professional Services Agreement for Consultant to provide Information Technology Services to the CITY (the “Agreement”); and

**WHEREAS**, the initial term of the Agreement was from April 13, 2020 to November 1, 2020; and

**WHEREAS**, the Agreement had an initial one (1) year term with the option to extend the term by written agreement of the parties for two (2) additional one (1) year terms; and

**WHEREAS**, the CITY and the CONSULTANT wish to amend the Agreement to extend the terms of the Agreement for an additional one (1) year term with all other terms and conditions remaining the same: and

**WHEREAS**, the CITY’s City Manager may extend this Agreement annually under the same terms and conditions; and

**WHEREAS**, the CITY finds amending the Agreement as set forth herein is in the best interest of the CITY and serves a valid public purpose.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged by each party hereto, the CITY and the CONSULTANT agree to amend the Agreement, as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.

2. **Term of Agreement.** The parties agree that the term of the Agreement is hereby amended to run from November 2, 2020 to November 1, 2021 unless earlier terminated.

3. **Scope of Services.** The parties agree that the CONSULTANT shall perform all services as specified in the Agreement.

4. **Amount Not To Exceed.** The maximum not to exceed amount for this Agreement is \$50,000.00 (Fifty Thousand Dollars) annually. The CITY shall not reimburse the CONSULTANT for any additional costs incurred as a direct or indirect result of the CONSULTANT providing the services as specified in the Agreement to the CITY. If the CITY needs any additional services from the CONSULTANT that are not specified in the Agreement,

the CONSULTANT and CITY shall mutually agree in writing to such additional services and the cost for the same prior to such additional services being provided.

5. **Entire Agreement.** The CITY and the CONSULTANT agree that the Agreement and this Amendment set 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 Amendment may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. All other terms and conditions of the Agreement (except as amended herein) remain in full force and effect.

6. **Counterparts.** This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Either or both parties may sign this Amendment via facsimile, email or electronically and such signature is as valid as the original signature of such party.

**REST OF PAGE LEFT BLANK INTENTIONALLY  
SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment to the Professional Services Agreement for Information Technology Services on the day and year first above written.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

By: \_\_\_\_\_  
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

**R2 UNIFIED TECHNOLOGIES, LLC**

By: \_\_\_\_\_

Print Name: Jason Doherty

Title: Director of Sales

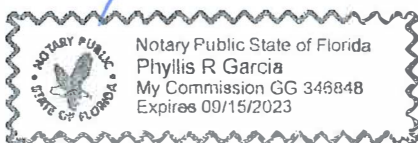
[Corporate Seal]

STATE OF FLORIDA )  
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of October 2020, by Jason Doherty, who was physically present, as Director of Sales (title), of **R2 Unified Technologies, LLC**, a Florida limited liability company, and who is personally known to me or who has produced the following drivers license as identification

Notary Public: \_\_\_\_\_

Print Name: Phyllis R Garcia  
My commission expires: 09/15/2023



# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Information Technology

**TITLE:**

Microsoft Enterprise Agreement Contract Renewal

**SUMMARY:**

The Contract Renewal provides for the renewal of a three (3) year enterprise agreement between Microsoft Corporation and the City of Lake Worth Beach for Microsoft Office Professional Plus, SQL software licensing, Visio Pro licensing, and Microsoft Azure Subscription for cloud backup.

**BACKGROUND AND JUSTIFICATION:**

The City is currently using Office for word processing, spreadsheets, databases, and general automation, Visio Pro used to conceptualize ideas visually, Exchange Server for email services, SQL for database server services and Microsoft Azure for cloud backup.

The renewal of the City's enterprise agreement guarantees the maintenance of the City's current licenses through software assurance which provides 24x7 support, the latest software releases, deployment planning services, enhanced technical capabilities, end-user and technical training, and home use. Furthermore, it will continue to help standardize IT and simplify license management.

Annual cost for the EAL of Office, Exchange Server, Visio Pro and SQL is \$39,061.98 excluding additional license purchases required to remain in compliance with the estimated additional cost of \$10,000. The cost for Microsoft Azure subscription is based on the amount of storage used by the City and, therefore, varies. The estimated Azure cost for FY 2020 is \$60,000, FY 2021 is \$65,000 and FY 2022 is \$70,000. The total purchase for a not-to-exceed amount of \$345,000 is being made through CDW-Government, supplier for Microsoft Software under master agreement 43230000-NASPO-16-ACS-SVAR as a sole source and exempt software renewal purchase.

**MOTION:**

I move to approve/disapprove the renewal of a three (3) year agreement with Microsoft Corporation for an amount not to exceed \$345,000.00.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Microsoft Enterprise Agreement FY2021-FY2023  
Microsoft Enterprise Agreement Amendment-M97 Azure  
Microsoft Enterprise Agreement Signature Form  
Microsoft Enterprise Enrollment (Indirect)  
Microsoft Enrollment Product Selection Form

CDWG Microsoft Enterprise Agreement Renewal Quote

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$110,000	\$115,000	\$120,000	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
<b>Net Fiscal Impact</b>	<b>\$110,000</b>	<b>\$115,000</b>	<b>\$120,000</b>	<b>0</b>	<b>0</b>
<b>No. of Addn'l Full-Time Employee Positions</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Project Number	FY20 Budget	Current Balance	Agenda Expenditure	Balance
510-1520-519.52-65	Operating Supplies/Computer Software	N/A	\$561,900.00	\$493,025.38	\$110,000.00	\$383,025.38



# Enterprise Agreement State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

This Microsoft Enterprise Agreement (“Agreement”) is entered into between the entities identified on the signature form.

**Effective date.** The effective date of this Agreement is the earliest effective date of any Enrollment entered into under this Agreement or the date Microsoft accepts this Agreement, whichever is earlier.

This Agreement consists of (1) these Agreement terms and conditions, including any amendments and the signature form and all attachments identified therein, (2) the Product Terms applicable to Products licensed under this Agreement, (3) the Online Services Terms, (4) any Affiliate Enrollment entered into under this Agreement, and (5) any order submitted under this Agreement.

**Please note:** Documents referenced in this Agreement but not attached to the signature form may be found at <http://www.microsoft.com/licensing/contracts> and are incorporated in this Agreement by reference, including the Product Terms and Use Rights. These documents may contain additional terms and conditions for Products licensed under this Agreement and may be changed from time to time. Customer should review such documents carefully, both at the time of signing and periodically thereafter, and fully understand all terms and conditions applicable to Products licensed.

## Terms and Conditions

### 1. Definitions.

“Affiliate” means

- a. with regard to Customer,
  - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
  - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer’s state and located within Customer’s state jurisdiction and geographic boundaries; and
  - (iii) any other entity in Customer’s state expressly authorized by the laws of Customer’s state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and
- b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft.

“Customer” means the legal entity that has entered into this Agreement with Microsoft.

“Customer Data” means all data, including all text, sound, software, image, or video files that are provided to Microsoft by, or on behalf of, an Enrolled Affiliate and its Affiliates through use of Online Services.

“day” means a calendar day, except for references that specify “business day”.

“Enrolled Affiliate” means an entity, either Customer or any one of Customer’s Affiliates that has entered into an Enrollment under this Agreement.

“Enrollment” means the document that an Enrolled Affiliate submits under this Agreement to place orders for Products.

“Enterprise” means an Enrolled Affiliate and the Affiliates for which it is responsible and chooses on its Enrollment to include in its enterprise.

“Fixes” means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

“License” means the right to download, install, access and use a Product. For certain Products, a License may be available on a fixed term or subscription basis (“Subscription License”). Licenses for Online Services will be considered Subscription Licenses.

“Microsoft” means the Microsoft Affiliate that has entered into this Agreement or an Enrollment and its Affiliates, as appropriate.

“Online Services” means the Microsoft-hosted services identified as Online Services in the Product Terms.

“Online Services Terms” means the additional terms that apply to Customer’s use of Online Services published on the Volume Licensing Site and updated from time to time.

“Product” means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions.

“Product Terms” means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Volume Licensing Site and is updated from time to time.

“SLA” means Service Level Agreement, which specifies the minimum service level for Online Services and is published on the Volume Licensing Site.

“Software” means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

“Software Assurance” is an offering by Microsoft that provides new version rights and other benefits for Products as further described in the Product Terms.

“Trade Secret” means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy.

“use” or “run” means to copy, install, use, access, display, run or otherwise interact.

“Use Rights” means, with respect to any licensing program, the use rights or terms of service for each Product and version published for that licensing program at the Volume Licensing Site and updated from time to time. The Use Rights include the Product-Specific License Terms, the License Model terms, the Universal License Terms, the Data Protection Terms, and the Other Legal Terms. The Use Rights supersede the terms of any end user license agreement (on-screen or otherwise) that accompanies a Product.

“Volume Licensing Site” means <http://www.microsoft.com/licensing/contracts> or a successor site.

## **2. How the Enterprise program works.**

- a. General.** The Enterprise program consists of the terms and conditions on which an Enrolled Affiliate may acquire Product Licenses. Under the Enterprise program, Customer and its Affiliates may order Licenses for Products by entering into Enrollments.
- b. Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments. Notwithstanding any other provision of this Agreement, only Enrolled Affiliates identified in an Enrollment will be responsible for complying with the terms

of that Enrollment, including the terms of this Agreement incorporated by reference in that Enrollment.

- c. **Licenses.** The types of Licenses available are (1) Licenses obtained under Software Assurance (L&SA), and (2) Subscription Licenses. These License types, as well as additional License Types, are further described in the Product List.

### **3. Licenses for Products.**

- a. **License Grant.** Microsoft grants the Enterprise a non-exclusive, worldwide and limited right to download, install and use software Products, and to access and use the Online Services, each in the quantity ordered under an Enrollment. The rights granted are subject to the terms of this Agreement, the Use Rights and the Product Terms. Microsoft reserves all rights not expressly granted in this Agreement.
- b. **Duration of Licenses.** Subscription Licenses and most Software Assurance rights are temporary and expire when the applicable Enrollment is terminated or expires, unless the Enrolled Affiliate exercises a buy-out option, which is available for some Subscription Licenses. Except as otherwise noted in the applicable Enrollment or Use Rights, all other Licenses become perpetual only when all payments for that License have been made and the initial Enrollment term has expired.
- c. **Applicable Use Rights.** The latest Use Rights as updated from time to time, apply to the use of all Products, subject to the following exceptions.
  - (i) **For products with metered usage-based pricing (e.g. metered Microsoft Azure Services)** Material adverse changes published after the start of a calendar month will apply beginning the following month.
  - (ii) **For Versioned Software.** Material adverse changes published after the date a Product is first licensed will not apply to any licenses for that Product acquired during the applicable Enrollment term unless the changes are published with the release of a new version and Customer chooses to update to that version. Renewal of Software Assurance does not change which Use Rights apply to perpetual Licenses acquired during a previous term or Enrollment
  - (iii) **For all other Products (e.g. Office 365 services).** Material adverse changes published after the start of the subscription term will not apply to any licenses for that Product acquired during the applicable Enrollment term.
  - (iv) **For use rights granted through Software Assurance.** Material adverse changes published after the date a Product is first licensed will not apply to any licenses for that Product during the applicable enrollment term unless the changes are published with the release of a new version and Customer chooses to update to that version.
- d. **Downgrade rights.** Enrolled Affiliate may use an earlier version of a Product other than Online Services than the version that is current on the effective date of the Enrollment. For Licenses acquired in the current Enrollment term, the Use Rights for the current version apply to the use of the earlier version. If the earlier Product version includes features that are not in the new version, then the Use Rights applicable to the earlier version apply with respect to those features.
- e. **New Version Rights under Software Assurance.** Enrolled Affiliate must order and maintain continuous Software Assurance coverage for each License ordered. With Software Assurance coverage, Enterprise automatically has the right to use a new version of a licensed Product as soon as it is released, even if Enrolled Affiliate chooses not to use the new version immediately.
  - (i) Except as otherwise permitted under an Enrollment, use of the new version will be subject to the new version's Use Rights.

- (ii) If the License for the earlier version of the Product is perpetual at the time the new version is released, the License for the new version will also be perpetual. Perpetual Licenses obtained through Software Assurance replace any perpetual Licenses for the earlier version.
- f. **License confirmation.** This Agreement, the applicable Enrollment, Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of perpetual Licenses, together with proof of payment, will be Enrolled Affiliate's evidence of all Licenses obtained under an Enrollment.
- g. **Reorganizations, consolidations and privatizations.** If the number of Licenses covered by an Enrollment changes by more than ten percent as a result of (1) a reorganization, consolidation or privatization of an entity or an operating division, (2) a privatization of an Affiliate or an operating division of Enrolled Affiliate or any of its Affiliates, or (3) a consolidation including a merger with a third party that has an existing agreement or Enrollment, Microsoft will work with Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this Agreement.

#### **4. Making copies of Products and re-imaging rights.**

- a. **General.** Enrolled Affiliate may make as many copies of Products, as it needs to distribute them within the Enterprise. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to make reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this Agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Product in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60-day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this Agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
  - (i) Separate Licenses must be acquired from the separate source for each Product that is re-imaged.
  - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace, and the number of copies or instances of the re-imaged Product permitted remains the same.
  - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., Upgrade or full License) re-imaged must be identical to the Product type licensed from the separate source.
  - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product Terms.

Re-imaged Products remain subject to the terms and use rights of the License acquired from the separate source. This subsection does not create or extend any Microsoft warranty or support obligation.

## 5. ***Transferring and reassigning Licenses.***

- a. **License transfers.** License transfers are not permitted, except that Customer or an Enrolled Affiliate may transfer only fully paid perpetual Licenses to:
  - (i) an Affiliate, or
  - (ii) a third party solely in connection with the transfer of hardware or employees to whom the Licenses have been assigned as part of (1) a privatization of an Affiliate or agency or of an operating division of Enrolled Affiliate or an Affiliate, (2) a reorganization, or (3) a consolidation.Upon such transfer, Customer or Enrolled Affiliate must uninstall and discontinue using the licensed Product and render any copies unusable.
- b. **Notification of License Transfer.** Enrolled Affiliate must notify Microsoft of a License transfer by completing a license transfer form, which can be obtained from <http://www.microsoft.com/licensing/contracts> and sending the completed form to Microsoft before the License transfer. No License transfer will be valid unless Enrolled Affiliate provides to the transferee, and the transferee accepts in writing, documents sufficient to enable the transferee to ascertain the scope, purpose and limitations of the rights granted by Microsoft under the licenses being transferred (including the applicable Use Rights, use and transfer restrictions, warranties and limitations of liability). Any License transfer not made in compliance with this section will be void.
- c. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses and Software Assurance may be reassigned within the Enterprise as described in the Use Rights.

## 6. ***Term and termination.***

- a. **Term.** The term of this Agreement will remain in effect unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this Agreement, without cause, upon 60 days' written notice. In the event of termination, new Enrollments will not be accepted, but any existing Enrollment will continue for the term of such Enrollment and will continue to be governed by this Agreement.
- c. **Mid-term termination for non-appropriation of Funds.** Enrolled Affiliate may terminate this Agreement or an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Agreement or Enrollment are not appropriated or allocated by the Enrolled Affiliate for such purpose.
- d. **Termination for cause.** Without limiting any other remedies it may have, either party may terminate an Enrollment if the other party materially breaches its obligations under this Agreement, including any obligation to submit orders or pay invoices. Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days' notice of its intent to terminate and an opportunity to cure the breach.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft also will give Customer a copy of that notice and Customer agrees to help resolve the breach. If the breach affects other Enrollments and cannot be resolved between Microsoft and Enrolled Affiliate, together with Customer's help, within a reasonable period of time, Microsoft may terminate this Agreement and all Enrollments under it. If an Enrolled Affiliate ceases to be Customer's Affiliate, it must promptly notify Microsoft, and Microsoft may terminate the former Affiliate's Enrollment. If an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or if Microsoft terminates an Enrollment because Enrolled Affiliate ceases to be Customer's Affiliate, then Enrolled Affiliate will have the early termination rights described in the Enrollment.

- e. Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminates an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
- (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or
  - (ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:
    - 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
    - 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.
  - (iii) In the case of early termination under subscription Enrollments, Enrolled Affiliate will have the following options:
    - 1) For eligible Products, Enrolled Affiliate may obtain perpetual Licenses as described in the section of the Enrollment titled “Buy-out option,” provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.
    - 2) In the event of a breach by Microsoft, if Customer chooses not to exercise a buy-out option, Microsoft will issue Enrolled Affiliate a credit for any amount paid in advance for Subscription Licenses that the Enterprise will not be able to use to do the termination of the Enrollment.
- Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.
- f. Effect of termination or expiration.** When an Enrollment expires or is terminated,
- (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments for any order of any kind remain due and payable. Except as provided in the subsection titled “Early termination,” all unpaid payments for Licenses immediately become due and payable.
  - (ii) Enrolled Affiliate’s right to Software Assurance benefits under this Agreement ends if it does not renew Software Assurance.
- g. Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating in the jurisdiction; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may conflict with any such requirement or obligation.
- h. Program updates.** Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at the time of an Enrollment renewal.

## 7. **Use, ownership, rights, and restrictions.**

- a. **Products.** Unless otherwise specified in a supplemental agreement, use of any Product is governed by the Use Rights specific to each Product and version and by the terms of the applicable supplemental agreement.
- b. **Fixes.** Each Fix is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use rights Microsoft provides with the Fix will apply.
- c. **Non-Microsoft software and technology.** Enrolled Affiliate is solely responsible for any non-Microsoft software or technology that it installs or uses with the Products or Fixes.
- d. **Restrictions.** Enrolled Affiliate must not (and is not licensed to) (1) reverse engineer, decompile, or disassemble any Product or Fix; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer must not (and is not licensed to) (1) separate and run parts of a Product or Fix on more than one device, upgrade or downgrade parts of a Product or Fix at different times, or transfer parts of a Product or Fix separately; or (2) distribute, sublicense, rent, lease, lend any Products or Fixes, in whole or in part, or use them to offer hosting services to a third party.
- e. **Reservation of rights.** Products and Fixes are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

## 8. **Confidentiality.**

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including Customer Data. Confidential Information does not include information that (1) becomes publicly available without a breach of this agreement, (2) the receiving party received lawfully from another source without a confidentiality obligation, (3) is independently developed, or (4) is a comment or suggestion volunteered about the other party's business, products or services.

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose that Confidential Information to third parties, except to its employees, Affiliates, contractors, advisors and consultants ("Representatives") and then only on a need-to-know basis under nondisclosure obligations at least as protective as this agreement. Each party remains responsible for the use of the Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

A party may disclose the other's Confidential Information if required by law; but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

These obligations apply (1) for Customer Data until it is deleted from the Online Services, and (2) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

## 9. **Privacy and compliance with laws.**

- a. Enrolled Affiliate consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this Agreement. Enrolled Affiliate will obtain all required consents from third parties under applicable privacy and data protection law before providing personal information to Microsoft.
- b. Personal information collected under this agreement (1) may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities and (2) will be subject to the privacy terms specified in the Use Rights. Microsoft will abide by the requirements of European Economic Area and Swiss data protection law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.
- c. **U.S. export.** Products and Fixes are subject to U.S. export jurisdiction. Enrolled Affiliate must comply with all applicable international and national laws, including the U.S. Export Administration Regulations and International Traffic in Arms Regulations, and end-user, end use and destination restrictions issued by U.S. and other governments related to Microsoft products, services and technologies.

## 10. **Warranties.**

### a. **Limited warranties and remedies.**

- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date the Enterprise is first licensed for that version. If it does not and the Enterprise notifies Microsoft within the warranty term, then Microsoft will, at its option (1) return the price Enrolled Affiliate paid for the Software license, or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during the Enterprise's use. The Enterprise's remedies for breach of this warranty are in the SLA.

The remedies above are the Enterprise's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse, or use in a manner inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, pre-release, or beta products, or to components of Products that Enrolled Affiliate is permitted to redistribute.
- c. **Disclaimer.** **Except for the limited warranties above, Microsoft provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.**

## 11. **Defense of third party claims.**

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, authority, and must take all reasonable action to mitigate its losses arising from the third-party claim. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Enrolled Affiliate against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope



of the license granted (unmodified from the form provided by Microsoft and not combined with anything else) misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, at its option, either (1) modify or replace the Product or Fix with a functional equivalent; or (2) terminate Enrolled Affiliate's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Enrolled Affiliate's continued use of a Product or Fix after being notified to stop due to a third-party claim.

- b. **By Enrolled Affiliate.** To the extent permitted by applicable law, Enrolled Affiliate will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or non-Microsoft software hosted in an Online Service by Microsoft on Enrolled Affiliate's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Enrolled Affiliate's use of any Product or Fix, alone or in combination with anything else, violates the law or damages a third party.

## **12. Limitation of liability.**

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Enrolled Affiliate paid for the applicable Products during the term of this Agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Enrolled Affiliate for any incident giving rise to a claim will not exceed the amount Enrolled Affiliate paid for the Online Service during the 12 months before the incident.
- b. **Free Products and Distributable Code.** For Products provided free of charge and code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or for loss of use, loss of business information, loss of revenue, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for all liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

## **13. Verifying compliance.**

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to all use and distribution of Products by Enrolled Affiliate and its Affiliates. Microsoft has the right, at its expense, to the extent permitted by applicable law, to verify such compliance with the Product's license terms. Microsoft will engage an independent auditor and Enrolled Affiliate must provide the independent auditor with any information the auditor reasonably requests in furtherance of the verification, including visible access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. Enrolled Affiliate must provide, without undue delay, the foregoing information and access upon request of the independent auditor.
- b. **Verification process.** Microsoft will notify Enrolled Affiliate at least 30 calendar days in advance of its intent to verify Enrolled Affiliate's compliance with the license terms for the Products Enrolled Affiliate use or distribute. The independent auditor is subject to a confidentiality obligation sufficient to cover the auditor's engagement with Enrolled Affiliate for the verification process. Enrolled Affiliate may, at its discretion, also require a mutually agreeable confidentiality agreement with the independent auditor for access to premises, data

and systems. Such confidentiality agreement between Enrolled Affiliate and auditor must be completed within fourteen (14) days of such request, and shall not restrict the ability for the independent auditor to accurately verify compliance and share the resulting information with Microsoft. Any information collected will be used solely for purposes of determining Enrolled Affiliate's compliance. This verification will take place during normal business hours and the auditor will make best efforts not to interfere with Enrolled Affiliate's operations during the course of the audit.

- c. **Remedies for non-compliance.** If verification reveals any use of Products without applicable license rights, then within 30 days Enrolled Affiliate must order sufficient licenses to cover its use, and, if such use or distribution is determined to be in excess of Enrolled Affiliate's existing licenses by 5% or more of the audited environment(s) in aggregate, then Enrolled Affiliate must reimburse Microsoft for the costs Microsoft incurred in obtaining the verification and acquire the necessary additional licenses. Such licenses will be obtained at 125% of the price, based on the then-current price list. The use percentage is based on the total number of Products used without applicable license rights (as described above) compared to the total Product use. If it is verified that Product use is sufficiently licensed, Microsoft will not require the Enterprise to engage in another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce its rights under these Additional Use Rights and Restrictions or to protect its intellectual property by any other legal or contractual means.

#### **14. *Miscellaneous.***

- a. **Use of contractors.** Microsoft may use contractors to perform services but will be responsible for their performance subject to the terms of this Agreement.
- b. **Microsoft as independent contractor.** The parties are independent contractors. Enrolled Affiliate and Microsoft each may develop products independently without using the other's Confidential Information.
- c. **Notices.** Notices to Microsoft must be sent to the address on the signature form. Notices must be in writing and will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery. Microsoft may provide information to Enrolled Affiliate about upcoming ordering deadlines, services, and subscription information in electronic form, including by email to contacts provided by Enrolled Affiliate. Emails will be treated as delivered on the transmission date.
- d. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products.
- e. **Amendments.** Any amendment to this Agreement must be executed by both parties, except that Microsoft may change the Product Terms and the Use Rights from time to time in accordance with the terms of this Agreement. Any conflicting terms and conditions contained in an Enrolled Affiliate's purchase order will not apply. Microsoft may require Customer to sign a new agreement or an amendment before an Enrolled Affiliate enters into an Enrollment under this agreement.
- f. **Assignment.** Either party may assign this Agreement to an Affiliate but must notify the other party in writing of the assignment. Any other proposed assignment must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned agreement. Any attempted assignment without required approval will be void.
- g. **Applicable law; dispute resolution.** The terms of this Agreement will be governed by the laws of Customer's state, without giving effect to its conflict of laws. Disputes relating to this Agreement will be subject to applicable dispute resolution laws of Customer's state.

- h. Severability.** If any provision in this agreement is held to be unenforceable, the balance of the agreement will remain in full force and effect.
- i. Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- j. No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights.
- k. Survival.** All provisions survive termination or expiration of this Agreement except those requiring performance only during the term of the Agreement.
- l. Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this Agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.
- m. Order of precedence.** In the case of a conflict between any documents in this Agreement that is not expressly resolved in those documents, their terms will control in the following order from highest to lowest priority: (1) this Enterprise Agreement, (2) any Enrollment, (3) the Product Terms, (4) the Online Services Terms, (5) orders submitted under this Agreement, and (6) any other documents in this Agreement. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.
- n. Free Products.** It is Microsoft's intent that the terms of this Agreement and the Use Rights be in compliance with all applicable federal law and regulations. Any free Product provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate and is not provided for use by or personal benefit of any specific government employee.
- o. Voluntary Product Accessibility Templates.** Microsoft supports the government's obligation to provide accessible technologies to its citizens with disabilities as required by Section 508 of the Rehabilitation Act of 1973, and its state law counterparts. The Voluntary Product Accessibility Templates ("VPATs") for the Microsoft technologies used in providing the Online Services can be found at Microsoft's VPAT page. Further information regarding Microsoft's commitment to accessibility can be found at <http://www.microsoft.com/enable>.
- p. Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- q. Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this Agreement and the Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this Agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this Agreement for unlicensed use.

## Amendment to Contract Documents

Enrollment Number

5-0000005886677

This amendment (“Amendment”) is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

## Enterprise Enrollment (Indirect) Invoice for Quoted Price Amendment ID M97

The price quoted to Enrolled Affiliate’s Reseller is a fixed price based on an estimated order submission date. Microsoft will invoice Enrolled Affiliate’s Reseller based on this fixed price quote. If this order is submitted later than the estimated order submission date, Enrolled Affiliate’s Reseller will be charged for net new Monthly Subscriptions (including Online Services) for the period during which these services were not provided. Pricing to Enrolled Affiliate is agreed between Enrolled Affiliate and Enrolled Affiliate’s Reseller.

SKU Number	SKU Description	Existing Quantity	Incremental quantities
J5U-00004	AzureprepaymentG ShrdSvr ALNG SubsVL MVL Commit Provision	1	

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

**This Amendment must be attached to a signature form to be valid.**

**Microsoft Internal Use Only:**

(M97)EnrAmend(Ind)(InvoiceforQuotedPrice)(WW)(ENG)(Dec2019)(IU) .docx		M97	B
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## Program Signature Form

MBA/MBSA number

E7231140
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5-0000005886677
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Agreement number

E7231140

**Note:** Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Enterprise Agreement	X20-10210
Enterprise Enrollment (Indirect)	X20-10635
Product Selection Form	0994363.005 (New)
Enterprise Amendment	M97 (New)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
<b>Name of Entity (must be legal entity name)*</b> City of Lake Worth <b>Signature*</b> _____ <b>Printed First and Last Name*</b> _____ <b>Printed Title</b> _____ <b>Signature Date*</b> _____
<b>Tax ID</b> _____

*\* indicates required field*

Microsoft Affiliate
<b>Microsoft Corporation</b>
<b>Signature</b> _____ <b>Printed First and Last Name</b> _____ <b>Printed Title</b> _____ <b>Signature Date</b> _____ (date Microsoft Affiliate countersigns)
<b>Agreement Effective Date</b> _____ (may be different than Microsoft's signature date)

**Optional 2<sup>nd</sup> Customer signature or Outsourcer signature (if applicable)**

<b>Customer</b>
<b>Name of Entity (must be legal entity name)*</b>
<b>Signature*</b> _____
<b>Printed First and Last Name*</b>
<b>Printed Title</b>
<b>Signature Date*</b>

*\* indicates required field*

<b>Outsourcer</b>
<b>Name of Entity (must be legal entity name)*</b>
<b>Signature*</b> _____
<b>Printed First and Last Name*</b>
<b>Printed Title</b>
<b>Signature Date*</b>

*\* indicates required field*

If Customer requires additional contacts or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

**Microsoft Corporation**  
Dept. 551, Volume Licensing  
6880 Sierra Center Parkway  
Reno, Nevada 89511  
USA

## Enterprise Enrollment

## State and Local

Enterprise Enrollment number <i>(Microsoft to complete)</i>	77495388	Framework ID <i>(if applicable)</i>	
Previous Enrollment number <i>(Reseller to complete)</i>	6014252		

**This Enrollment must be attached to a signature form to be valid.**

This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrolled Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) these terms and conditions, (2) the terms of the Enterprise Agreement identified on the signature form, (3) the Product Selection Form, (4) the Product Terms, (5) the Online Services Terms, (6) any Supplemental Contact Information Form, Previous Agreement/Enrollment form, and other forms that may be required, and (7) any order submitted under this Enrollment. This Enrollment may only be entered into under a 2011 or later Enterprise Agreement. By entering into this Enrollment, Enrolled Affiliate agrees to be bound by the terms and conditions of the Enterprise Agreement.

All terms used but not defined are located at <http://www.microsoft.com/licensing/contracts>. In the event of any conflict the terms of this Agreement control.

**Effective date.** If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or agreements, then the effective date will be the day after the first prior Enrollment or agreement expires or terminates. If this Enrollment is renewed, the effective date of the renewal term will be the day after the Expiration Date of the initial term. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. Any reference to “anniversary date” refers to the anniversary of the effective date of the applicable initial or renewal term for each year this Enrollment is in effect.

**Term.** The initial term of this Enrollment will expire on the last day of the month, 36 full calendar months from the effective date of the initial term. The renewal term will expire 36 full calendar months after the effective date of the renewal term.

## Terms and Conditions

### 1. Definitions.

Terms used but not defined in this Enrollment will have the definition in the Enterprise Agreement. The following definitions are used in this Enrollment:

“Additional Product” means any Product identified as such in the Product Terms and chosen by Enrolled Affiliate under this Enrollment.

“Community” means the community consisting of one or more of the following: (1) a Government, (2) an Enrolled Affiliate using eligible Government Community Cloud Services to provide solutions to a Government or a qualified member of the Community, or (3) a Customer with Customer Data that is subject to Government regulations for which Customer determines and Microsoft agrees that the use of Government Community Cloud Services is appropriate to meet Customer’s regulatory requirements.



Membership in the Community is ultimately at Microsoft's discretion, which may vary by Government Community Cloud Service.

"Enterprise Online Service" means any Online Service designated as an Enterprise Online Service in the Product Terms and chosen by Enrolled Affiliate under this Enrollment. Enterprise Online Services are treated as Online Services, except as noted.

"Enterprise Product" means any Desktop Platform Product that Microsoft designates as an Enterprise Product in the Product Terms and chosen by Enrolled Affiliate under this Enrollment. Enterprise Products must be licensed for all Qualified Devices and Qualified Users on an Enterprise-wide basis under this program.

"Expiration Date" means the date upon which the Enrollment expires.

"Federal Agency" means a bureau, office, agency, department or other entity of the United States Government.

"Government" means a Federal Agency, State/Local Entity, or Tribal Entity acting in its governmental capacity.

"Government Community Cloud Services" means Microsoft Online Services that are provisioned in Microsoft's multi-tenant data centers for exclusive use by or for the Community and offered in accordance with the National Institute of Standards and Technology (NIST) Special Publication 800-145. Microsoft Online Services that are Government Community Cloud Services are designated as such in the Use Rights and Product Terms.

"Industry Device" (also known as line of business device) means any device that: (1) is not useable in its deployed configuration as a general purpose personal computing device (such as a personal computer), a multi-function server, or a commercially viable substitute for one of these systems; and (2) only employs an industry or task-specific software program (e.g. a computer-aided design program used by an architect or a point of sale program) ("Industry Program"). The device may include features and functions derived from Microsoft software or third-party software. If the device performs desktop functions (such as email, word processing, spreadsheets, database, network or Internet browsing, or scheduling, or personal finance), then the desktop functions: (1) may only be used for the purpose of supporting the Industry Program functionality; and (2) must be technically integrated with the Industry Program or employ technically enforced policies or architecture to operate only when used with the Industry Program functionality.

"Managed Device" means any device on which any Affiliate in the Enterprise directly or indirectly controls one or more operating system environments. Examples of Managed Devices can be found in the Product Terms.

"Qualified Device" means any device that is used by or for the benefit of Enrolled Affiliate's Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Pro locally (in a physical or virtual operating system environment), or (2) a device used to access a virtual desktop infrastructure ("VDI"). Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, (2) an Industry Device, or (3) not a Managed Device. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) that is used by or for the benefit of the Enrolled Affiliate's Enterprise as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

"Qualified User" means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product Terms.

"Reseller" means an entity authorized by Microsoft to resell Licenses under this program and engaged by an Enrolled Affiliate to provide pre- and post-transaction assistance related to this agreement;

"Reserved License" means for an Online Service identified as eligible for true-ups in the Product Terms, the License reserved by Enrolled Affiliate prior to use and for which Microsoft will make the Online Service available for activation.

"State/Local Entity" means (1) any agency of a state or local government in the United States, or (2) any United States county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state's jurisdiction and geographic boundaries.

"Tribal Entity" means a federally recognized tribal entity performing tribal governmental functions and eligible for funding and services from the U.S. Department of Interior by virtue of its status as an Indian tribe.

"Use Rights" means, with respect to any licensing program, the use rights or terms of service for each Product and version published for that licensing program at the Volume Licensing Site and updated from time to time. The Use Rights include the Product-Specific License Terms, the License Model terms, the Universal License Terms, the Data Protection Terms, and the Other Legal Terms. The Use Rights supersede the terms of any end user license agreement (on-screen or otherwise) that accompanies a Product.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

## **2. Order requirements.**

- a. Minimum order requirements.** Enrolled Affiliate's Enterprise must have a minimum of 250 Qualified Users or Qualified Devices. The initial order must include at least 250 Licenses for Enterprise Products or Enterprise Online Services.
  - (i) Enterprise commitment.** Enrolled Affiliate must order enough Licenses to cover all Qualified Users or Qualified Devices, depending on the License Type, with one or more Enterprise Products or a mix of Enterprise Products and the corresponding Enterprise Online Services (as long as all Qualified Devices not covered by a License are only used by users covered with a user License).
  - (ii) Enterprise Online Services only.** If no Enterprise Product is ordered, then Enrolled Affiliate need only maintain at least 250 Subscription Licenses for Enterprise Online Services.
- b. Additional Products.** Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products.
- c. Use Rights for Enterprise Products.** For Enterprise Products, if a new Product version has more restrictive use rights than the version that is current at the start of the applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to Enrolled Affiliate's use of that Product during that term.
- d. Country of usage.** Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.
- e. Resellers.** Enrolled Affiliate must choose and maintain a Reseller authorized in the United States. Enrolled Affiliate will acquire its Licenses through its chosen Reseller. Orders must be submitted to the Reseller who will transmit the order to Microsoft. The Reseller and Enrolled Affiliate determine pricing and payment terms as between them, and Microsoft will invoice the Reseller based on those terms. Throughout this Agreement the term "price" refers to reference price. Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.
- f. Adding Products.**
  - (i) Adding new Products not previously ordered.** New Enterprise Products or Enterprise Online Services may be added at any time by contacting a Microsoft Account Manager or Reseller. New Additional Products, other than Online Services, may be used if an order is placed in the month the Product is first used. For Additional Products that are Online Services, an initial order for the Online Service is required prior to use.

- (ii) Adding Licenses for previously ordered Products.** Additional Licenses for previously ordered Products other than Online Services may be added at any time but must be included in the next true-up order. Additional Licenses for Online Services must be ordered prior to use, unless the Online Services are (1) identified as eligible for true-up in the Product Terms or (2) included as part of other Licenses.
- g. True-up requirements.** Enrolled Affiliate must submit an annual true-up order that accounts for any changes since the initial order or last order. If there are no changes, then an update statement must be submitted instead of a true-up order.
- (i) Enterprise Products.** For Enterprise Products, Enrolled Affiliate must determine the number of Qualified Devices and Qualified Users (if ordering user-based Licenses) at the time the true-up order is placed and must order additional Licenses for all Qualified Devices and Qualified Users that are not already covered by existing Licenses, including any Enterprise Online Services.
- (ii) Additional Products.** For Additional Products that have been previously ordered under this Enrollment, Enrolled Affiliate must determine the maximum number of Additional Products used since the latter of the initial order, the last true-up order, or the prior anniversary date and submit a true-up order that accounts for any increase.
- (iii) Online Services.** For Online Services identified as eligible for true-up in the Product Terms, Enrolled Affiliate may place a reservation order for the additional Licenses prior to use and payment may be deferred until the next true-up order. Microsoft will provide a report of Reserved Licenses ordered but not yet invoiced to Enrolled Affiliate and its Reseller. Reserved Licenses will be invoiced retrospectively to the month in which they were ordered.
- (iv) Subscription License reductions.** Enrolled Affiliate may reduce the quantity of Subscription Licenses at the Enrollment anniversary date on a prospective basis if permitted in the Product Terms, as follows:
- 1)** For Subscription Licenses that are part of an Enterprise-wide purchase, Licenses may be reduced if the total quantity of Licenses and Software Assurance for an applicable group meets or exceeds the quantity of Qualified Devices and Qualified Users (if ordering user-based Licenses) identified on the Product Selection Form, and includes any additional Qualified Devices and Qualified Users added in any prior true-up orders. Step-up Licenses do not count towards this total count.
  - 2)** For Enterprise Online Services that are not a part of an Enterprise-wide purchase, Licenses can be reduced as long as the initial order minimum requirements are maintained.
  - 3)** For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate's use of the applicable Subscription License will be cancelled.
- Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.
- (v) Update statement.** An update statement must be submitted instead of a true-up order if, since the initial order or last true-up order, Enrolled Affiliate's Enterprise: (1) has not changed the number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) has not increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate's authorized representative.
- (vi) True-up order period.** The true-up order or update statement must be received by Microsoft between 60 and 30 days prior to each Enrollment anniversary date. The third-year true-up order or update statement is due within 30 days prior to the Expiration Date, and any license reservations within this 30 day period will not be accepted. Enrolled Affiliate

may submit true-up orders more often to account for increases in Product usage, but an annual true-up order or update statement must still be submitted during the annual order period.

- (vii) **Late true-up order.** If the true-up order or update statement is not received when due, Microsoft will invoice Reseller for all Reserved Licenses not previously invoiced and Subscription License reductions cannot be reported until the following Enrollment anniversary date (or at Enrollment renewal, as applicable).
- h. **Step-up Licenses.** For Licenses eligible for a step-up under this Enrollment, Enrolled Affiliate may step-up to a higher edition or suite as follows:
  - (i) For step-up Licenses included on an initial order, Enrolled Affiliate may order according to the true-up process.
  - (ii) If step-up Licenses are not included on an initial order, Enrolled Affiliate may step-up initially by following the process described in the Section titled "Adding new Products not previously ordered," then for additional step-up Licenses, by following the true-up order process.
- i. **Clerical errors.** Microsoft may correct clerical errors in this Enrollment, and any documents submitted with or under this Enrollment, by providing notice by email and a reasonable opportunity for Enrolled Affiliate to object to the correction. Clerical errors include minor mistakes, unintentional additions and omissions. This provision does not apply to material terms, such as the identity, quantity or price of a Product ordered.
- j. **Verifying compliance.** Microsoft may, in its discretion and at its expense, verify compliance with this Enrollment as set forth in the Enterprise Agreement.

### **3. Pricing.**

- a. **Price Levels.** For both the initial and any renewal term Enrolled Affiliate's Price Level for all Products ordered under this Enrollment will be Level "D" throughout the term of the Enrollment.
- b. **Setting Prices.** Enrolled Affiliate's prices for each Product or Service will be established by its Reseller. Except for Online Services designated in the Product Terms as being exempt from fixed pricing, As long as Enrolled Affiliate continues to qualify for the same price level, Microsoft's prices for Resellers for each Product or Service ordered will be fixed throughout the applicable initial or renewal Enrollment term. Microsoft's prices to Resellers are reestablished at the beginning of the renewal term.

### **4. Payment terms.**

For the initial or renewal order, Microsoft will invoice Enrolled Affiliate's Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and remaining installments will be invoiced on each subsequent Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

### **5. End of Enrollment term and termination.**

- a. **General.** At the Expiration Date, Enrolled Affiliate must immediately order and pay for Licenses for Products it has used but has not previously submitted an order, except as otherwise provided in this Enrollment.
- b. **Renewal option.** At the Expiration Date of the initial term, Enrolled Affiliate can renew Products by renewing this Enrollment for one additional 36-month term or by signing a new Enrollment. Microsoft must receive a Renewal Form, Product Selection Form, and renewal order prior to or at the Expiration Date. Microsoft will not unreasonably reject any renewal.

Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at renewal.

**c. If Enrolled Affiliate elects not to renew.**

**(i) Software Assurance.** If Enrolled Affiliate elects not to renew Software Assurance for any Product under its Enrollment, then Enrolled Affiliate will not be permitted to order Software Assurance later without first acquiring a new License with Software Assurance.

**(ii) Online Services eligible for an Extended Term.** For Online Services identified as eligible for an Extended Term in the Product Terms, the following options are available at the end of the Enrollment initial or renewal term.

**1) Extended Term.** Licenses for Online Services will automatically expire in accordance with the terms of the Enrollment. An extended term feature that allows Online Services to continue month-to-month (“Extended Term”) is available. During the Extended Term, Online Services will be invoiced monthly at the then-current published price as of the Expiration Date plus a 3% administrative fee for up to one year. If Enrolled Affiliate wants an Extended Term, Enrolled Affiliate must submit a request to Microsoft at least 30 days prior to the Expiration Date.

**2) Cancellation during Extended Term.** At any time during the first year of the Extended Term, Enrolled Affiliate may terminate the Extended Term by submitting a notice of cancellation to Microsoft for each Online Service. Thereafter, either party may terminate the Extended Term by providing the other with a notice of cancellation for each Online Service. Cancellation will be effective at the end of the month following 30 days after Microsoft has received or issued the notice.

**(iii) Subscription Licenses and Online Services not eligible for an Extended Term.** If Enrolled Affiliate elects not to renew, the Licenses will be cancelled and will terminate as of the Expiration Date. Any associated media must be uninstalled and destroyed and Enrolled Affiliate’s Enterprise must discontinue use. Microsoft may request written certification to verify compliance.

**d. Termination for cause.** Any termination for cause of this Enrollment will be subject to the “Termination for cause” section of the Agreement. In addition, it shall be a breach of this Enrollment if Enrolled Affiliate or any Affiliate in the Enterprise that uses Government Community Cloud Services fails to meet and maintain the conditions of membership in the definition of Community.

**e. Early termination.** Any early termination of this Enrollment will be subject to the “Early Termination” Section of the Enterprise Agreement.

For Subscription Licenses, in the event of a breach by Microsoft, or if Microsoft terminates an Online Service for regulatory reasons, Microsoft will issue Reseller a credit for any amount paid in advance for the period after termination.

## **6. Government Community Cloud.**

**a. Community requirements.** If Enrolled Affiliate purchases Government Community Cloud Services, Enrolled Affiliate certifies that it is a member of the Community and agrees to use Government Community Cloud Services solely in its capacity as a member of the Community and, for eligible Government Community Cloud Services, for the benefit of end users that are members of the Community. Use of Government Community Cloud Services by an entity that is not a member of the Community or to provide services to non-Community members is strictly prohibited and could result in termination of Enrolled Affiliate’s license(s) for Government Community Cloud Services without notice. Enrolled Affiliate acknowledges that only Community members may use Government Community Cloud Services.

**b.** All terms and conditions applicable to non-Government Community Cloud Services also apply

to their corresponding Government Community Cloud Services, except as otherwise noted in the Use Rights, Product Terms, and this Enrollment.

- c. Enrolled Affiliate may not deploy or use Government Community Cloud Services and corresponding non-Government Community Cloud Services in the same domain.
- d. **Use Rights for Government Community Cloud Services.** For Government Community Cloud Services, notwithstanding anything to the contrary in the Use Rights:
  - (i) Government Community Cloud Services will be offered only within the United States.
  - (ii) Additional European Terms, as set forth in the Use Rights, will not apply.
  - (iii) References to geographic areas in the Use Rights with respect to the location of Customer Data at rest, as set forth in the Use Rights, refer only to the United States.

DISCLAIMER

## **Enrollment Details**

### **1. Enrolled Affiliate's Enterprise.**

- a. Identify which Agency Affiliates are included in the Enterprise. (Required) Enrolled Affiliate's Enterprise must consist of entire offices, bureaus, agencies, departments or other entities of Enrolled Affiliate, not partial offices, bureaus, agencies, or departments, or other partial entities. Check only one box in this section. If no boxes are checked, Microsoft will deem the Enterprise to include the Enrolled Affiliate only. If more than one box is checked, Microsoft will deem the Enterprise to include the largest number of Affiliates:
- Enrolled Affiliate only
  - Enrolled Affiliate and all Affiliates
  - Enrolled Affiliate and the following Affiliate(s) (Only identify specific affiliates to be included if fewer than all Affiliates are to be included in the Enterprise):
  
  - Enrolled Affiliate and all Affiliates, with following Affiliate(s) excluded:
- b. Please indicate whether the Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment: Include future Affiliates

### **2. Contact information.**

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (\*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <https://www.microsoft.com/licensing/servicecenter>.

- a. **Primary contact.** This contact is the primary contact for the Enrollment from within Enrolled Affiliate's Enterprise. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others. The primary contact will be the default contact for all purposes unless separate contacts are identified for specific purposes

**Name of entity (must be legal entity name)\*** City of Lake Worth

**Contact name\* First** Nelly **Last** Peralta

**Contact email address\*** nperalta@lakeworth.org

**Street address\*** 7 North Dixie Hwy

**City\*** Lake Worth

**State\*** FL

**Postal code\*** 33460-3342-

(Please provide the zip + 4, e.g. xxxxx-xxxx)

**Country\*** United States

**Phone\*** 561-533-7342

**Tax ID**

*\* indicates required fields*

- b. **Notices contact and Online Administrator.** This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may grant online access to others, and (3) is authorized to order Reserved Licenses for eligible Online Services, including adding or reassigning Licenses and stepping-up prior to a true-up order.

Same as primary contact (default if no information is provided below, even if the box is not checked).

**Contact name\*** First Nelly Last Peralta  
**Contact email address\*** nperalta@lakeworth.org  
**Street address\*** 7 North Dixie Hwy  
**City\*** Lake Worth  
**State\*** FL  
**Postal code\*** 33460-3342-  
(Please provide the zip + 4, e.g. xxxxx-xxxx)  
**Country\*** United States  
**Phone\*** 561-533-7342

**Language preference.** Choose the language for notices. English

This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Customer and its Affiliates.

*\* indicates required fields*

- c. **Online Services Manager.** This contact is authorized to manage the Online Services ordered under the Enrollment and (for applicable Online Services) to add or reassign Licenses and step-up prior to a true-up order.

Same as notices contact and Online Administrator (default if no information is provided below, even if box is not checked)

**Contact name\*:** First Last  
**Contact email address\***  
**Phone\***

This contact is from a third party organization (not the entity). Warning: This contact receives personally identifiable information of the entity.

*\* indicates required fields*

- d. **Reseller information.** Reseller contact for this Enrollment is:

**Reseller company name\*** CDW Logistics, Inc.  
**Street address (PO boxes will not be accepted)\*** 200 N. Milwaukee Avenue  
**City\*** Vernon Hills  
**State\*** IL  
**Postal code\*** 60061  
**Country\*** United States  
**Contact name\*** Brent Cameron  
**Phone\*** 847-465-6000  
**Contact email address\*** brencam@cdw.com  
*\* indicates required fields*

By signing below, the Reseller identified above confirms that all information provided in this Enrollment is correct.

<b>Signature*</b> _____ <b>Printed name*</b> <b>Printed title*</b> <b>Date*</b>
--

*\* indicates required fields*

**Changing a Reseller.** If Microsoft or the Reseller chooses to discontinue doing business with each other, Enrolled Affiliate must choose a replacement Reseller. If Enrolled Affiliate or the Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the



other party using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

- e. If Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. *Otherwise, the notices contact and Online Administrator remains the default.*

- (i) Additional notices contact
- (ii) Software Assurance manager
- (iii) Subscriptions manager
- (iv) Customer Support Manager (CSM) contact

### **3. *Financing elections.***

Is a purchase under this Enrollment being financed through MS Financing?  Yes,  No.

If a purchase under this Enrollment is financed through MS Financing, and Enrolled Affiliate chooses not to finance any associated taxes, it must pay these taxes directly to Microsoft.



CDW Government, LLC  
Microsoft Enterprise 6.6 Agreement Pricing

Date 8/4/20  
Account Manager John Vrablok

**Enterprise Quote  
for**

VSL Specialist Brent Cameron  
Channel Price Sheet Month Aug.

**City of Lake Worth**

Unless otherwise noted, All Quotes expire upon current month's end

**Budgetary EA Renewal Quote**  
Customer to make three annual payments to CDW-G

Microsoft Part #	Description	Level	Quantity	Year 1		Year 2		Year 3	
				Price	Extended	Price	Extended	Price	Extended
J5U-00004	AzureMntryCmmtmntG ShrdSvr ALNG SubsVL MVL Commit Provision	D	1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
395-02504	ExchgSvrEnt ALNG SA MVL	D	2	\$ 751.59	\$ 1,503.18	\$ 751.59	\$ 1,503.18	\$ 751.59	\$ 1,503.18
269-05704	OfficeProPlus ALNG SA MVL	D	300	\$ 103.70	\$ 31,110.00	\$ 103.70	\$ 31,110.00	\$ 103.70	\$ 31,110.00
7NQ-00292	SQLSvrStdCore ALNG SA MVL 2Lic CoreLic	D	4	\$ 607.95	\$ 2,431.80	\$ 607.95	\$ 2,431.80	\$ 607.95	\$ 2,431.80
D87-01159	VisioPro ALNG SA MVL	D	10	\$ 103.82	\$ 1,038.20	\$ 103.82	\$ 1,038.20	\$ 103.82	\$ 1,038.20
9EA-00278	WinSvrDCCore ALNG SA MVL 2Lic CoreLic	D	20	\$ 130.54	\$ 2,610.80	\$ 130.54	\$ 2,610.80	\$ 130.54	\$ 2,610.80
9EM-00270	WinSvrSTDCore ALNG SA MVL 2Lic CoreLic	D	20	\$ 18.40	\$ 368.00	\$ 18.40	\$ 368.00	\$ 18.40	\$ 368.00
				<b>Total</b>	<b>\$ 39,061.98</b>	<b>Total</b>	<b>\$ 39,061.98</b>	<b>Total</b>	<b>\$ 39,061.98</b>
				<b>Three Year Total</b>	<b>\$ 117,185.94</b>				

**Notes**

No Tax Referenced  
Current Enrollment# 6014252  
Agreement End Date: 10/31/2020

Terms and Conditions of sales and services projects are governed by the terms at:  
<http://www.cdwg.com/content/terms-conditions/product-sales.aspx>

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Public Works

**TITLE:**

Purchase Order with Nextran Truck for the purchase of a Mack Front Load Garbage Truck

**SUMMARY:**

The Purchase Order with Nextran Truck authorizes the purchase of the Mack Front Load Garbage Truck at a cost not to exceed \$282,723.00.

**BACKGROUND AND JUSTIFICATION:**

The Solid Waste and Recycling Division is actively engaged in the collection of commercial solid waste City wide. The current front load garbage truck is nearing the end of its useful and is becoming too costly to repair and maintain. The purchase of the new Mack Front Load garbage truck with Nextran Centers is being performed through the Florida Sheriffs Association Cooperative Purchase agreement at a cost not to exceed \$282,723.00. The funds are appropriated within the Solid Waste enterprise funds.

<https://www.flsheriffs.org/law-enforcement-programs/purchasing/fsa20veh18ht>

**MOTION:**

Move to approve/disapprove the Purchase Order with Nextran Truck Centers for a cost not to exceed \$282,723.00.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Nextran Truck – Mack Front Load Truck quote

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	282,723	0	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
<b>Net Fiscal Impact</b>	<b>282,723</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
410-5081-534-64-30	Machinery and Equip / Vehicles	N/A	500,000	500,000	282,723	217,277.00



FLORIDA SHERIFFS ASSOCIATION  
FSA20-VEH 18.0 ITEM 105

CITY OF LAKE WORTH BEACH

MACK TE64 FEL REFUSE TRUCK

PRESENTED BY

DAVID GLUCKLER  
NEXTRAN TRUCK CENTERS

772 486 3899

561 842 6225

[dgluckler@nextrancorp.com](mailto:dgluckler@nextrancorp.com)



ISUZU



FLORIDA SHERIFFS ASSOCIATION BID SHEET

CUSTOMER: CITY OF LAKE WORTH BEACH  
BID NUMBER: FSA 20-VEH18.0 ITEM NUMBER 105  
DATE: OCT 2020  
DESCRIPTION: MACK TE64 FEL REFUSE TRUCK  
QUOTE NUMBER: LWB1

BASE PRICE: 60,000 REFUSE TRUCK 142,337

PUBLISHED OPTIONS:

1001759	355HP	644
3180010	BAT SWITCH	90
20F46R	66 GVW PACKAGE	2,148
MCL2001	MOTOR MIRRORS	275
BBA-PK7	BB KIT	180
FEPTO PKG	FEPTO	1,071
5YR/400K	EP2 + EATS WARRANTY	4,684
MFG LIST	HEIL BODY ATTACHED	
NEW	MUNI TAG	330

UNPUBLISHED OPTIONS:

ALLISON 5 YR WARRANTY	1,360
5 YR A/C WARRANTY	620
BLUE PAINT	N/C
HEIL FEL BODY(ATTACHED)	128,984

TOTAL: 282,723



THE WHEELS ARE ALWAYS TURNING

# QUOTATION

**Prepared For:**

City of Lake Worth Beach

**Ship To:**

Florida Truck Dealer

**Prepared By:**

Sunbelt Waste Equipment  
Tampa Crane  
Ingram Equipment

QUOTE REFERENCE NUMBER	ISSUE DATE	VALID FOR	EST. DELIVERY FROM RECEIPT OF ORDER	SUBMITTED BY	SHIPPED VIA	FOB POINT	TERMS
FEL- FSA 2021	10-1-2020	1Year	TBD at Time of Order	Heil Dealers	Driveaway	Dealership	Net 30

Body

Heil Half / Pack Front End Loader – 28 yard w/ 12 yard hopper

Standard Options

- Pump: Front Mount Vane Pump
- Mounting Full Body
- Camera 1: Third Eye Camera Tailgate Mounted with Monitor
- Paint: Single Paint Color
- Freight from Ft. Payne
- Warranty: Total (1) One Year

Non Standard Options ( not included in below price )

- 3<sup>rd</sup> Eye Digital System \$ 3317.00
- 3<sup>rd</sup> Eye Camera ( price per each ) \$ 572.00
- Rear Ladder \$ 1427.00
- Multi Function Lights \$ 649.00
- Washout Tank 60gal \$ 2153.00

All Non Standard Options must be ADDED to below Price

Total Body and Standard Options	\$119,722.00
Total Body with all Non Standard Options ( 6 Camera Total )	\$128,984.00

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Public Works

**TITLE:**

Purchase Order with Isuzu Truck of Ocala for the purchase of a Mini-Rear Load Garbage Truck

**SUMMARY:**

The Purchase order with Isuzu Truck of Ocala authorizes the purchase of the Isuzu Mini Rear Load Garbage Truck at a cost not to exceed \$108,451.00.

**BACKGROUND AND JUSTIFICATION:**

The Solid Waste and Recycling Division is actively engaged in the collection of commercial and residential solid waste and recycling City wide. The demand for alley way, development and narrow road service is increasing in the downtown corridor and in the historic neighborhoods. The purchase of the new Isuzu Rear Load garbage truck with Isuzu Truck of Ocala is being performed through the Florida Sheriffs Association Cooperative Purchase agreement at a cost not to exceed \$108,451.00. The funds are appropriated within the Solid Waste enterprise funds.

<https://www.flsheriffs.org/law-enforcement-programs/purchasing/fsa20veh18ht>

**MOTION:**

Move to approve/disapprove the Purchase Order with Isuzu Truck of Ocala for a cost not to exceed \$108,451.00.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Isuzu Truck of Ocala – Mini Rear Load Truck quote



**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	108,451	0	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
<b>Net Fiscal Impact</b>	<b>108,451</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
410-5081-534-64-30	Machinery and Equip / Vehicles	N/A	500,000	500,000	108,451	391,549.00

**Isuzu Truck of Ocala  
3950 W Hwy 326  
Ocala Fl. 34482  
407-295-3846 ext 4222  
bscharpnick@orlandofreightliner.com**

**To: Jason Yeager/City of Lake Worth**

**Regarding FSA18-VEH16.0**

**Isuzu Truck of Ocala is pleased to quote the following 2021  
Isuzu NRR via the Florida Sheriff's Association  
Bid FSA18-VEH16.0**

<b>Spec #93</b>	<b>\$39,628.00</b>
<b>NRR (19500 GVWR)</b>	<b>\$ 6,938.00</b>
<b>IL9 (PTO Provision)</b>	<b>\$ 35.00</b>
<b>HeilQuantum</b>	<b>\$53,287.00</b>
<b>Customer add</b>	
<b>Upgrade to Heil Carahee 9CY body</b>	<b>\$ 4,698.00</b>

<b>Dealer Add On's</b>	
<b>Custom Viper Blue Paint</b>	<b>\$ 3,865.00</b>

<b>Total</b>	<b>\$108,451.00</b>
--------------	---------------------

**Bob Scharpnick  
Municipal/Fleet Sales  
Orlando Freightliner  
Isuzu Truck of Ocala**



# ISUZU TRUCK OF OCALA

Robert Scharpnick

City of Lake Worth rear loader (2021 NRR Cab Chassis, NU2 132.5", 19,500 GVWR. White, In rail fuel tank with power windows, power door locks and air conditioning

## Standard Equipment Summary

Code	Description
<b>Tires</b>	
I5H	LRR (low rolling resistance)
<b>Engine</b>	
I1B	4HK1-TC, diesel engine 317 CID (5.19L), 215 HP at 2550 RPM; 452 ft.-lb. gross torque at 1850 RPM. 4 cylinder, 16 valve, four cycle, overhead cam, turbocharged, inter-cooled, water cooled EGR valve, direct injection, electronically controlled common rail fuel system, engine cruise control function. Oil level check switch and light. Engine Warning system with audible warning for low oil pressure, high coolant temperature, and low coolant level.
<b>Transmission</b>	
I1W	Aisin A465id 6-speed automatic transmission, Ratios: 3.742, 2.003, 1.343,
<b>Wheelbase</b>	
IA9	132.5 inches, includes ladder type channel frame. Full C section straight frame 33.5 inches wide. Yield strength 44,000 psi; section modulus 7.20 in <sup>3</sup> RBM 316,800 lb./ft./in. per rail.
<b>Air Cleaner</b>	
KNX	Dry Paper single element. (Donaldson brand) Air cleaner canister standard with air restriction indicator in the driver's Multi-Information Display (MID).
<b>Alternator</b>	
I2C	140 AMP. with integral regulator.
<b>Battery</b>	
IX1	Dual 12-Volt maintenance free group 31 750 CCA batteries with threaded posts
<b>Exhaust</b>	
IX7	Single horizontal with DPF/SCR exhaust system
<b>Front Axle</b>	
IZ6	"I"-beam rated at 7,275 lbs. Includes integral hydraulic power steering. Ratio 18.8-20.9:1.
<b>Front Suspension</b>	
ID8	8440 lbs. Capacity semi elliptical tapered leaf spring. Includes shock absorbers and stabilizer bar
<b>Front Wheels</b>	
IB9	19.5" x 6", 6-hole disc, painted white
<b>Front Tires</b>	
XTN/R3M	225/70R19.5F (12 ply) tubeless Radial, all season
<b>Rear Suspension</b>	
ID9	14,550 lbs. capacity. Semi-elliptical main and auxiliary multi-leaf springs. Includes shock absorbers.
<b>Rear Axle</b>	
ID3	Single-speed, 14,550 lb. capacity with oil lubricated rear wheel bearings.
<b>Ratio</b>	
011	5.571:1
<b>Rear Wheels</b>	
IC1	19.5" x 6", 6-hole disc, painted white
<b>Rear Tires</b>	
YTN/S3M	225/70R19.5F (12 ply) tubeless Radial, all season tread.
<b>Fuel Tank</b>	
IF9	30 gal. rectangular fuel tank. Mounted between frame rail through the rail fuel fill. Fuel water separator with dash mounted warning light.
<b>Seat</b>	
AQB	Driver seat is reclining high back. Two single occupant fold down seats with tray backs.
<b>Brakes</b>	

Current report content is based on data as of 2020-10-12 10:11:16. Any performance-related calculations are offered solely as guidelines. Actual vehicle performance will depend on your operating conditions. All information, specifications and pricing in this application are based on the latest information available. Isuzu Commercial Truck of America, Inc. reserves the right to discontinue or change, at any time, without prior notice, the pricing, specifications, options, materials, equipment, design and models.



# ISUZU TRUCK OF OCALA

Robert Scharpnick

City of Lake Worth rear loader (2021 NRR Cab Chassis, NU2 132.5", 19,500 GVWR. White, In rail fuel tank with power windows, power door locks and air conditioning

## Standard Equipment Summary

Code	Description
K40	Butterfly valve type exhaust brake
IT4	Dual circuit, Hydro-Boost hydraulic brake system with EBD (Electronic Brake Distribution). Mechanical transmission mounted parking brake. Non-asbestos semi metallic linings are standard. Anti-lock brake system
<b>Air Conditioning</b>	
C60	Air conditioner
<b>Power Windows &amp; Door Locks</b>	
IL0	Yes
<b>Floor Mats</b>	
IQ6	Standard Floor Mats
<b>Model Option</b>	
54	White, In rail fuel tank with power windows, power door locks and air conditioning
<b>Accessories</b>	
IX2	Rear body dome lamp switch
8RP	AM/FM/CD radio with Aux input/USB port and Bluetooth RPO

Current report content is based on data as of 2020-10-12 10:11:16. Any performance-related calculations are offered solely as guidelines. Actual vehicle performance will depend on your operating conditions. All information, specifications and pricing in this application are based on the latest information available. Isuzu Commercial Truck of America, Inc. reserves the right to discontinue or change, at any time, without prior notice, the pricing, specifications, options, materials, equipment, design and models.



# ISUZU TRUCK OF OCALA

Robert Scharpnick

City of Lake Worth rear loader (2021 NRR Cab Chassis, NU2 132.5", 19,500 GVWR. White, In rail fuel tank with power windows, power door locks and air conditioning

## Warranty

Coverage	Warranty Limitations (Time or Mileage, Whichever Comes First)		Percent of Dealer's Normal Charge Paid by Owner	
	Time	Vehicle Miles	Parts	Labor
Basic	0-3 Years	Unlimited	No Charge	No Charge
Engine	0-3 Years	Unlimited	No Charge	No Charge
• Transmission	0-3 Years	Unlimited	No Charge	No Charge
• Drive Axles				
• Propeller Shaft				
• Front Axle I-Beam				
• Crossmembers				
• Flywheel Housing				
• Clutch Housing				
Frame Rails	0-3 Years	Unlimited	No Charge	No Charge
Frame Rails	3-5 Years	Unlimited	50%	50%
Engine Emissions Control System	0-5 Years	0-100,000	No Charge	No Charge
California Emissions Performance	0-3 Years	0-50,000	No Charge	No Charge
California Emissions Long-Term Defects	0-7 Years	0-70,000	No Charge	No Charge
Tires	0-2 Years	0-24,000	No Charge	No Charge
Corrosion (Rust Through)	0-4 Years	Unlimited	No Charge	No Charge

Current report content is based on data as of 2020-10-12 10:11:16. Any performance-related calculations are offered solely as guidelines. Actual vehicle performance will depend on your operating conditions. All information, specifications and pricing in this application are based on the latest information available. Isuzu Commercial Truck of America, Inc. reserves the right to discontinue or change, at any time, without prior notice, the pricing, specifications, options, materials, equipment, design and models.



# QUOTATION

Prepared For:

Ship To:  
Florida Truck Dealer

Prepared By:  
Sunbelt Waste Equipment

QUOTE REFERENCE NUMBER	ISSUE DATE	VALID FOR	EST. DELIVERY FROM RECEIPT OF ORDER	SUBMITTED BY	SHIPPED VIA	FOB POINT	TERMS
SMALL MSL 2021FSA	10/6/2020	30 Days	TBD at time of order	Heil Dealers	Drive Away	Dealer	Net 30 Days

**Body**  
Heil Small Rear Loader (Carahee) 11 Yard

**Standard Options**

Hopper Work Light  
Single Camera System  
20 Lb. Fire Extinguisher  
All Standard Features  
12 Month Warranty  
Freight from Ft. Payne

If you have any questions concerning this quotation, please feel free to contact us.

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Water Utilities

**TITLE:**

Agreement with Shannon Chemical Corporation to purchase SNC-N2 (blend of phosphates) for distribution system corrosion inhibitor

**SUMMARY:**

This Agreement authorizes the purchase SNC-N2 (blend of phosphates) for the City of Lake Worth Beach Water Utilities for the period of three years from Shannon Chemical Corporation.

**BACKGROUND AND JUSTIFICATION:**

The National Primary Drinking Water Regulations require all community water systems to monitor for lead and copper and establishes corrosion control treatment requirements. Phosphate is a necessary chemical at the City of Lake Worth Beach Water Treatment Plant (WTP) to control corrosion, thereby limiting lead and copper in the drinking water. Since the WTP began dosing SNC-N2 Phosphate, it has proven to be a successful method of corrosion control.

This product also meets the no zinc requirement of the City of Lake Worth Beach Power Plant, which uses the WTP water in its cooling towers. The maximum contaminant level (MCL) for zinc cannot exceed 0.49 mg/L as zinc discharged off the cooling towers into sanitary sewers. The requirement to meet this zinc discharge is part of the permit C95103113 of the City of West Palm Beach Sewer Use Ordinance 4414-12.

Shannon Chemical Corporation specifically formulated SNC-N2 Phosphate to meet the WTP no zinc requirements and has been the single source provider of this product for the past 25 years. It is the City's intent to enter into the Agreement for the purchase of SNC-N2 Phosphate, and the procurement division concurs with this sole source purchase.

**MOTION:**

Move to approve/disapprove the agreement to purchase SNC-N2 (blend of phosphates) from Shannon Chemical Corporation.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Agreement

## FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$50,000	\$50,000	\$50,000	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
 Net Fiscal Impact	 \$50,000	 \$50,000	 \$50,000	 0	 0
 No. of Addn'l Full-Time Employee Positions	 0	 0	 0	 0	 0

### B. Recommended Sources of Funds/Summary of Fiscal Impact:

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
402-7022-533.52-30	Operating Supplies/Chemicals	N/A	\$450,000.00	\$167,281.70	-\$50,000.00	\$117,281.70



**CONTRACTOR AGREEMENT  
(PURCHASE OF SNC-N2 PHOSPHATE)**

**THIS AGREEMENT** (the "Agreement") is made on \_\_\_\_\_, between the **City of Lake Worth Beach**, Florida, a municipal corporation (the "CITY"), with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, and **Shannon Chemical Corporation**, a corporation authorized to do business in the State of Florida (the "CONTRACTOR"), with its office located at 602 Jeffers Circle, Exton, PA 19341.

**RECITALS**

WHEREAS, phosphate is a necessary chemical at the City of Lake Worth Beach Water Treatment Plant for the treatment of potable water to control corrosion thereby ; and

WHEREAS, the CONTRACTOR has specifically formulated SNC-N2, a unique propriety blend of phosphate specifically designed to minimize distribution system corrosion; and

WHEREAS, the CITY has used SNC-N2 for over 20 years to effectively minimize corrosion; and

WHEREAS, the CITY desires to enter into this Agreement with the CONTRACTOR as the sole provider of SNC-N2; and

WHEREAS, the CITY Code and Procurement Policy allows for directly entering into an agreement with a sole source provider; and

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

WHEREAS, the CITY finds entering this Agreement with 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 sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

**1. TERM**

1.1 The term of this Agreement shall be for three (3) years, with the option to renew for two (2) additional one (1) year periods upon the mutual agreement of both parties and dependent on the annual appropriation of funds by the CITY's City Commission. The renewal terms may be approved by the City Manager upon the same terms, conditions and pricing. Notwithstanding the foregoing, this Agreement may be earlier terminated as set forth in this Agreement.

**2. SCOPE OF WORK**

2.1 The scope of work is for the CONTRACTOR to provide SNC-N2 to the CITY as set forth in Exhibit "A" attached hereto and incorporated herein.

2.2 The CONTRACTOR represents to the CITY that the services to be performed under this Agreement shall be in accordance with accepted and established trade practices and procedures recognized in the CONTRACTOR's trade in general and that the CONTRACTOR's services shall conform to the highest standards and in accordance with this Agreement and all applicable laws.

2.3 The CONTRACTOR represents that it is licensed to do business in the State of Florida and holds and will maintain all applicable licenses required for the services to be completed under this Agreement. The CONTRACTOR further warrants its capability and experience to perform the services provided for herein in a professional and competent manner.

2.4 The CONTRACTOR represents to the CITY that the materials provided under this Agreement shall be in accordance with accepted and established trade practices and procedures recognized in the CONTRACTOR's trade in general and that the CONTRACTOR's work shall conform to the highest standards and in accordance with this Agreement.

2.5 The CONTRACTOR represents that it is licensed to do business in the State of Florida and holds and will maintain all applicable licenses required for the work to be completed under this Agreement. The CONTRACTOR further warrants its capability and experience to perform the work provided for herein in a professional and competent manner.

2.4 All deliveries of the chemicals shall be made within 48-72 hours of the CITY placing the order with CONTRACTOR. In the event of a natural disaster as determined by the CITY, such as a hurricane, and the CITY places an order, such delivery shall be made on a "first priority" basis. Deliveries shall only occur between the hours of 7:00 am to 3:00 pm Monday through Friday.

2.5 The Scope of Work shall be completed in accordance with the terms and conditions set forth in this Agreement.

### **3. INDEPENDENT CONTRACTOR; USE OF AGENTS OR ASSISTANTS**

3.1 The CONTRACTOR is and shall be, in the performance of the Scope of Work under this Agreement, an independent contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the Scope of Work performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the Scope of Work.

3.2 To the extent reasonably necessary to enable the CONTRACTOR to perform the Scope of Work hereunder, the CONTRACTOR shall be authorized to engage the services of any agents or assistants which it may deem proper, and may further employ, engage, or retain the services of such other persons or corporations to aid or assist in the proper performance of its duties. All costs of the services of, or expenses incurred by, such agents or assistants shall be paid by the CONTRACTOR.

### **4. PROJECT MANAGEMENT**

4.1 Both parties shall appoint a Project Manager who shall meet to coordinate, review and insure performance by the CONTRACTOR under this Agreement. The Project Manager appointed by the CITY will oversee the daily administration of the services to be performed by the CONTRACTOR under this Agreement but is not authorized to modify this Agreement.

## 5. EQUIPMENT

5.1 The CONTRACTOR shall provide all equipment necessary to complete the services to be performed hereunder. In the event CONTRACTOR requires equipment from the CITY, the CONTRACTOR shall meet and confer with the CITY before services commences. In the event the CITY's equipment is to be utilized, any costs chargeable to the CONTRACTOR shall be agreed upon in advance of the commencement of services.

The CONTRACTOR shall provide all chemicals as more specifically set forth in the IFB.

## 6. FEE AND ORDERING MECHANISM

6.1 For services to be rendered under this Agreement, the CONTRACTOR shall be entitled to a fee for actual goods provided and accepted by the City at the price set forth in CONTRACTOR'S bid price which is attached as **Exhibit "A"**.

6.2 Should the CITY require additional chemicals, not included in this Agreement, fees and payment for such work will be set forth in a separate amendment, as authorized in accordance with the CITY's procurement code and policy prior to any such additional goods being provided by the CONTRACTOR.

6.3 The CITY's ordering mechanism for the Scope of Work (including each order of chemicals) under this Agreement will be by a City issued Purchase Order(s); however, the terms and conditions stated in a City Purchase Order(s) shall not apply. CONTRACTOR shall not provide goods under this Agreement without a City Purchase Order specifically for the stated goods. CONTRACTOR shall provide the amount of requested goods and price listed in each Purchase Order and not exceed amounts expressed on any Purchase Order. CONTRACTOR shall be liable for any excess goods or costs not specifically stated in the Purchase Order(s). The City's Fiscal Year ends on September 30<sup>th</sup> of each calendar year. The City cannot authorize the purchase of goods or services beyond September 30<sup>th</sup> of each calendar year, prior to the annual budget being approved by the City Commission. Additionally, the City must have budgeted appropriate funds for the goods and services in any subsequent Fiscal Year. If the budget is approved for said goods and services, the City will issue a new Purchase Order(s) each Fiscal Year for required and approved goods.

## 7. MAXIMUM COSTS

7.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to complete the Scope of Work in accordance with this Agreement is **Fifty Thousand, Dollars (\$50,000.00) per fiscal year**, and no additional costs shall be authorized without prior written approval from the CITY.

## 7. INVOICE

7.1 The CONTRACTOR shall submit an itemized invoice to the CITY for approval prior to receiving compensation. The CONTRACTOR shall be paid within thirty (30) days of receipt of an approved invoice for work.

7.2 If the CITY disputes any invoice or part of an invoice, CITY shall notify the CONTRACTOR within a reasonable time after receipt of the invoice. CITY reserves the right to off-set, reduce or withhold any payment to the CONTRACTOR until the dispute is resolved.

## **8. AUDIT BY CITY**

8.1 The CONTRACTOR shall permit the CITY, or any authorized representatives of the CITY, at all reasonable times, access to and the right to examine all records, books, papers or documents related to the CONTRACTOR's performance under this Agreement including, but not limited to, expenses for sub-contractors, agents or assistants, direct and indirect charges for work performed and detailed documentation for all such work performed or to be performed under this Agreement.

## **9. COPIES OF DATA/DOCUMENTS**

9.1 Copies or original documents prepared by the CONTRACTOR in relation to work associated with this Agreement shall be provided to the CITY. Data collected, stored, and/or provided shall be in a form acceptable to the CITY and agreed upon by the CITY.

## **10. OWNERSHIP**

10.1 Each and every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONTRACTOR pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

## **11. WRITTEN AUTHORIZATION REQUIRED**

11.1 The CONTRACTOR shall not make changes in the Scope of Work or perform any additional services or provide any additional material under this Agreement without first obtaining written authorization from the CITY for such additional services or materials. Additional services or materials provided without written authorization shall be done at the CONTRACTOR's sole risk and without payment from the CITY.

## **12. DEFAULTS, TERMINATION OF AGREEMENT**

12.1 If the CONTRACTOR fails to timely perform the Scope of Work or has failed in any other respect to satisfactorily perform in accordance with this Agreement; or, is in material breach of a term or condition of this Agreement, the City Manager or designee may give written notice to the CONTRACTOR specifying defaults to be remedied. Such notice shall set forth the basis for any dissatisfaction and suggest corrective measures. If the CONTRACTOR does not remedy defaults within the allotted time or commence good faith steps to remedy the default to the reasonable satisfaction of the City Manager or designee, the CITY may take such action to remedy the default and all expenses related thereto shall be borne by the CONTRACTOR including, without limitation, utilization of another contractor to provide for such work; and/or, the CITY may withhold any money due or which may become due to the CONTRACTOR for such expense and/or work related to the claimed default. Alternatively, or in addition to the foregoing, if after three (3) days the CONTRACTOR has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the City Manager or designee, the CITY may elect to terminate this Agreement. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

12.2 Notwithstanding paragraph 12.1, the CITY reserves the right and may elect to terminate this Agreement at any time, with or without cause. At such time, the CONTRACTOR would be compensated only for that work which has been satisfactorily completed to the date of termination.

No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

### **13. INSURANCE**

13.1. Prior to commencing the Scope of Work, the CONTRACTOR shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this Section and that no material change or cancellation of the insurance shall be effective without thirty (30) days' prior written notice to the CITY. Failure to comply with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Contract. All insurance, other than Workers' Compensation, required hereunder shall specifically include the "City of Lake Worth Beach" as an "Additional Insured", on a primary, non-contributing basis and the CONTRACTOR shall provide additional insured endorsements section of Certificates of Insurance.

13.2. The CONTRACTOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$1,000,000 per occurrence (\$2,000,000 aggregate) to protect the CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.

13.3. The CONTRACTOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

13.4. The CONTRACTOR shall maintain, during the life of this Contract, Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.

### **14. WAIVER OF BREACH**

14.1 The waiver by either party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

### **15. INDEMNITY**

15.1 The CONTRACTOR shall indemnify, defend and hold harmless, to the maximum extent permitted by law, the CITY and its officers, agents, employees and representatives, from and against any and all liability, suit, actions, proceedings, judgments, claims, losses, liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death, patent infringement or property damage, and regardless, of whether the allegations are false, fraudulent or groundless), costs and expenses (including attorney's fees, litigation, arbitration, mediation, appeal expenses) to the extent arising out of or alleged to have arisen out of the acts, omissions or neglect of the CONTRACTOR or any of its agents, employees, subcontractors or by anyone the CONTRACTOR directly or indirectly employed.

15.2 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 of this Agreement.

15.3 Compliance with any insurance requirements required elsewhere in this Agreement shall not relieve CONTRACTOR of its liability and obligation to defend, hold harmless and indemnify the CITY as set forth in this section.

15.4 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or CONTRACTOR. Further, nothing contained in this Agreement shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in section 768.28, Florida Statutes, as amended from time to time.

15.5 The CONTRACTOR's failure to comply with this section's provisions shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

## **16. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE**

16.1 This Agreement consists of the terms and conditions provided herein; **Exhibit "A"**, (including all specifications as attached thereto or referenced therein). To the extent that there exists a conflict between this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail with the **Exhibit "A"** next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

16.2 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

## **17. ASSIGNMENT**

17.1 Nothing under this Agreement shall be construed to give any rights or benefits to any party other than the CITY and the CONTRACTOR. All duties and responsibilities under this Agreement shall be for the sole and exclusive benefit of the CITY and the CONTRACTOR and not for the benefit or any other party. The CONTRACTOR shall not assign any right or interest in this Agreement, and shall not delegate any duty owned, without the CITY's prior written consent. Any attempted assignment or delegation shall be void and totally ineffective for all purposes, and shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

17.2 In the event the CITY consents to an assignment or delegation, the assignee, delegate, or its legal representative shall agree in writing to personally assume, perform, and be bound by this Agreement's covenants, conditions, obligations and provisions.

## **18. SUCCESSORS AND ASSIGNS**

18.1 Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.

**19. OF TRIAL BY JURY**

19.1 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.

**20. GOVERNING LAW AND REMEDIES**

20.1 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and venue shall be in Palm Beach County, Florida.

20.2 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.

**21. TIME IS OF THE ESSENCE**

21.1 Time is of the essence in all respects under this Agreement.

**22. NOTICES**

22.1 All notices hereunder must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date when personally delivered to the address indicated below; or on the third (3<sup>rd</sup>) business day following deposit, postage prepaid, using certified mail, return receipt requested, in any U.S. postal mailbox or at any U.S. Post Office; or when sent via nationally recognized overnight courier to the address indicated below. Should the CITY or the CONTRACTOR have a change of address, the other party shall immediately be notified in writing of such change, provided, however, that each address for notice must include a street address and not merely a post office box. All notices, demands or requests from the CONTRACTOR to the CITY shall be given to the CITY address as follows:

Michael Bornstein, City Manager  
City of Lake Worth Beach  
7 North Dixie Highway  
Lake Worth Beach, Florida 33460

All notices, demands or requests from the CITY to the CONTRACTOR shall be given to the CONTRACTOR address as follows:

Shannon Chemical Corporation  
602 Jeffers Circle  
Exton, PA 19341

**23. SEVERABILITY**

23.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions

hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

#### **24. DELAYS AND FORCES OF NATURE**

24.1 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 and without their 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 determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may 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, 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 control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may decide. 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. 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.

#### **25. COUNTERPARTS**

25.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. This Agreement may be executed electronically.

#### **26. LIMITATIONS OF LIABILITY**

26.1 Under no circumstances shall either party be liable to the other for any consequential, incidental, special, punitive, or any other form of indirect or non-compensatory damages.

#### **27. PUBLIC ENTITY CRIMES**

27.1 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. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

## **28. PREPARATION**

28.1 This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

## **29. PALM BEACH COUNTY INSPECTOR GENERAL**

29.1 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.

## **30. ENFORCEMENT COSTS**

30.1 All parties shall be responsible for their own attorneys' fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

## **31. PUBLIC RECORDS**

31.1 CONTRACTOR shall comply with Florida's Public Records Laws, Chapter 119, Florida Statutes, and, if it is acting on behalf of the CITY as provided under section 119.011(2), the CONTRACTOR specifically agrees to:

- (a) Keep and maintain public records required by the CITY to perform the services under this Agreement.
- (b) Upon request from the CITY's custodian of public records, 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 this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that said public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement, if the CONTRACTOR does not transfer the records to the CITY.
- (d) Upon the completion of the 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 services. 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, 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 AT (561) 586-1660, [DANDREA@LAKEWORTHBEACHFL.GOV](mailto:DANDREA@LAKEWORTHBEACHFL.GOV), OR BY MAIL AT CITY OF LAKE WORTH BEACH, ATTN: DEBBORAH ANDREA, 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

**323. COPYRIGHTS AND/OR PATENT RIGHTS**

33.1 CONTRACTOR warrants that there has been no violation of copyrights and/or patent rights in the manufacturing, producing or selling of the goods, shipped or ordered, as a result of this Agreement and the CONTRACTOR agrees to hold the City harmless from any and all liability, loss, or expense occasioned by any such violation.

**34. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH**

34.1 CONTRACTOR certifies that all material, equipment, etc., contained in this bid meets all OSHA requirements. CONTRACTOR further certifies that, if the material, equipment, etc., delivered is subsequently found to be deficient in any OSHA requirements in effect on date of delivery, all costs necessary to bring the material, equipment, etc. into compliance with the aforementioned requirements shall be borne by the CONTRACTOR.

**35. FEDERAL AND STATE TAX**

35.1 The CITY is exempt from Federal Tax and State Tax for Tangible Personal Property. The Procurement Official will sign an exemption certificate submitted by the successful Proposer. Vendors or contractors doing business with the CITY shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the CITY, nor shall any Vendor/Contractor be authorized to use the CITY's tax Exemption Number in securing such materials.

**36. PROTECTION OF PROPERTY**

36.1 The CONTRACTOR shall at all times guard against damage or loss to the property of the CITY or of other vendors or contractors and shall be held responsible for replacing or repairing any such loss or damage. The CITY may withhold payment or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of the successful CONTRACTOR or its agents. The CONTRACTOR shall be responsible to safeguard all of their property such as tools and equipment while on site. The CITY will not be held responsible for any loss of CONTRACTOR property due to theft or vandalism.

**37. DAMAGE TO PERSONS OR PROPERTY**

37.1 The responsibility for all damage to person or property arising out of or on account of work done under this Contract shall rest upon the CONTRACTOR, and he/she shall save the CITY and political unit thereof harmless from all claims made on account of such damages.

**38. SAFETY: ACCIDENT PREVENTION.**

38.1 In the performance of this Agreement, the CONTRACTOR shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The CONTRACTOR shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the CITY, may determine to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

38.2 It is a condition of this Agreement, and shall be made a condition of each subcontract, which the CONTRACTOR enters into pursuant to this Agreement (if authorized), that the CONTRACTOR and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

38.3 Pursuant to 29 CFR 1926.3, it is a condition of this Agreement that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

**39. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT** (Applicable to all federally funded contracts and any subcontracts of \$100,000 or more).

39.1 By execution of this Agreement, CONTRACTOR, if applicable, will be deemed to have stipulated as follows:

- (a) Any CITY facility or property that is or will be utilized in the performance of this Agreement, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604 ), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
- (b) CONTRACTOR agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
- (c) CONTRACTOR shall promptly notify the CITY of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a CITY facility or property that is or will be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities.

#### **40. SCRUTINIZED COMPANIES**

40.1 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.

40.2 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 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 are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

40.3 The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

40.4 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.

40.5 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.

40.6 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.

#### **41. SURVIVABILITY**

41.1 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.

#### **42. E-VERIFY**

42.1 Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONTRACTOR shall:

- (a) 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;
- (b) Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract

with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

- (c) Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;
- (d) Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
- (e) Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
- (f) Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONTRACTOR may not be awarded a contract for at least one (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 parties hereto have made and executed this Agreement for purchase of SNC-N2 Phosphate on the day and year first above written.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

By: \_\_\_\_\_  
Deborah M. Andrea, CMC, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY:

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

CONTRACTOR:

**SHANNON CHEMICAL CORPORATION**

By: \_\_\_\_\_  
*DCW*

Print Name: Daniel C. Flynn

Title: President

[Corporate Seal]



STATE OF Pennsylvania )  
COUNTY OF Chester )

The foregoing instrument was acknowledged before me this 28th day of October, 2020, by Daniel C. Flynn, who was physically present, as President (title), of **Shannon Chemical Corporation**, which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following Personally Known as identification.

Notary Public: *Kimberly D'Ambrosio*  
Print Name: Kimberly D'Ambrosio  
My commission expires: \_\_\_\_\_

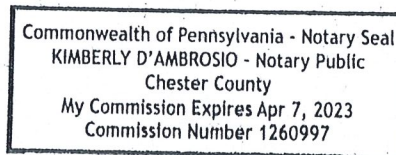


Exhibit A  
Contractor's Proposal



**Shannon Chemical Corp.**  
P.O. Box 376 Malvern, PA 19355 • Phone: (610) 363-9090 • Fax: (610) 524-6050

October 9, 2020

City of Lake Worth  
Water Treatment Plant  
301 College Street  
Lake Worth, FL 33460  
Attention: Mr. Tim Sloan, Plant Manager

Subject: Sole Source

Dear Tim,

I want to thank you and the City of Lake Worth for the trust and commitment that you have placed with **Shannon Chemical Corporation** and our product, **SNC-N2**. **SNC-N2** is a unique proprietary blend of phosphates specifically designed to minimize distribution system corrosion. **SNC-N2** is the best lead and copper corrosion inhibitor available to the waterworks industry. **SNC-N2** is a non-zinc blend of three different polyphosphates. **Shannon Chemical Corporation** looks forward to continuing to supply Lake Worth with our outstanding proprietary blend, **SNC-N2**.

Tim, **SNC-N2** was designed 25 years ago to assist you and Lake Worth with the development of a better product that produced smooth calcium carbonate deposition throughout your service area. At that time you were using a generic phosphate product that was not providing desired results. **SNC-N2** was introduced as an effective stabilizing agent which produced a protective thin egg like deposit throughout the entire surface area. The product has been very successful over the past 25 years.

**SNC-N2** is a sole source product that was designed specifically for the City of Lake Worth. No other companies have a product that is identical to **SNC-N2**.

**Shannon Chemical Corporation** will offer to supply the City of Lake Worth with **SNC-N2** at a firm delivered price of \$2.16/#. Price will remain firm for 3 years. Terms are Net 30 days and shipments are made in 10 days ARO.

Thank you for your continued interest and support of **Shannon Chemical Corporation's** products and services.

Respectfully,  
**Shannon Chemical Corporation**

Daniel C. Flynn  
President

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Community Sustainability

**TITLE:**

Resolution No. 49-2020 - Public Meeting - Approve a Historic Preservation Ad Valorem Tax Exemption for the property located at 631 Lucerne Avenue (The Hummingbird)

**SUMMARY:**

Resolution 49-2020 authorizes a property tax exemption from the increased assessed value as a result of the historic preservation rehabilitation as allowed by Section 23.5-5 of the Land Development Regulations.

**BACKGROUND AND JUSTIFICATION:**

On July 12, 2017, the Historic Resources Preservation Board (HRPB) approved a request by the applicant for a Certificate of Appropriateness for exterior alterations and a Pre-Construction Historic Preservation Ad Valorem Tax Exemption application for the subject property. On October 14, 2020, the HRPB approved the Completed Work Application and recommended approval of the application to the City Commission. The HRPB approval certified that the renovation work was completed in accordance with national and local historic preservation guidelines, and met the criteria for obtaining an ad valorem tax exemption approval. The owner agreed to enter into a covenant with the City to maintain the qualifying improvements for the exemption period, not to exceed 10 years. The exemption only applies to the increase in assessed value as a result of the improvements and does not relieve the owner of all tax liability. Subsequent to an approval for a municipal tax exemption, the application will be forwarded to Palm Beach County to be reviewed for a county tax exemption. The Historic Preservation Ad Valorem Tax Exemption program is authorized by Florida Statute and is used throughout the State to encourage property improvements in historic districts.

**MOTION:**

Move to approve/disapprove Resolution No. 49-2020 for a Historic Preservation Ad Valorem Property Tax Exemption for the property located at 631 Lucerne Avenue.

**ATTACHMENT(S):**

Resolution 49-2020  
Covenant



RESOLUTION NO. 49-2020 OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION FOR THE PROPERTY LOCATED AT 631 LUCERNE AVENUE (THE HUMMINGBIRD), LAKE WORTH BEACH, FLORIDA, AS A RESULT OF THE HISTORIC PRESERVATION/ REHABILITATION OF THE PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Lake Worth Beach has adopted the Historic Preservation Program that is designed to preserve, protect, enhance, and perpetuate resources which represent distinctive and significant elements of the City's historical, cultural, social, economic, political, archaeological, and architectural identity; and/or serve as visible reminders of the City's culture and heritage; and

WHEREAS, the citizens of Florida amended the Florida Constitution, Article VII, Section 3, to authorize counties and municipalities to grant a partial ad valorem tax exemption to owners of historic properties for improvements to such properties which are the result of the restoration, renovation, or rehabilitation of the historic properties; and

WHEREAS, Section 196.1997, Florida Statutes, establishes the process by which such exemption may be granted to property owners; and

WHEREAS, the City of Lake Worth Beach is an approved Certified Local Government to perform the review functions necessary for Historic Tax Exemption applications; and

WHEREAS, the City passed Ordinance No. 97-26, which approved an ad valorem tax exemption for the restoration, renovation, and/or improvement of historic properties, which provides that upon completion of the review of a Final Application/Request for Review of Completed Work that the Historic Preservation Planner shall present such Final Application in a regularly scheduled meeting of the Historic Resources Preservation Board with a recommendation that the Historic Resources Preservation Board recommend approval or deny the exemption to the City Commission; and

WHEREAS, the property owner filed a preconstruction application and received preliminary approval from the Historic Resources Preservation Board on July 12, 2017, for an ad valorem tax exemption upon completion of the historic renovation and restoration of the property located at 631 Lucerne Avenue, Lake Worth Beach (the "Property"); and

WHEREAS, on October 14, 2020, the Historic Resource Preservation Board reviewed the Completed Work Application and determined that the completed improvements were consistent with the United States Secretary of Interior's *Standards for Rehabilitation*, that the requirements of Section 196.1997, Florida Statutes, have been met, and recommended granting an ad valorem City tax exemption for the Property.

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

SECTION 1. The foregoing recitals are incorporated into this resolution as true and correct statements.

SECTION 2. The Property is designated as a contributing property to a historic district under the terms of the Lake Worth Beach Historic Preservation Program.

SECTION 3. The City Commission of the City of Lake Worth Beach, Florida, hereby finds that the completed improvements to the Property, as described in the application for ad valorem tax exemption filed with the City and in HRPB Case No. 20-00100061 is consistent with the United States Secretary of Interior's *Standards for Rehabilitation*, the City of Lake Worth Beach Land Development Regulations 23.5-4 and 23.5-5, and the property meets the requirements of Section 196.1997, Florida Statutes.

SECTION 4. In accordance with this finding, the City Commission hereby approves an ad valorem tax exemption for a ten-year period, commencing on January 1, 2021, and expiring December 31, 2030, from that portion of ad valorem taxes levied on the increase in assessed value resulting from the restoration, renovation, and rehabilitation improvements, for the real property described as:

Property Owner: HUMMINGBIRD PARTNERS, LLC

Address: 631 Lucerne Avenue  
Lake Worth Beach, Florida 33460

Legal Description: Lot 1, Block K, of TOWNSITE OF LUCERNE (NOW KNOWN AS LAKE WORTH), according to the plat thereof as recorded in Plat Book 2, page 29, of the Public Records of Palm Beach County, Florida

SECTION 5. Prior to the ad valorem tax exemption described herein being effective, the Property Owner shall execute and record in the Public Records of Palm Beach County, a restrictive covenant in a form established by the State of Florida, Department of State, Division of Historical Resources, requiring that the qualifying improvements must be maintained during the period for which the tax exemption is granted. A copy of the recorded covenant shall be provided to the City's Historic Preservation Planner.

SECTION 6. A certified copy of this resolution shall be provided to the Palm Beach County Property Appraiser.

SECTION 7. This resolution shall take effect upon its passage and approval.

The passage of this resolution was moved by \_\_\_\_\_, seconded by \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo  
Vice Mayor Andy Amoroso  
Commissioner Scott Maxwell  
Commissioner Herman Robinson

The Mayor thereupon declared this resolution duly passed and adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

\_\_\_\_\_  
Deborah M. Andrea, CMC, City Clerk

### HISTORIC PRESERVATION PROPERTY TAX EXEMPTION COVENANT

This Covenant is made the \_\_\_\_\_ day of \_\_\_\_\_, by HUMMINGBIRD PARTNERS LLC, (hereinafter referred to as the Owner) and in favor of the City of Lake Worth Beach, Florida (hereinafter referred to as the Local Government) for the purpose of the restoration, renovation or rehabilitation, of a certain Property located at 631 Lucerne Avenue, Lake Worth Beach, Florida which is owned in fee simple by the Owner and is listed in the National Register of Historic Places or locally designated under the terms of a local preservation ordinance or is a contributing property to a National Register listed district or a contributing property to a historic district under the terms of a local preservation ordinance. The areas of significance of this property, as identified in the National Register nomination or local designation report for the property or the district in which it is located are X architecture, X history, \_\_\_\_\_ archaeology.

The Property is comprised essentially of grounds, collateral, appurtenances, and improvements. The property is more particularly described as follows (include city reference, consisting of repository, book, and page numbers): Lot 1, Block K, of TOWNSITE OF LUCERNE (NOW KNOWN AS LAKE WORTH), according to the plat thereof, on file, in the office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, Plat Book 2, Page 29.

In consideration of the tax exemption granted by the Local Government, the Owner hereby agrees to the following for the period of the tax exemption which is from January 1, 2021 to December 31, 2030.

1. The Owner agrees to assume the cost of the continued maintenance and repair of said Property so as to preserve the architectural, historical, or archaeological integrity of the same in order to protect and enhance those qualities that made the Property eligible for listing in the National Register of Historic Places or designation under the provisions of the local preservation ordinance.

2. The Owner agrees that no visual or structural alterations will be made to the Property without prior written permission of the Local Historic Preservation Office. The address of the certified Local Historic Preservation Office is:

City of Lake Worth Beach, Division of Planning, Zoning, and Historic Preservation  
1900 2<sup>nd</sup> Avenue North  
Lake Worth Beach, Florida 33401  
Telephone: (561) 586-1687

The address of the Division of Historical Resources is:

Bureau of Historic Preservation  
Division of Historical Resources  
R.A. Gray Building, 500 South Bronough Street  
Tallahassee, Florida 32399-0250  
Telephone Number: (850) 245-6333 or (800) 847-PAST (7278)

3. [Only for properties of archaeological significance] The Owner agrees to ensure the protection of the site against willful damage or vandalism. Nothing in the Covenant shall prohibit the Owner from developing the site in such a manner that will not threaten or damage the archaeological resource, provided that permission for alteration of the site is obtained pursuant to 2. above.

4. The Owner agrees that the Local Historic Preservation Office and appropriate representatives of the Local Government, its agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the conditions of this Covenant are being observed.

5. In the event of the non-performance or violation of the maintenance provision of the Covenant by the Owner or any successor-in-interest during the term of the Covenant, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s.196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s.212.12 (3), F.S.

6. If the Property is damaged by accidental or natural causes during the Covenant period, the Owner will inform the Local Historic Preservation Office in writing of the damage to the Property, including (1) an assessment of the nature and extent of the damage; and (2) an estimate of the cost of restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion. In order to maintain the tax exemption, the Owner shall complete the restoration or reconstruction work necessary to return the Property to the condition

existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office.

7. If the Property has been destroyed or severely damaged by accidental or natural causes, that is, if the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made the property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or so damaged that restoration is not feasible, the Owner will notify the Local Historic Preservation Office in writing of the loss. The Local Historic Preservation Office will evaluate the information provided and notify the Owner in writing of its determination regarding removal of the Property from eligibility for tax exemption. If the Local Historic Preservation Office determines that the property should be removed from eligibility for tax exemption, it will notify the Property Appraiser of the county in which the Property is located in writing so that the tax exemption can be canceled for the remainder of the Covenant period. In such cases, no penalty or interest shall be assessed against the Owner.

8. If it appears that the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made the Property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or damaged deliberately or through gross negligence of the Owner, the Local Historic Preservation Office shall notify the owner in writing. For the purpose of this Covenant, "gross negligence" means the omission of care which even inattentive and thoughtless persons never fail to take of their own property. The Owner shall have 30 days to respond indicating any circumstances which show that the damage was not deliberate or due to gross negligence. If the Owner cannot show such circumstances, he shall develop a plan for restoration of the property and a schedule for completion of the restoration. In order to maintain the tax exemption, the Owner shall complete the restoration work necessary to return the Property to the condition existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office. If the Owner does not complete the restoration work on the agreed upon time schedule, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s.196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years 'n which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s.212.12 (3), F.S.

9. The terms of this covenant shall be binding on the current Property Owner, transferees, heirs, successors, or assigns.

This Covenant shall be enforceable in specific performance by a court of competent jurisdiction.

Date: \_\_\_\_\_

CITY OF LAKE WORTH BEACH, FLORIDA

WITNESSES AS TO THE CITY:

By: \_\_\_\_\_

Pam Triolo, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved As To Form And Legal Sufficiency:

By: \_\_\_\_\_

Glen Torcivia, City Attorney  
Florida Bar No. 343374

Date: 11/9/20

PROPERTY OWNER

WITNESSES AS TO PROPERTY OWNER

By: \_\_\_\_\_

Title Manager,  
HUMMINGBIRD PARTNERS LLC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing was acknowledged before me on this 9<sup>th</sup> day of NOVEMBER, 2020, by, RAY MARANGES who is personally known to me, or produce \_\_\_\_\_ ID as identification.

\_\_\_\_\_  
Notary Public

My Commission Expires 12.3.23



# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Community Sustainability

**TITLE:**

Resolution No. 50-2020 – Public Meeting - Approve a Historic Preservation Ad Valorem Tax Exemption for the property located at 910 North M Street

**SUMMARY:**

Resolution 50-2020 authorizes a property tax exemption from the increased assessed value as a result of the historic preservation rehabilitation as allowed by Section 23.5-5 of the Land Development Regulations.

**BACKGROUND AND JUSTIFICATION:**

On March 11, 2020, the Historic Resources Preservation Board (HRPB) approved a request by the applicant for a Certificate of Appropriateness for Exterior Alterations and a Pre-Construction Historic Preservation Ad Valorem Tax Exemption application. On October 14, 2020, the HRPB approved the Completed Work Application and recommended approval of the application to the City Commission. The HRPB approval certifies that the renovation work was completed in accordance with national and local historic preservation guidelines, and met the criteria for obtaining an ad valorem tax exemption approval. The owner agreed to enter into a covenant with the City to maintain the qualifying improvements for the exemption period, not to exceed ten (10) years. The exemption applies only to the increase in assessed value as a result of the improvements and does not relieve the owner of all tax liability. Subsequent to an approval for a municipal tax exemption, the application will be forwarded to Palm Beach County to be reviewed for a county tax exemption. The Historic Preservation Ad Valorem Tax Exemption program is authorized by Florida Statutes and is used throughout the State to encourage property improvements in historic districts.

**MOTION:**

Move to approve/disapprove Resolution No. 50-2020 for a Historic Preservation Ad Valorem Property Tax Exemption for the property located at 910 North M Street.

**ATTACHMENT(S):**

Resolution 50-2020  
Covenant



RESOLUTION NO. 50-2020 OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION FOR THE PROPERTY LOCATED AT 910 NORTH M STREET, LAKE WORTH BEACH, FLORIDA, AS A RESULT OF THE HISTORIC PRESERVATION/ REHABILITATION OF THE PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Lake Worth Beach has adopted the Historic Preservation Program that is designed to preserve, protect, enhance, and perpetuate resources which represent distinctive and significant elements of the City's historical, cultural, social, economic, political, archaeological, and architectural identity; and/or serve as visible reminders of the City's culture and heritage; and

WHEREAS, the citizens of Florida amended the Florida Constitution, Article VII, Section 3, to authorize counties and municipalities to grant a partial ad valorem tax exemption to owners of historic properties for improvements to such properties which are the result of the restoration, renovation, or rehabilitation of the historic properties; and

WHEREAS, Section 196.1997, Florida Statutes, establishes the process by which such exemption may be granted to property owners; and

WHEREAS, the City of Lake Worth Beach is an approved Certified Local Government to perform the review functions necessary for Historic Tax Exemption applications; and

WHEREAS, the City passed Ordinance No. 97-26, which approved an ad valorem tax exemption for the restoration, renovation, and/or improvement of historic properties, which provides that upon completion of the review of a Final Application/Request for Review of Completed Work that the Historic Preservation Planner shall present such Final Application in a regularly scheduled meeting of the Historic Resources Preservation Board with a recommendation that the Historic Resources Preservation Board recommend approval or deny the exemption to the City Commission; and

WHEREAS, the property owner filed a preconstruction application and received preliminary approval from the Historic Resources Preservation Board on March 11, 2020, for an ad valorem tax exemption upon completion of the historic renovation and restoration of the property located at 910 North M Street, Lake Worth Beach (the "Property"); and

WHEREAS, on October 14, 2020, the Historic Resource Preservation Board reviewed the Completed Work Application and determined that the completed improvements were consistent with the United States Secretary of Interior's *Standards for Rehabilitation*, that the requirements of Section 196.1997, Florida Statutes, have been met, and recommended granting an ad valorem City tax exemption for the Property.

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

SECTION 1. The foregoing recitals are incorporated into this resolution as true and correct statements.

SECTION 2. The Property is designated as a contributing property to a historic district under the terms of the Lake Worth Beach Historic Preservation Program.

SECTION 3. The City Commission of the City of Lake Worth Beach, Florida, hereby finds that the completed improvements to the Property, as described in the application for ad valorem tax exemption filed with the City and in HRPB Case No. 20-00100061 is consistent with the United States Secretary of Interior's *Standards for Rehabilitation*, the City of Lake Worth Beach Land Development Regulations 23.5-4 and 23.5-5, and the property meets the requirements of Section 196.1997, Florida Statutes.

SECTION 4. In accordance with this finding, the City Commission hereby approves an ad valorem tax exemption for a ten-year period, commencing on January 1, 2021, and expiring December 31, 2030, from that portion of ad valorem taxes levied on the increase in assessed value resulting from the restoration, renovation, and rehabilitation improvements, for the real property described as:

Property Owner: Frank Viera

Address: 910 North M Street  
Lake Worth Beach, Florida 33460

Legal Description: Lot 3, Block 286, formerly Township of Lucerne, Plat Book 2, page 29, of the Public Records of Palm Beach County, Florida

SECTION 5. Prior to the ad valorem tax exemption described herein being effective, the Property Owner shall execute and record in the Public Records of Palm Beach County, a restrictive covenant in a form established by the State of Florida, Department of State, Division of Historical Resources, requiring that the qualifying improvements must be maintained during the period for which the tax exemption is granted. A copy of the recorded covenant shall be provided to the City's Historic Preservation Planner.

SECTION 6. A certified copy of this resolution shall be provided to the Palm Beach County Property Appraiser.

SECTION 7. This resolution shall take effect upon its passage and approval.

The passage of this resolution was moved by \_\_\_\_\_, seconded by \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo  
Vice Mayor Andy Amoroso  
Commissioner Scott Maxwell  
Commissioner Herman Robinson

The Mayor thereupon declared this resolution duly passed and adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

\_\_\_\_\_  
Deborah M. Andrea, CMC, City Clerk

### HISTORIC PRESERVATION PROPERTY TAX EXEMPTION COVENANT

This Covenant is made the \_\_\_\_\_ day of \_\_\_\_\_, by Frank Viera, (hereinafter referred to as the Owner) and in favor of the City of Lake Worth Beach, Florida (hereinafter referred to as the Local Government) for the purpose of the restoration, renovation or rehabilitation, of a certain Property located at 910 North M Street, Lake Worth Beach, Florida which is owned in fee simple by the Owner and is listed in the National Register of Historic Places or locally designated under the terms of a local preservation ordinance or is a contributing property to a National Register listed district or a contributing property to a historic district under the terms of a local preservation ordinance. The areas of significance of this property, as identified in the National Register nomination or local designation report for the property or the district in which it is located are X architecture, \_\_\_\_\_ history, \_\_\_\_\_ archaeology.

The Property is comprised essentially of grounds, collateral, appurtenances, and improvements. The property is more particularly described as follows (include city reference, consisting of repository, book, and page numbers): Lot 3, Block 286, Lake Worth, formerly Township of Lucerne, according to the plat thereof, on file, in the office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, Plat Book 2, Page 29.

In consideration of the tax exemption granted by the Local Government, the Owner hereby agrees to the following for the period of the tax exemption which is from January 1, 2021 to December 31, 2030.

1. The Owner agrees to assume the cost of the continued maintenance and repair of said Property so as to preserve the architectural, historical, or archaeological integrity of the same in order to protect and enhance those qualities that made the Property eligible for listing in the National Register of Historic Places or designation under the provisions of the local preservation ordinance.

2. The Owner agrees that no visual or structural alterations will be made to the Property without prior written permission of the Local Historic Preservation Office. The address of the certified Local Historic Preservation Office is:

City of Lake Worth Beach, Division of Planning, Zoning, and Historic Preservation  
1900 2<sup>nd</sup> Avenue North  
Lake Worth Beach, Florida 33401  
Telephone: (561) 586-1687

The address of the Division of Historical Resources is:

Bureau of Historic Preservation  
Division of Historical Resources  
R.A. Gray Building, 500 South Bronough Street  
Tallahassee, Florida 32399-0250  
Telephone Number: (850) 245-6333 or (800) 847-PAST (7278)

3. [Only for properties of archaeological significance] The Owner agrees to ensure the protection of the site against willful damage or vandalism. Nothing in the Covenant shall prohibit the Owner from developing the site in such a manner that will not threaten or damage the archaeological resource, provided that permission for alteration of the site is obtained pursuant to 2. above.

4. The Owner agrees that the Local Historic Preservation Office and appropriate representatives of the Local Government, its agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the conditions of this Covenant are being observed.

5. In the event of the non-performance or violation of the maintenance provision of the Covenant by the Owner or any successor-in-interest during the term of the Covenant, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s.196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s.212.12 (3), F.S.

6. If the Property is damaged by accidental or natural causes during the Covenant period, the Owner will inform the Local Historic Preservation Office in writing of the damage to the Property, including (1) an assessment of the nature and extent of the damage; and (2) an estimate of the cost of restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion. In order to maintain the tax exemption, the Owner shall complete the restoration or reconstruction work necessary to return the Property to the condition

existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office.

7. If the Property has been destroyed or severely damaged by accidental or natural causes, that is, if the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made the property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or so damaged that restoration is not feasible, the Owner will notify the Local Historic Preservation Office in writing of the loss. The Local Historic Preservation Office will evaluate the information provided and notify the Owner in writing of its determination regarding removal of the Property from eligibility for tax exemption. If the Local Historic Preservation Office determines that the property should be removed from eligibility for tax exemption, it will notify the Property Appraiser of the county in which the Property is located in writing so that the tax exemption can be canceled for the remainder of the Covenant period. In such cases, no penalty or interest shall be assessed against the Owner.

8. If it appears that the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made the Property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or damaged deliberately or through gross negligence of the Owner, the Local Historic Preservation Office shall notify the owner in writing. For the purpose of this Covenant, "gross negligence" means the omission of care which even inattentive and thoughtless persons never fail to take of their own property. The Owner shall have 30 days to respond indicating any circumstances which show that the damage was not deliberate or due to gross negligence. If the Owner cannot show such circumstances, he shall develop a plan for restoration of the property and a schedule for completion of the restoration. In order to maintain the tax exemption, the Owner shall complete the restoration work necessary to return the Property to the condition existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office. If the Owner does not complete the restoration work on the agreed upon time schedule, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s.196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years 'n which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s.212.12 (3), F.S.

9. The terms of this covenant shall be binding on the current Property Owner, transferees, heirs, successors, or assigns.

This Covenant shall be enforceable in specific performance by a court of competent jurisdiction.

Date: \_\_\_\_\_ CITY OF LAKE WORTH BEACH, FLORIDA

WITNESSES AS TO THE CITY: By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved As To Form And Legal Sufficiency:

By: \_\_\_\_\_  
Glen Torcivia, City Attorney  
Florida Bar No. 343374

Date: \_\_\_\_\_

PROPERTY OWNER

WITNESSES AS TO PROPERTY OWNER

By: Frank Viera  
Property Owner, Frank Viera

Jose dos Reis  
Jose dos Reis

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing was acknowledged before me on this 29 day of OCTOBER, 2020, by,  
FRANK VIERA who is personally known to me, or produce  
//// ID as identification.



**Michael Schneider**  
COMMISSION # GG283368  
EXPIRES: Sept. 30, 2022  
Bonded Thru Aaron Notary

Michael Schneider  
Notary Public  
My Commission Expires  
9/30/22

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Financial Services

**TITLE:**

Resolution No. 51-2020 - Budget Amendment for the Regional Sewer fund for FY 2019 - 2020 Budget

**SUMMARY:**

Resolution No. 51-2020 amends the Fiscal Year 2019 - 2020 budget and appropriates the Regional Sewer fund balance and operating expenses

**BACKGROUND AND JUSTIFICATION:**

The City of Lake Worth Beach, Florida (the "City") entered into an interlocal wastewater service and wastewater facilities cost sharing agreement in 2013 with the City of Atlantis, Town of Lantana, Town of Manalapan, Town of Palm Beach, Village of Palm Springs, Town of South Palm Beach, Town of Lake Clarke Shores and the Palm Beach State College ("Sub-Regional Participants").

Pursuant to the cost sharing agreement, at the conclusion of the fiscal year, the City shall perform a true up of the revenues and expenses of the operations and maintenance accounts of the Sub-Regional Sewer System and each Sub-Regional Participant, including the City, shall receive a refund if overbilled, or be billed and be responsible for any amount that was under billed.

The Fiscal Year (FY) 2019 - 2020 true up determined a refund is due to the Sub-Regional Participants, including the City, of a total sum of \$780,115.67, broken down proportionally as stated below:

City of Atlantis \$ 39,965.81

Town of Lantana \$ 108,012.48

Town of Manalapan \$ 5,984.97

Village of Palm Springs \$ 199,171.92

Town of South Palm Beach \$ 16,134.62

Town of Lake Clarke Shores \$ 39,105.88

Palm Beach State College \$ 3,348.30

City of Lake Worth Beach \$ 368,391.69

TOTAL: \$780,115.67

On September 24, 2019, the City Commission adopted the FY 2019 - 2020 annual budget. If approved, this Resolution will appropriate the FY 2019 - 2020 Regional Sewer fund balance and operating expenses in order to make the aforementioned refunds. Pursuant to section



166.241, Florida Statutes, the City is authorized to amend the FY 2019- 2020 budget within 60-days of the end of that fiscal year.

**MOTION:**

Move to approve/disapprove Resolution No. 51-2020 Budget Amendment for the Regional Sewer Fund for FY 2019 - 2020 Budget.

**ATTACHMENT(S):**

Resolution 51-2020  
Memo

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RESOLUTION NO. 51-2020 – A GENERAL APPROPRIATION RESOLUTION OF THE CITY OF LAKE WORTH BEACH, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA, MAKING A BUDGET AMENDMENT AND CORRESPONDING APPROPRIATION FOR THE REFUND DUE TO THE CITY’S SUB-REGIONAL PARTICIPANTS IN THE AMOUNT OF \$780,115.67 FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth Beach, Florida (the “City”) entered into an interlocal wastewater service and wastewater facilities cost sharing agreement in 2013 with the City of Atlantis, Town of Lantana, Town of Manalapan, Town of Palm Beach, Village of Palm Springs, Town of South Palm Beach, Town of Lake Clarke Shores and the Palm Beach State College (“Sub-Regional Participants);

WHEREAS, pursuant to the cost share agreement, at the conclusion of each fiscal year, the City shall perform a true up of the revenues and expenses of the operations and maintenance accounts of the Sub-Regional Sewer System and each participant, including the City, shall receive a refund if overbilled, or be billed and be responsible for any amount that was under billed;

WHEREAS, the Fiscal Year (FY) 2019 – 2020 true up determined a refund is due to the Sub-Regional Participants, including the City, of a total sum of \$780,115.67, broken down proportionally as stated in **Exhibit “A”**;

WHEREAS, the City previously adopted the FY 2019 - 2020 Budget pursuant to Resolution No. 49-2019 on September 24, 2019;

WHEREAS, pursuant to section 166.241, Florida Statutes, the City may amend the FY 2019 – 2020 Budget up to 60 days after September 30, 2020;

WHEREAS, the City finds it is necessary and essential to amend the FY 2019 - 2020 Budget as set forth in this resolution; and

WHEREAS, adoption of this resolution to amend the FY 2019 - 2020 Budget serves a valid public purpose.

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

Section 1. The above recitals are hereby ratified and confirmed as being true and correct and are hereby incorporated into this resolution.

Section 2. As hereinafter stated in this resolution, the term “fiscal year” shall mean the period of time beginning October 1, 2019, and ending on and including September 30, 2020.

45 Section 3 The funds and available resources and revenues that are set out and  
46 attached as Exhibit "A" and incorporated herein by reference, be, and the same hereby  
47 are, appropriated to provide the monies to be used to pay the necessary expenses of the  
48 Regional Sewer Fund of the City for the fiscal year.

49  
50 Section 4. The sums, which are set out in Exhibit "A" and herein incorporated by  
51 reference, listed as expenses of the Regional Sewer Fund of the City, be, and the same  
52 hereby are, appropriated and shall be paid out of the revenues herein appropriated for  
53 the fiscal year.

54  
55 Section 5. The revenues and the expenses for which appropriations are hereby made,  
56 all set forth above, shall be as set out in the Amended Budget for the fiscal year.

57  
58 Section 6. The sums set out in Exhibit "A" are herein before incorporated by reference  
59 and based upon departmental estimates prepared by the Director of Water Utilities shall  
60 be, and the same hereby are, fixed and adopted as the amended budget for the operation  
61 of the City and its other enterprises for the fiscal year.

62  
63 Section 7. This resolution shall become effective immediately upon passage.

64  
65 The passage of this resolution was moved by Commissioner xxx, seconded by  
66 Commissioner xxx, and upon being put to a vote, the vote was as follows:

- 67  
68 Mayor Pam Triolo  
69 Vice Mayor Andy Amoroso  
70 Commissioner Scott Maxwell  
71 Commissioner Herman Robinson

72  
73 The Mayor thereupon declared this resolution duly passed and adopted on the 17<sup>th</sup>  
74 day of November, 2020.

75  
76 LAKE WORTH BEACH CITY COMMISSION

77  
78  
79 By: \_\_\_\_\_  
80 Pam Triolo, Mayor

81  
82 ATTEST:

83  
84  
85 \_\_\_\_\_  
86 Deborah M. Andrea, CMC, City Clerk  
87

## Exhibit A

GL ACCOUNT #	DESCRIPTION	FY 2019 - 2020 BUDGET	BUDGET AMENDMENT	FY 2019 - 2020 FINAL BUDGET
405-0000-395.00-00	Other Sources/Use of Fund Balance	--	780,115.67	780,115.67
405-9010-535.92-20	Settlements/Year-End True-Up	--	780,115.67	780,115.67

88

Sub Regional Participants	Refund Due
City of Atlantis	\$39,965.81
Town of Lantana	\$108,012.48
Town of Manalapan	\$5,984.97
Village of Palm Springs	\$199,171.92
Town of South Palm Beach	\$16,134.62
Town of Lake Clarke Shores	\$39,105.88
Palm Beach State College	\$3,348.30
City of Lake Worth Beach	\$ 368,391.69
<b>TOTAL</b>	<b>\$ 780,115.67</b>

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WATER UTILITIES DEPARTMENT  
301 COLLEGE STREET  
LAKE WORTH BEACH, FL 33460  
**561.586.1710**

FROM: Brian A. Shields, P.E., Director Water Utilities, ECR Board Chair  
RE: Sub- Regional Partners, (ECR). Annual True-Up- FY2019  
DATE: October 22, 2020

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**Overview.**

Per our contract agreement with our partners, **page 10-11, 6.3 -Final Budget:** -... Each Municipality's cumulative utility bill for the previous fiscal year shall be recalculated using the true up rate and compared to the Municipality's actual payments for that fiscal year. Each participant shall receive a refund if overbilled, or be billed and be responsible for any amount that was under billed. All true up payments shall be paid as a lump sum within thirty (30) days of receipt of invoice or refund.

FY2019 true up was done and calculations determined a refund is due to our Sub-regional partners of a Total sum of \$780,115.67, broken out proportionally as stated below.

South Palm Beach	-\$16,134.62
Palm Springs	-\$199,171.92
Manalapan	-\$5,984.97
Lantana	-\$108,012.48
Atlantis	-\$39,965.81
Lake Clarke Shores	-\$39,105.88
PBSC	-\$3,348.30
Lake Worth Beach	-\$368,391.69

Checks will be prepared and issued upon approval.

Best Regards,

  
Brian Shields, P.E.  
Director Water Utilities, ECR Board Chair

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Financial Services

**TITLE:**

Ratification of Agreement with Coast Professional, Inc.

**SUMMARY:**

Ratification of Agreement with Coast Professional, Inc. for code lien recovery services after re-evaluation and re-scoring required due to incorrectly posted public notice.

**BACKGROUND AND JUSTIFICATION:**

The Code Compliance Division of the Community Sustainability Department requested proposals from qualified firms to provide private collections of outstanding code compliance liens, fines and fees. The City advertised Request for Proposal 20-207 for Code Enforcement Lien Recovery Services on May 31, 2020, and the city received two responses. An evaluation committee met via a Webex meeting and reviewed and scored the responses on July 16, 2020. The response proposal from Coast Professional, Inc. was ranked highest, and a contract with the company was presented to and approved by the City Commission at the September 15, 2020 commission meeting.

Sometime after, the City discovered that the public meeting was incorrectly posted/advertised and in order to correct the error, staff organized a new public meeting to re-evaluate and re-score all proposals. An evaluation committee met for the second time via a Webex meeting and reviewed and re-scored the responses on November 5, 2020. The response proposal from Coast Professional, Inc. was again ranked with the highest score. At this time staff is requesting a ratification of the Agreement with Coast Professional.

**MOTION:**

Move to approve/disapprove the ratification of the Agreement with Coast Professional, Inc. for private code lien recovery services.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Coast Professional Inc. Agreement

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues	100,000	100,000	100,000	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	0	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Project Number	FY20 Budget	Current Balance	Agenda Expenditure	Balance

**PROFESSIONAL SERVICES AGREEMENT**  
**(Code Enforcement Lien Recovery Services)**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered on 10/5/2020 by and between the **City of Lake Worth Beach**, a Florida municipal corporation ("City") and **Coast Professional, Inc.**, with its address at 4273 Volunteer Road, Geneseo, NY 14454, authorized to do business in the State of Florida ("Consultant").

**RECITALS**

**WHEREAS**, the City issued Request for Proposals RFP 20-207 in order to obtain a consulting services for a Code Enforcement Lien Recovery and related services ("RFP" hereinafter); and

**WHEREAS**, the Consultant has provided the City with a written proposal in response to RFP 20-207 for a Code Enforcement Lien Recovery Services; and

**WHEREAS**, the City desires to accept Consultant's proposal for the provision of the Code Enforcement Lien Recovery Services consistent with the terms and conditions set forth in this Agreement; and

**WHEREAS**, the Consultant will use its best efforts to effect collections of accounts referred to it by the City; and

**WHEREAS**, the Consultant shall not under any circumstances use any threats, intimidation, or harassment of a debtor in the collection of accounts, shall comply with all provisions of the Fair Debt Collection Practices Act (FDCPA) and shall not violate any Federal Trade Commission or other applicable state and federal statutes, laws, rules, ordinances, regulations and guidelines; and

**WHEREAS**, the Consultant agrees to abide by the City's Code of Ordinances, its regulations and adopted policies and procedures; and

**WHEREAS**, the Consultant has not, does not and will not represent, warrant, or guarantee the collections or timing of any collections of any accounts assigned to it under this Agreement. The services shall be performed on a best efforts basis; and

**WHEREAS**, the Consultant shall comply with all current consumer financial laws and regulations and their amendments during the term of this Agreement; and

**WHEREAS**, the Consultant warrants that it is experienced and capable of performing the services hereunder in a professional and competent manner; and

**WHEREAS**, the City finds accepting Consultant's proposal as described herein serves a valid public purpose and is in accordance with the City's Procurement Code and Policy; and

**WHEREAS**, the purpose of this Agreement is to set forth certain terms and conditions for the provision of services by the Consultant to the City.

**NOW, THEREFORE**, in consideration of the premises and mutual covenants herein contained, the sufficiency of which is hereby acknowledged by the parties, the City and the Consultant agree as follows:

**SECTION 1: INCORPORATION OF RECITALS.** The foregoing Recitals are incorporated into this Agreement as true and correct statements.



**SECTION 2: CONSULTANT'S SERVICES AND RESPONSIBILITIES.** As more specifically set forth in the Consultant's proposal (dated June 17, 2020) which is attached hereto as **Exhibit "A"** and incorporated herein, the Consultant shall provide Code Enforcement Lien Recovery Services to the City.

A. The Consultant for the purpose of recovering City debtor accounts, will comply at all times with all applicable "Red Flag" regulations and requirements. This includes information that may be shared and required to perform credit bureau checks, address searches and proper billing and collection of payments. A copy of the Consultant's "Red Flag" policies shall be provided to the City.

B. All funds collected by the Consultant on behalf of the City shall be deposited into Consultant's trust account. The City authorizes the Consultant to endorse negotiable instruments made payable to the City for purposes of depositing funds in said account. Any interest earned on funds shall be retained by Consultant.

C. The Consultant will remit to the City monthly statements of the gross amount received with respect to all accounts less earned and undisputed Consultant commission (as defined below) by the tenth (10<sup>th</sup>) day of the month following the month in which such amounts were received, unless special circumstances require a more immediate remittance on all funds collected during the preceding month. The City will examine each such summary and raise any objections to Consultant's accounting, in writing, within thirty (30) days after the receipt of such summary. City's failure to raise such objection to Consultant's accounting during the thirty (30) day period will be deemed a full and final acceptance by the City of Consultant's summary for that month.

D. Consultant shall return to City, without charge, any account placed in error.

E. The City acknowledges that in connection with the collection of delinquent consumer debts, the FDCPA requires that Consultant provide the consumer with verification of the underlying obligation if that request is made to Consultant, in writing, by the consumer within thirty (30) days of our initial communication with the consumer if Consultant is to continue with collection efforts. The law prohibits Consultant from collecting on any obligation once a timely verification request is made to Consultant from the consumer, until such time as said verification has been mailed by Consultant to the consumer. The City acknowledges that in any situation in which it does not provide Consultant with the requested verification, Consultant can no longer legally attempt to collect the account. In such case, The City acknowledges that the Consultant will return the account to the City.

**SECTION 3: CITY RIGHTS AND RESPONSIBILITIES.**

A. The City may periodically place Accounts with Consultant for collection pursuant to the terms of this Agreement. The City represents and warrants (i) that the Account balances will reflect true and just indebtedness properly assessed in accordance with all applicable laws, codes and ordinances, (ii) that the Accounts are represented by a properly obtained and recorded lien in favor of the City, (iii) that the City obeyed all laws and regulations relating to or affecting the Accounts assigned, (iv) that the Account balances are not barred by any statute of limitations, (v) that the persons obligated on the Accounts are not represented by an attorney or protected by any bankruptcy proceeding unless clearly noted at time of assignment and the Accounts are not the subject of litigation or any regulatory complaints, (vi) that the Accounts or related rights to collect are not at time of assignment assigned to another collection agency, attorney or other person, (vii) that the City is fully authorized and has obtained all necessary approvals for the assignment of the City's rights and interests in and to the Accounts to Consultant, and (viii) that the City has or will provide to Consultant all information and documentation with respect the Accounts necessary for Consultant to provide the services pursuant to this Agreement and that all such information and documentation is true, accurate and complete in all material respects.

B. Any such placement of Accounts shall include an assignment of the City's rights and interests in and to the Accounts, including all contractual and statutory rights, to the extent required to perform the services required by this Agreement. City agrees and acknowledges that Consultant may enforce all such assigned rights with respect to Accounts, including recovery of all amounts owed for the Account, subject to Consultant's duties and obligations to the City pursuant to this Agreement.

C. The City may cancel and recall Accounts by providing written notice to Consultant unless the account is in a paying or promise to pay status or a signed suit authorization is on file. Upon closing an Account, the City will remit to Consultant all compensation due for payments that resulted directly as a result of Consultant's effort pursuant to this Agreement.

D. The City shall notify Consultant of all payments made directly to the City on all Accounts at time of receipt of payment. The City understands and agrees that full compensation is due and payable to Consultant on such direct payments once the Account has been assigned to Consultant. The City further agrees to indemnify Consultant for all losses incurred by Consultant caused by the City not reporting any such direct payments.

**SECTION 4: INDEPENDENT CONTRACTOR RELATIONSHIP.** No relationship of employer or employee is created by this Agreement, it being understood that Consultant will act hereunder as an independent contractor and none of the Consultant's officers, directors, employees, independent contractors, representatives or agents performing services for Consultant pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and Consultant is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

**SECTION 5: TERM, TIME AND TERMINATION.**

a. Term. The term of this Agreement shall commence upon the approval of this Agreement by the City Commission and shall be for the period of three (3) consecutive year unless earlier terminated as stated herein. The term may be extended for two (2) additional one (1) year terms by written agreement of the parties. The City Manager is authorized to extend the term of this Agreement on behalf of the City if all other material terms and conditions remain the same.

b. Time for Completion. Time is of the essence in the performance of this Agreement. The Consultant shall at all times carry out its duties and responsibilities as expeditiously as commercially reasonable and in accordance with the project schedule set forth in Exhibit "A".

c. Force Majeure. Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of God, wars, riots, national emergencies, pandemics, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The Consultant or City may suspend its performance under this Agreement as a result of a force majeure without being in default of this Agreement, but upon the removal of such force majeure, the Consultant or City shall resume its performance as soon as is reasonably possible. Upon the Consultant's request, the City shall consider the facts and extent of any failure to perform the services and, if the Consultant's failure to perform was without its or its subconsultants' fault or negligence, the schedule and/or any other affected provision of this Agreement may be revised accordingly, subject to the City's rights to change, terminate, or stop any or all of the services at any time. No extension shall be made for delay occurring more than seven (7) days before a notice of delay or claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) notice of delay or claim is necessary.

d. Termination without cause. Either party may terminate this Agreement at any time with or without cause by giving not less than thirty (30) days written notice of termination.

e. Termination for cause. Either party may terminate this Agreement at any time in the event that the other party engages in any act or makes any omission constituting a material breach of any term or condition of this Agreement. The party electing to terminate this Agreement shall provide the other party with written notice specifying the nature of the breach. The party receiving the notice shall then have three (3) days from the date of the notice in which to remedy the breach. If such corrective action is not taken within three (3) days, then this Agreement shall terminate at the end of the three (3) day period without further notice or demand.

f. Early Termination. If this Agreement is terminated before the completion of all services by either party, the Consultant shall:

1. Stop services on the date and to the extent specified including without limitation services of any subconsultants.
2. Transfer all work in progress, completed work, and other materials related to the terminated services to the City in the format reasonably acceptable to City.
3. Continue and complete all parts of the services that have not been terminated.

g. Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a municipal corporation and political subdivision of the state of Florida, and as such, this Agreement (and all Exhibits hereto) are subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that no funds are appropriated or budgeted by the City's governing board in any fiscal year to pay the costs associated with the City's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City's obligations hereunder in any fiscal period, then the City will notify Consultant of such occurrence and either the City or Consultant may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever; however, City shall pay Consultant for all services performed under this Agreement through the date of termination.

#### **SECTION 6: COMPENSATION.**

- a. Payments. The City agrees to compensate the Consultant in accordance with the rate schedule set forth in **Exhibit "A"**. The City shall not reimburse the Consultant for any additional costs incurred as a direct or indirect result of the Consultant providing services to the City under this Agreement and not set forth in Exhibit "A".
- b. Payments shall be made in the following manner. The Consultant shall collect all funds from consumers (property owners) in accordance with the City's ordinances, regulations, policies and procedures. The consultant shall then deduct its collection fees as set forth in Exhibit "A" and remit the balance to the City. Remittance to the City shall occur on a monthly basis in accordance with section 2b above. There is no minimum or maximum amount that may be recovered by the Consultant. Notwithstanding any provision to the contrary contained in Exhibit A or the RFP, the Consultant shall not be required to add the compensation payable pursuant to this Section to the amount owed to the City and the City shall, regardless of such addition, be responsible for paying to Consultant the amount of compensation provided in this Section.

#### **SECTION 7: INDEMNIFICATION AND DAMAGES.**

A. The Consultant shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence, of the Consultant, its officers, directors, employees, representatives and agents employed or utilized by the Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Consultant, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

B. To the maximum extent permitted by law, in no event will either party be responsible for any incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance.

**SECTION 8: COMPLIANCE AND DISQUALIFICATION.** Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

**SECTION 9: PERSONNEL.** The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. 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 Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and authorized or permitted under federal, state and local law to perform such services.

**SECTION 10: SUB-CONSULTANTS.** The City reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and approve all qualifications of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Agreement. All sub-consultants providing professional services to the Consultant under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement. In the event that a sub-consultant does not have insurance or does not meet the insurance limits as stated in this Agreement, the Consultant shall indemnify and hold harmless the City for any claim in excess of the sub-consultant's insurance coverage, arising out of the negligent acts, errors or omissions of the sub-consultant.

**SECTION 11: FEDERAL AND STATE TAX.** The City is exempt from payment of Florida State Sales and Use Tax. The Consultant is not authorized to use the City's Tax Exemption Number.

**SECTION 12: INSURANCE.** Prior to commencing any services, the Consultant shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the Consultant. All such insurance policies may not be modified or terminated without the express written authorization of the City.

<u>Type of Coverage</u>	<u>Amount of Coverage</u>
Professional liability	\$1,000,000 per occurrence
Commercial general liability (Products/completed operations Contractual, insurance broad form property,	\$1, 000,000 per occurrence
Independent Consultant, personal injury)	\$2,000,000 annual aggregate
Automobile (owned, non-owned, & hired)	\$ 1,000,000 single limits
Worker's Compensation	\$ statutory limits

The commercial general liability policies will name the City as an additional insured and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the Consultant has obtained insurance of

the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Consultant of its liability and obligations under this Agreement.

**SECTION 13: SUCCESSORS AND ASSIGNS.** The City and the Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

**SECTION 14: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.** All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. 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.

**SECTION 15: WAIVER OF JURY TRIAL.** 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.

**SECTION 16: ACCESS AND AUDITS.** The Consultant shall maintain adequate records to justify all payments made by the City under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Consultant's place of business. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

**SECTION 17: NONDISCRIMINATION.** The Consultant 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, marital status, or sexual orientation.

**SECTION 18: AUTHORITY TO PRACTICE.** The Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 19: SEVERABILITY.** 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.

**SECTION 20: PUBLIC ENTITY CRIMES.** Consultant 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 Consultant will advise the City immediately if it becomes aware of any violation of this statute.

**SECTION 21: NOTICE.** All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the City shall be sent to:

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

and if sent to the Consultant, shall be sent to:

Coast Professional, Inc.  
Attn: Jonathan Prince  
4273 Volunteer Road  
Geneseo, NY 14454

The foregoing names and addresses may be changed if such change is provided in writing to the other party. Notice shall be deemed given upon receipt.

**SECTION 22: ENTIRETY OF AGREEMENT.** The City and the Consultant agree that this Agreement 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.

**SECTION 23: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 24: PREPARATION AND NON-EXCLUSIVE.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

**SECTION 25: MATERIALITY.** In the event Consultant fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the Consultant to terminate for cause.

**SECTION 26: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved by the City. The Effective Date is the date this Agreement is executed by the City.

**SECTION 27: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS.** 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 performance of this Agreement. 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.

**SECTION 28: SURVIVABILITY.** 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.

**SECTION 29: COUNTERPARTS.** 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.

**SECTION 30: PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**SECTION 31: AGREEMENT DOCUMENTS AND CONTROLLING PROVISIONS.** This Agreement consists of this Agreement and Exhibit "A". This Agreement also includes the RFP, which is incorporated by reference. The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement, the RFP and Exhibit "A", the terms and conditions of this Agreement shall prevail with the RFP next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

**SECTION 32: OWNERSHIP OF DELIVERABLES.** The deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the Consultant in Exhibit "A" to the City shall become the property of the City. The Consultant may keep copies or samples thereof and shall have the right to use the same for its own purposes. The City accepts sole responsibility for the reuse of any such deliverables in a manner other than as initially intended or for any use of incomplete documents.

**SECTION 33: REPRESENTATIONS AND BINDING AUTHORITY.** By signing this Agreement, on behalf of the Consultant, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the Consultant for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**SECTION 34: PUBLIC RECORDS.** The Consultant 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 Agreement and following completion of this Agreement if the Consultant does not transfer the records to the City.
- (c) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant 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 CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'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: DEBBIE ANDREA, AT (561) 586-1662, [DANDREA@LAKEWORTHBEACHFL.GOV](mailto:DANDREA@LAKEWORTHBEACHFL.GOV) ,7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.**

**SECTION 35: CONFIDENTIAL AND PROPRIETARY INFORMATION.** Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as required to perform the services pursuant to this Agreement or as otherwise expressly and unambiguously authorized by this Agreement) information, technology or software ("Confidential Information") obtained from the other party (the "Disclosing Party"), which includes, but is not limited to, energy pricing information set forth in the City's agreements with third parties, systems and procedures employed by Consultant in providing the services, information regarding Consultant's other clients, and the compensation payable to Consultant pursuant to this Agreement; provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.

**SECTION 36: EXPORT ADMINISTRATION.** Each party agrees to comply with all export laws and regulations of the United States ("Export Laws") to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

**SECTION 37: NO THIRD PARTY BENEFICIARIES.** There are no third party beneficiaries under this Agreement.

**SECTION 38: SCRUTINIZED COMPANIES.**

(b) (a) The Consultant 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 Consultant or any of its subcontractors are found to have submitted a false certification; or if the Consultant 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. If this Agreement is for one million dollars or more, the Consultant 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 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 Consultant, or any of its subcontractors are found to have submitted a false certification; or if the Consultant 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 are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

(d) The Consultant agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

(e) The Consultant 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.

(f) The Consultant agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the Consultant shall immediately notify the City of the same.



(g) 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.

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

IN WITNESS WHEREOF, the parties hereto have made and executed this Professional Services Agreement (Code Enforcement Lien Recovery) as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: Pam Triolo  
Pam Triolo, Mayor



ATTEST  
By: Deborah Andrea  
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: Christy Goddeau  
Glen J. Torcivia, City Attorney

APPROVED FOR FINANCIAL SUFFICIENCY

By: Bruce Miller  
Bruce T. Miller, Financial Services Director

CONSULTANT: **Coast Professional, Inc.**

By: Micah Pulliam, CPA

Print Name: Micah Pulliam

Title: Chief Financial Officer



[Corporate Seal]

STATE OF LOUISIANA )  
~~PARISH~~ COUNTY OF OUACHITA )

The foregoing instrument was acknowledged before me this 25th day of August, 2020, by Micah Pulliam, who was physically present, as CEO (title), of **Coast Professional, Inc.**, a Corporation, which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following n/a as identification.

Notary Public

Terry W. Johnson #34582

Print Name: Terry W. Johnson  
My commission expires:



OFFICIAL SEAL  
TERRY W. JOHNSON  
NOTARY PUBLIC NO. 34582  
STATE OF LOUISIANA  
PARISH OF OUACHITA  
My commission is for Life

**EXHIBIT "A"**

**(Consultant's Proposal)**

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Financial Services

**TITLE:**

Ratification of Contract Expenditures for CliftonLarsonAllen LLP and Robert Busch in FY 2019 -2020

**SUMMARY:**

Ratification of the additional contract expenditures from FY 2019-2020 is sought for financial consultants who were engaged to assist the City's Financial Services Department during the audit preparation.

**BACKGROUND AND JUSTIFICATION:**

The City entered into the agreements with CliftonLarsonAllen LLP and Robert Busch to provide qualified senior financial consulting services to assist the Financial Services Department in preparation of financial statements for closing of the fiscal year FY 2019 - 2020. Services included performing reconciliation to support the balances in the year-end trial balance, preparing the financial schedules, performing analytical reviews of year-end balances within the trial balance and other pre-audit activities. These services were necessary and required to cover staffing gaps in Financial Services Department.

Since the Financial Services Department exceeded the authorized cost thresholds in the agreements with CliftonLarsonAllen LLP and Robert Busch, the additional expenditures require ratification by the City Commission.

**MOTION:**

Move to approve to approve/disapprove additional contract expenditures for CliftonLarsonAllen LLP in the total amount of \$123,631.16 and Robert Busch in total amount of \$59,118.75.

**ATTACHMENT(S):**

Fiscal Analysis – N/A  
Engagement letter with CliftonLarsonAllen LLP  
Independent Contractor Agreement with Robert Busch



CLA (CliftonLarsonAllen LLP)  
One Tampa City Center  
201 North Franklin Street, Suite 2500  
Tampa, FL 33602  
813-384-2700 | fax 813-384-2750  
CLAconnect.com

February 5, 2020

Bruce Miller, Finance Director  
City of Lake Worth  
7 North Dixie Highway  
Lake Worth Beach, Florida 33426

Dear Mr. Miller:

We are pleased to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the nonattest services CliftonLarsonAllen LLP (“CLA,” “we,” “us,” and “our”) will provide for City of Lake Worth, Florida (“you,” “your,” or “the City”) for the year ended September 30, 2019.

Andrew Laflin, Principal, is responsible for the performance of the engagement.

#### **Scope of professional services**

CLA will perform the following services for the City:

For the fiscal year ending September 30, 2019, CLA agrees to perform the following functions:

- Assist with performing reconciliations to support the balances in the year end trial balance
- Prepare schedules and other support requested by the auditor as directed by the City’s management.
- Perform an analytical review of the year end balances within the trial balance, including a prior year to current year analysis, evaluation of available schedules and other documentation to support certain balances within the trial balance, and other “pre-audit” activities requested by management.

If modifications or changes are required during the course of the engagement that are beyond the initial scope of professional services (such as preparation of the annual Comprehensive Annual Financial Report, or CAFR document), or if you request that we perform any additional services, we will provide you with a separate agreement or addendum for your signature. Such separate agreement or addendum will advise you of the additional fee and time required for such services to facilitate a clear understanding of the services.

#### **Engagement objectives, limitations, and responsibilities**

The objective of our engagement is to assist you in the preparation of financial statements by providing the services identified above. We have not been engaged to prepare financial statements and financial statements will not be presented to you. Financial statements that may be generated from your accounting system have not been prepared, compiled, reviewed, or audited by us and, accordingly, will not include an opinion or any other form of assurance. The financial statements will not be accompanied by a report, and our firm should not be discussed or associated with them.

Material departures from accounting principles generally accepted in the United States of America (U.S. GAAP) or a special purpose framework may exist and the effects of those departures, if any, on the financial statements you generate may not be disclosed. Because of the extent of material departures that may exist in, or required disclosures that may be omitted from, the financial statements you generate, we make no representations regarding the appropriateness of such statements for your intended use or for any other purpose. Moreover, because of the nature of this engagement, we are not responsible for communicating any such departures or omissions to you.

We will comply with the AICPA's Code of Professional Conduct, including the ethical principles of integrity, objectivity, professional competence, and due care.

Our engagement cannot be relied upon to identify or disclose any financial statement misstatements, including those caused by fraud or error, or to identify or disclose any wrongdoing within the City or noncompliance with laws and regulations. We have no responsibility to identify and communicate deficiencies in your internal control as part of this engagement. You agree that we shall not be responsible for any misstatements in the City's financial statements that may not be identified as a result of misrepresentations made to us by you.

**Professional fees**

Our fees for these services will be based on the time involved and the degree of responsibility and skills required, plus expenses, including travel, internal and administrative charges. We will also bill for expenses (including internal and administrative charges) plus a technology and client support fee of five percent (5%) of all professional fees billed.

Fees and reimbursements will be due and payable throughout the project, following the City's receipt of an invoice from CLA. Compensation for services is due in accordance with the Florida Prompt Payment Act. Finance charges of one and one-quarter percent (1.25%) per month will be added to any past due amounts. CLA has the right to immediately terminate our services if payment for our fees or costs is not made to us in a timely manner.

In the event CLA's services are terminated for whatever reason during the project, the City will promptly compensate CLA for all professional services rendered and out-of-pocket expenditures through the date of termination.

Our services will be billed at the hourly rates based on the table below:

Consultant	Rate
Engagement Principal (Andrew Laflin)	\$150 per hour
Senior Consultants (as needed)	\$130 per hour
Staff Consultants (as needed)	\$80 per hour

**Payments.**

The total amount to be paid the Consultant under this Agreement shall not exceed \$30,000 (Thirty Thousand Dollars). The City shall not reimburse the Consultant for any additional costs incurred as a direct or indirect result of the Consultant providing services to the City under this Agreement which exceed the amount set forth above.

**Indemnification and Limitation of Liability.**

The Consultant, its officers, employees and agents shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Consultant, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes. In no event shall either party be liable for any indirect, special, incidental, consequential, punitive, or exemplary damages, or for loss of profits or loss of goodwill.

**Public Records.**

The Consultant 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 Agreement and following completion of this Agreement if the Consultant does not transfer the records to the City.
- (d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant 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 CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'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, ATTN: DEBBIE ANDREA, AT (561) 586-1662, DANDREA@LAKEWORTHBEACHFL.GOV, 7 N. DIXIE HIGHWAY, LAKE WORTH, FL 33460.**

**Scrutinized Companies.** Consultant 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 Consultant or any of its subcontractors are found to have submitted a false certification; or if the Consultant 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.

If this Agreement is for one million dollars or more, the Consultant 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 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 Consultant, or any of its subcontractors are found to have submitted a false certification; or if the Consultant 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 are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

The Consultant agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

The Consultant 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.

The Consultant agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the Consultant shall immediately notify the City of the same.

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.

**PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the CLA acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CLA has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**PUBLIC ENTITY CRIMES.** Consultant 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 Consultant will advise the City immediately if it becomes aware of any violation of this statute.



**OWNERSHIP OF DELIVERABLES.** Except to the extent these provisions are contrary to applicable standards and regulations governing the accounting profession, the deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the Consultant in Exhibit "A" or prepared for or on behalf of the City under this Agreement, shall become the property of the City upon delivery. The Consultant may keep copies or samples thereof and shall have the right to use the same. The City accepts sole responsibility for the reuse of any such documents in a manner other than as initially intended or for any use of incomplete documents.

**Other provisions.**

Except as permitted by the "Consent" section of this agreement, CLA will not disclose any confidential, proprietary, or privileged information of the City to any persons without the authorization of City management or unless required by law. The City and CLA agree to adhere to the requirements of Section 119.0701, Florida Statutes, regarding compliance with public records laws associated with any report deliverables or other documentation produced by CLA under this engagement.

Pursuant to authority given by law or regulation, we may be requested to make certain workpapers available to a regulator for their regulatory oversight purposes. We will notify you of any such request. Access to the requested workpapers will be provided to the regulators under the supervision of CLA personnel and at a location designated by our firm. Furthermore, upon request, we may provide copies of selected workpapers to such regulators. The regulators may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

You acknowledge and agree that this agreement and the pricing structure and billing rates of CLA are sensitive information which you shall not furnish or otherwise disclose to any third party without the prior written consent of CLA.

We will be responsible for our own property and casualty, general liability, and workers compensation insurance, taxes, professional training, and other personnel costs related to the operation of our business.

When performing the services above, we will utilize the resources available at the City to the extent practical to continue development of your personnel. During a portion of our work, we may require the use of your computers. We will try to give you advance notice and coordinate our use so it does not interfere with your employees.

The relationship of CLA with the City shall be solely that of an independent contractor and nothing in this agreement shall be construed to create or imply any relationship of employment, agency, partnership, or any relationship other than an independent contractor.

Accounting standards and procedures will be suggested that are consistent with those normally utilized in a City of your size and nature. We will require management to approve any changes in the application of accounting standards and procedures at the City. Internal controls may be recommended relating to the safeguarding of the City's assets. If fraud is initiated by your employees or other service providers, your insurance is responsible for covering any losses.

We are available to perform additional procedures with regard to fraud detection and prevention, at your request, as a separate engagement, subject to completion of our normal engagement acceptance procedures. The terms and fees of such an engagement would be documented in a separate engagement letter.

The City agrees that CLA will not be assuming any fiduciary responsibility on your behalf during the course of this engagement.

### **Employment provision**

You agree that during the term of this engagement and for a period of one year after the expiration or termination date of this engagement, you will not solicit, hire, contract with, or engage the services of any person providing services to you on behalf of CLA without the prior written consent of CLA.

You acknowledge that:

1. CLA personnel may be subject to agreements restricting their right to contract with or solicit business from you other than their service through CLA, and
2. If you breach this non-solicitation provision, you shall pay \$50,000 to CLA as liquidated damages within two weeks of the date on which the former CLA employee or consultant begins his or her new employment with you.

You acknowledge and agree that CLA's damages resulting from violation of this section are difficult or impossible to estimate and that the sum stipulated above is a reasonable pre-estimate of the probable loss that CLA would incur based on the cost of replacement, training, lost resources for projects, and other factors and is not a penalty. Liquidated damages under this paragraph shall not limit or impair any other remedies CLA may seek for breach of this paragraph or this agreement.

### **Consent**

#### ***Consent to use financial information***

Annually, we assemble a variety of benchmarking analyses using data obtained through our client engagements. Some of this benchmarking information is published and released publicly. However, the information that we obtain is confidential, as required by the AICPA Code of Professional Conduct. Your acceptance of this engagement letter will serve as your consent to use of City of Lake Worth Beach information in these cost comparison, performance indicator, and/or benchmarking reports.

#### **Venue and Waiver of Jury Trial.**

Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. 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.

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.

**Subcontractors**

CLA may, at times, use subcontractors to perform services under this agreement, and they may have access to your information and records. Any such subcontractors will be subject to the same restrictions on the use of such information and records as apply to CLA under this agreement.

**Termination of agreement**

Either party may terminate this agreement at any time by giving 10 days written notice to the other party. In that event, the provisions of this agreement shall continue to apply to all services rendered prior to termination.

**Agreement**

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign, date, and return a signed copy to us by email or U.S. mail.

Sincerely,


**CliftonLarsonAllen LLP**



Andrew Laflin, CPA  
Principal  
813-384-2711  
andrew.laflin@CLAconnect.com

**Response:**

This letter correctly sets forth the understanding of City of Lake Worth, Florida.

Authorized Signature:  FOR MICHAEL BORNSTEIN  
Title: CITY MANAGER ACST-City MGR JUAN RUIZ  
Date: 2/7/20

FOR FINANCIAL SUFFICIENCY:  
SIGNATURE:   
BRUCE MILLER, FINANCIAL SERVICES DIRECTOR

**INDEPENDENT CONTRACTOR  
CONSULTING AGREEMENT**

THIS AGREEMENT is made by and between the City of Lake Worth Beach (hereinafter referred to as “LWB”) and **Robert C. Busch** (hereinafter referred to as “Consultant”). LWB and Consultant shall be referred to herein collectively as “the Parties.”

WHEREAS, Consultant has a distinct field of expertise in the area of local government finance;

WHEREAS, LWB seeks to obtain the services and expertise of Consultant on a defined basis to assist LWB in different financial projects related to financial year end closing, financial review and documentation, and other financial related matters as requested by LWB;

WHEREAS, the services and expertise to be provided by Consultant relate to a distinctive field of expertise concerning LWB;

WHEREAS, Consultant represents that **Robert C. Busch** shall perform any and all services contemplated in this agreement and that he/she is capable and prepared to provide such services;

NOW, THEREFORE, in consideration of the promises contained herein, the Parties agree and acknowledge as follows:

**1. Effective Date and Term.** The effective date of this Agreement shall be February 5, 2020. Consultant’s services under this Agreement are “at-will,” such that they may be terminated with or without cause upon five (5) days’ written notice by either party. No verbal or written statement by any individual may alter the “at-will” nature of this Agreement, except for a written agreement with a definite term, designated as such, and signed by LWB.

**2. Services and Independent Contractor Status.** Consultant shall assist, and report to, the Director of Financial Services of LWB for all services relating to LWB. Included in these services are: different financial projects related to financial year end closing, financial review and documentation, and any other services requested by the Financial Services Director of LWB (collectively, “Services”). Consultant undertakes performance of the Services as an independent contractor and shall be responsible for the methods and manner of performance of such Services. Consultant understands and agrees that Consultant is an independent contractor and not an employee of LWB. LWB will not provide fringe benefits, including health insurance benefits, paid vacation, or other benefit typical in an employment relationship.

Consultant is free to perform similar consulting services on behalf of other clients, subject to applicable ethical laws, rules, and regulations.

**3. Standard of Care.** In performing the Services under this Agreement, Consultant shall exercise the same degree of care, skill, and diligence as is ordinarily provided by comparable professionals under similar circumstances, and Consultant shall, at LWB’s request and at no additional cost to LWB,

re-perform Services which fail to satisfy the foregoing standard of care. Consultant warrants that all Services performed under this Agreement shall be performed solely by him/her.

**4. Compensation.** As compensation for performing the Services under this Agreement, LWB agrees to pay Consultant an hourly fee in the amount of **Seventy Five Dollars (\$75.00)**. This fee shall be divided and paid monthly 10 days after LWB receives the monthly progress report and invoice due the first of each month after services are rendered for the previous month.

Nothing herein guarantees a minimum amount of compensation Consultant will receive for Services performed under this Agreement.

**5. Payment.** Consultant shall submit a detailed invoice on a monthly basis, for any month during which Services are performed under this Agreement, to the attention of the Financial Services Director of LWB. Accordingly, invoices submitted shall cover the prior month's work. Each invoice shall specify the Services performed and the time expended by Consultant in 1/10 (.1) of an hour increments. Additionally, each invoice shall indicate Consultant's tax ID number. Consultant will be required to fill out LWB Vendor's registration form upon receiving executed contract in order to receive the payment.

Subject to approval in accordance with LWB's standard policies, policies, and procedures, LWB shall remit payment for each invoice as described above, but no later than ten (10) days after receiving the invoice. However, in no event shall payment be made prior to receipt of an invoice detailing the Services performed. In the event no Services are performed by Consultant during any particular month, Consultant is not required to send an invoice and LWB shall not be responsible for any payment. LWB shall not reimburse Consultant for any business expenses including, but not limited to, travel, mileage, hotel, office supplies or equipment, or other costs of doing business relating to the Services contemplated herein unless approved in advance by the Financial Services Director.

**7. Insurance.** Consultant agrees to secure and maintain appropriate insurance in connection with the provision of Services under this Agreement and provide proof thereof as requested by LWB.

**8. Taxes.** Consultant shall be solely responsible for any and all taxes and withholdings required by federal, state, or local law, applicable to compensation paid to Consultant under the terms of this Agreement. Consultant hereby agrees to indemnify and hold LWB harmless from any claims, losses, costs, penalties, fees, liabilities, damages, or injuries suffered by LWB arising out of Consultant's failure with respect to his obligations in this paragraph.

**9. Availability of Funds.** The obligations of LWB under this Agreement are subject to the availability of funds lawfully appropriated for its purpose by LWB.

**10. Confidentiality; Return of Information; Records Compliance.** No reports, information, computer programs, documentation, and/or data given to or prepared or assembled by Consultant under this Agreement shall be made available to any individual or organization by Consultant without prior written approval of LWB. The Parties however, recognize and acknowledge that this Agreement is subject to Florida's Public Records Law, Florida Statute §§ 119.01, *et. seq.*, including the provisions of Florida Statute § 119.0701(2)(a)-(d), as amended from time to time.

Consultant shall take all reasonably prudent and appropriate steps to safeguard LWB's information (in both hard copy and electronic form).

Upon request of LWB at any time and, regardless of any request by LWB, upon termination of this Agreement, Consultant shall return to LWB, all materials (including both hard copy and electronic versions or copies), relating to LWB and/or its employees or consultants, in Consultant's possession, custody, or control.

Consultant further agrees that he will comply with Florida's Public Records Law, Florida Statute §§ 119.01, *et. seq.* and specifically, that he will: keep and maintain public records that ordinarily and necessarily would be required by LWB in order to perform the Services under this Agreement; provide the public with access to public records on the same terms and conditions LWB would provide the records and at a cost not to exceed the cost provided under Chapter 119 of the Florida Statutes, as amended from time to time, or as otherwise provided by law; ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; meet all requirements for retaining public records and transfer, at no cost to LWB, all public records in his possession upon termination of this Agreement (with all records stored electronically provided in a format that is compatible with LWB's information technology systems), and destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements.

**11. Conflicts of Interest.** Consultant represents that he will not provide any services to any other person or entity which will either directly or indirectly conflict in any manner with the performance of the Services under this Agreement. Consultant further agrees that he shall promptly notify LWB in writing of all potential or actual conflicts of interest for any prospective business association, interest, or other circumstance which may influence or appear to influence Consultant's judgment or the quality of the Services performed under this Agreement. The notice shall identify the prospective business association, interest, or circumstance and the nature of work that Consultant wishes to undertake and request LWB's response as to whether the association, interest, or circumstance would, in the opinion of LWB, constitute a conflict of interest if entered into by Consultant. LWB agrees to notify Consultant of its opinion within thirty (30) days of receipt of notification by Consultant. If, in the opinion of LWB, the prospective business association, interest, or circumstance would not constitute a conflict of interest by Consultant, LWB shall so state in its response.

**12. Recitals.** The Recitals set forth above are hereby incorporated in and made a part of this Agreement by this reference.

**13. Applicable Law, Venue, and Waiver of Jury Trial.** The terms and enforcement of this Agreement are governed by the laws of the State of Florida. The Parties expressly agree that any dispute arising from or related to this Agreement shall be heard by a state or federal court of competent jurisdiction in the State of Florida with venue in Palm Beach County, Florida and that they will submit to and not challenge the jurisdiction of such court. THE PARTIES IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

**14. Severability.** If any provision, or any portion thereof, contained in this Agreement is held invalid or unenforceable, the remainder of this Agreement or portion thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.

**15. No Waiver.** A waiver by either LWB or Consultant of any breach of this Agreement shall not be binding upon the waiving Party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving Party's rights with respect to any other or further breach. The making or acceptance of a payment by either Party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

**16. Modification.** This Agreement may not be amended or modified by any oral or written agreement, except by a document designated as an amendment or modification and signed by both Consultant and LWB, with approval by LWB board of directors.

**17. Entire Agreement.** The language of this Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, discussions, or negotiations between the Parties.

**18. No Assignment.** Consultant agrees that it will not assign, sell, transfer, delegate or otherwise dispose of any rights or obligations under this Agreement without the prior written consent of LWB. Any purported assignment, transfer, or delegation shall be null and void. Nothing in this Agreement shall prevent the consolidation of LWB with, or its merger into, any other corporation, or the sale by LWB of all or substantially all of its properties or assets, or the assignment by LWB of this Agreement and the performance of its obligations hereunder to any successor in interest or any Affiliated Company.

**19. Counterparts.** This Agreement may be executed in any number of counterparts (including by facsimile or other electronic transmission), each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument. Further, this Agreement may be executed by transfer of an originally signed document by facsimile or e-mail in PDF (or similar) format, each of which will be as fully binding as an original document.

**20. Notices.** All notices required to be given under the terms of this Agreement or which either of the Parties desires to give hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, addressed as follows:


Robert C. Busch  
2875 Farragut Lane  
West Palm Beach, FL 33409  
Phone: (561)312-0040  
e-mail: [buschsr@bellsouth.net](mailto:buschsr@bellsouth.net)


City of Lake Worth Beach, Florida  
ATTN: Bruce Miller, Financial Services Director  
7 North Dixie Highway  
Lake Worth Beach, Florida 33460  
Phone: 561-586-1654

Any Party may designate a change of address at any time by giving written notice thereof to the other Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be approved and executed, as follows:

ATTEST:

  
Robert C. Busch  
INDEPENDENT CONTRACTOR  
Date: 2/5/20

  
*For* Michael Bornstein, City Manager  
City of Lake Worth Beach, Florida  
Date: 2/6/20 *Juan Ruiz*  
*Asst. City Manager*



# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** City Attorney

**TITLE:**

Third Agreement Extension Request from 14 S East Coast, LLC, for property located at 14 S. East Coast Street, Lake Worth Beach, Florida

**SUMMARY:**

Bhavin Shah, as principal for 14 S East Coast, LLC, is the new owner of property located at 14 S. East Coast Street, in Lake Worth Beach. On two prior occasions (April 9, 2020 and July 21, 2020), the City granted 14 S East Coast, LLC, an extension to have the building on the property demolished and replaced with a surface parking lot. At this time, Mr. Shah is requesting a third extension.

**BACKGROUND AND JUSTIFICATION:**

Bhavin Shah, as principal for 14 S East Coast, LLC, is developing property at 14 S. East Coast. He received an extension to demolish the buildings on the property from the City as required by a settlement agreement entered into between the City and the previous owner of the property, Viva Verde South, LLC. The City granted the extensions partly due to the National emergency caused by COVID-19. The extension was also granted to give Mr. Shah an opportunity to bring a vendor to the site. Mr. Shah has not been able to accomplish his goals in the two-90 day extension timeframes and is now requesting an additional extension until April 9, 2021. During this extension, Mr. Shah will present the City Manager and team with plans for a phased development of the property. If preliminarily accepted at that time, staff will bring back an amendment to the Declaration of Covenants and Restrictions to include a timeline for development of the property. On the other hand, if negotiations fail, the conditions of the Declaration of Covenants and Restrictions will be enforced.

**MOTION:**

Move to approve/disapprove the request from 14 S East Coast, LLC, granting a third extension until April 9, 2021, to demolish the building on the subject property and replace it with a surface parking lot as required by the Declaration of Covenants and Restrictions.

An approval motion is with the understanding that Mr. Shah will present the City Manager with plans for a phased development of the property by April 2021, and if preliminarily accepted at that time, staff will bring back an amendment to the Declaration of Covenants and Restrictions to include a timeline for development of the property. Failure to do so will result in the conditions of the Declaration being enforced.

**ATTACHMENT(S):**

Fiscal Impact Analysis- N/A

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Financial Services

**TITLE:**

Third Amendment to Robert Half International, Inc., agreement

**SUMMARY:**

The third amendment to the City's agreement with Robert Half International will ratify the second amendment and extend the term of the agreement for an additional year for a not-to-exceed amount of \$70,000.

**BACKGROUND AND JUSTIFICATION:**

The City entered into the agreement with Robert Half International on September 17, 2018 to provide staff augmentation and temporary staff services for the City's Financial Services Department. On September 16, 2019, the City issued the first and second amendments to address further gaps in staffing in the Financial Services Department and to assist with the recruitment process of qualified staff. These amendments extended the initial term of the agreement to September 16, 2020 and increased the not-to-exceed amount of the agreement. The second amendment was approved by the City Manager pursuant to his emergency powers under the City's procurement code and as authorized by the Governor's Executive Order (Dated March 9, 2020).

The purpose of this third amendment is to ratify second amendment in accordance with the City's procurement code and policy and to extend the term of the agreement for additional one (1) year until September 15, 2021 on as-needed basis for a not-to exceed amount of \$70,000.

**MOTION:**

Move to approve/disapprove Third Amendment to Robert Half International, Inc., agreement for a not-to-exceed amount of \$70,000.00.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Robert Half International Third Amendment

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	70,000	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	0	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
001-1220-513.34.50	Contractual Services				70,000	

**THIRD AMENDMENT TO ACCOUNTEMP'S TERMS**

This Third Amendment to the Accountemps ("Third Amendment") is made as \_\_\_\_\_, by and between the City of Lake Worth Beach, a Florida municipal corporation ("CITY"), and Robert Half International Inc., through its division Accountemps, a company authorized to do business in Florida ("CONSULTANT").

**WHEREAS**, on September 17, 2018, the City entered into a one year agreement with the CONSULTANT for the CONSULTANT to provide staff augmentation services to the CITY ("Agreement") for a not to exceed amount of Twenty-Five Thousand Dollars (\$25,000); and

**WHEREAS**, the CITY and CONSULTANT entered that First Amendment to the Agreement which extended the initial term of the Agreement to September 16, 2020 with a not to exceed amount of Fifty Thousand Dollars (\$50,000); and

**WHEREAS**, on April 2, 2020, the CITY and CONSULTANT entered a Second Amendment to the Agreement to increase the not to exceed amount to One Hundred Fifty Thousand Dollars (\$150,000); and

**WHEREAS**, the Second Amendment was approved by the City Manager pursuant to his emergency powers under the City's procurement code and as authorized by the Governor's Executive Order (dated March 9, 2020); and

**WHEREAS**, the purpose of this Amendment is to: (1) have the Second Amendment ratified by the City Commission in accordance with the City's procurement code and policy; (2) extend the term of the Agreement for an additional one (1) year until September 15, 2021; and, (3) to increase the not to exceed amount of the Agreement by Seventy Thousand Dollars (\$70,000) for a total Agreement (as amended) not to exceed amount of Two Hundred Ninety-Five Thousand Dollars (\$295,000); and

**WHEREAS**, the CITY is authorized to extend the term of the Agreement under the CITY's procurement code and policy which authorizes the CITY to utilize consultants (professional services) with a distinctive field of expertise as an exempt procurement; and

**WHEREAS**, the CITY finds the CONSULTANT possesses the requisite distinctive field of expertise to extend the Agreement as an exempt procurement and finds entering this Third Amendment to the Agreement serves a valid public purpose.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged by each party hereto, the CITY and the CONSULTANT agree to amend the Agreement, as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.

2. **Ratification.** By approving this Third Amendment, the City Commission ratifies the Second Amendment entered on an emergency basis by the City Manager.

3. **Amount Not To Exceed.** The total amount of compensation that will be paid to the CONSULTANT by the CITY under the Agreement, the First Amendment, Second Amendment and this Third Amendment is Two Hundred Ninety-Five Thousand Dollars (\$295,000). No additional sums shall be paid to the CONSULTANT unless agreed to by the CITY in a further written amendment to the Agreement.

4. **Entire Agreement.** The CITY and the CONSULTANT agree that this Third Amendment, the First and Second Amendment, and the Agreement set 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 the Agreement including the First, the Second and this Third Amendment may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. All other terms and conditions of the Agreement and the First and Second Amendment not amended by this Third Amendment remain in full force and effect.

5. **Counterparts.** This Third Amendment may be simultaneously executed in several counterparts and electronically, each of which shall be an original and all of which shall constitute but one and the same instrument. Either or both parties may sign this Third Amendment via facsimile or email and such signature is as valid as the original signature of such party.

IN WITNESS WHEREOF the parties hereto have made and executed this Third Amendment to the Agreement (Addendum to the Accountemps General Conditions of Assignment and Terms of Payment) on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

By: \_\_\_\_\_  
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

CONSULTANT: ROBERT HALF INTERNATIONAL INC.

DocuSigned by:  
*Chad Leibundguth*  
By: \_\_\_\_\_  
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[Corporate Seal]

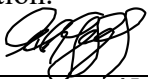
Print Name: \_\_\_\_\_  
Chad Leibundguth

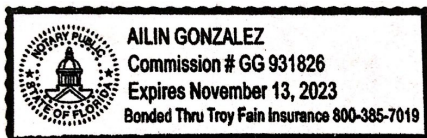
Title: \_\_\_\_\_  
District Director

STATE OF Florida )  
COUNTY OF Miami-Dade )

The foregoing instrument was acknowledged before me this 18 day of August, 2020, by Chad Leibundguth, who was physically present, as District Director (title), of **ROBERT HALF INTERNATIONAL INC.**, A Corporation, which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following \_\_\_\_\_ as identification.

Notary Public

  
\_\_\_\_\_  
Print Name: Ailin Gonzalez  
My commission expires: November 13, 2023



# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** City Attorney

**TITLE:**

Administrative Ratification of Bond Resolutions (No. 45-2020 and 47-2020) for the Consolidated Utility Revenue Bonds

**SUMMARY:**

Bond Resolution Nos. 45-2020 and 47-2020 were approved by the City Commission on October 6, 2020 and October 20, 2020 (respectively). However, due to last minute, necessary changes by multiple parties involved in the bond process, Commission administrative ratification of the finalized versions is sought to have a clear record of approved resolutions.

**BACKGROUND AND JUSTIFICATION:**

On October 6, 2020, the City Commission considered and approved Resolution No. 45-2020 which authorized the issuance of the Consolidated Utility Revenue Bonds. Resolution No. 45-2020 is a master resolution designed to facilitate the need for the current combined utility financing and future utility financing. Minor changes were made to Resolution No. 45-2020 which were not reflected in the published agenda; however, the City Commission were made aware of the minor changes prior to approval.

On October 20, 2020, the City Commission considered and approved Resolution No. 47-2020 which supplemented Resolution No. 45-2020 and authorized the issuance of the Series 2020 Consolidated Revenue Bonds. Changes were made to Resolution No. 47-2020 which were not reflected in the published agenda; however, the City Commission were made aware of the changes prior to approval.

By administratively ratifying the above resolutions (with the original adoption dates remaining the same), the City will have a clear record of the approved resolutions for future references.

**MOTION:**

Move to administratively ratify /not administratively ratify Bond Resolutions (No. 45-2020 and 47-2020) for the Consolidated Utility Revenue Bonds (with the original adoption dates remaining the same).

**ATTACHMENT(S):**

Bond Resolution 45-2020  
Bond Resolution 47-2020

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**CITY OF LAKE WORTH BEACH, FLORIDA**

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**CONSOLIDATED UTILITY REVENUE BONDS RESOLUTION**

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**ADOPTED OCTOBER 6, 2020**

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RESOLUTION NO. \_\_\_\_\_-2020

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA AUTHORIZING THE ISSUANCE OF CONSOLIDATED UTILITY REVENUE BONDS FROM TIME TO TIME FOR THE PRINCIPAL PURPOSES OF FINANCING AND REFINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CAPITAL IMPROVEMENTS TO THE CITY'S CONSOLIDATED UTILITY SYSTEM AND FOR OTHER LAWFUL PURPOSES; PLEDGING THE NET REVENUES OF THE CITY'S CONSOLIDATED UTILITY SYSTEM TO SECURE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED HEREUNDER; PROVIDING FOR PAYMENT OF THE BONDS FROM SUCH REVENUES; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF BONDS ISSUED HEREUNDER; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH BONDS ISSUED HEREUNDER; AND PROVIDING FOR AN EFFECTIVE DATE FOR THIS RESOLUTION.**

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

**ARTICLE I  
GENERAL**

**SECTION 1.01. DEFINITIONS.** When used in this Resolution, the following terms shall have the following meanings, unless the context clearly otherwise requires:

**"Accreted Value"** shall mean, as of any date of computation with respect to any Capital Appreciation Bond, an amount equal to the principal amount of such Capital Appreciation Bond (the principal amount at its initial offering) plus the interest accrued on such Capital Appreciation Bond from the date of delivery to the original purchasers thereof to the Interest Date next preceding the date of computation or the date of computation if an Interest Date, such interest to accrue at a rate not exceeding the legal rate, compounded semiannually, plus, with respect to matters related to the payment upon redemption or acceleration of the Capital Appreciation Bonds, if such date of computation shall not be an Interest Date, a portion of the difference between the Accreted Value as of the immediately preceding Interest Date and the Accreted Value as of the immediately succeeding Interest Date, calculated based on the assumption that Accreted Value accrues during any semi-annual period in equal daily amounts on the basis of a 360-day year.

**"Act"** shall mean the City Charter, Chapter 166, Part II, Florida Statutes, and other applicable provisions of law.

**"Additional Bonds"** shall mean the obligations issued at any time under the provisions of Section 6.02 hereof on parity with any Outstanding Bonds.

**"Annual Audit"** shall mean the annual audit prepared pursuant to the requirements of Section 5.06 hereof.

**"Annual Budget"** shall mean the annual budget prepared pursuant to the requirements of Section 5.03 hereof.

**"Annual Debt Service"** shall mean the aggregate amount of Debt Service on the Bonds for each applicable Fiscal Year. Notwithstanding the foregoing, any interest payments or principal payments or Sinking Fund Installments with respect to any Outstanding Bonds or proposed Additional Bonds that are due and payable on October 1, shall be considered to be due and payable on the immediately preceding September 30 for purposes of determining Annual Debt Service for such Bonds hereunder.

**"Authorized Investments"** shall mean any investments that may be made by the Issuer under applicable law and which are allowed under the Issuer's investment policy.

**"Authorized Issuer Officer"** shall mean the City Manager (or such person's designee), and when used in reference to any act or document, also means any other person authorized by resolution of the Issuer to perform such act or sign such document.

**"Bond Counsel"** shall mean Nabors, Giblin & Nickerson, P.A. or any other attorney at law or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

**"Bond Insurance Policy"** shall mean the municipal bond new issue insurance policy or policies issued by an Insurer guaranteeing the payment of the principal of and interest on any portion of the Bonds.

**"Bondholder"** or **"Holder"** or **"holder"** or any similar term, when used with reference to a Bond or Bonds, shall mean any person who shall be the registered owner of any Outstanding Bond or Bonds as provided in the registration books of the Issuer.

**"Bonds"** shall mean any Bonds, notes or other forms of indebtedness issued and designated as Bonds pursuant to this Resolution and any Subordinated Indebtedness which accedes to the status of Bonds pursuant to Section 6.04 hereof.

**"Business Day"** shall mean a day other than (i) a Saturday, Sunday or day on which banks located in the city in which the designated corporate trust office of the Registrar and Paying Agent is located are required or authorized by law or executive order to close for business, and (ii) a day on which the New York Stock Exchange is closed.

**"Capital Appreciation Bonds"** shall mean those Bonds of a Series so designated under the authority of the Issuer, whether by Supplemental Resolution, purchase contract, or otherwise, which may be either Serial Bonds or Term Bonds and which shall bear interest payable at maturity or redemption. In the case of Capital Appreciation Bonds that are convertible to Bonds with interest payable prior to maturity or redemption of such Bonds, such Bonds shall be considered Capital Appreciation Bonds only during the period of time prior to such conversion.

**"Capital Government Grant,"** when used with respect to the System, shall mean any sum of money heretofore or hereafter received by the Issuer from the United States of America or any agency thereof or from the State of Florida or any agency or political subdivision thereof as or on account of a grant or contribution, not repayable by the Issuer, for or with respect to the construction, acquisition or other development of an addition, extension or improvement to any part of the System or any costs of any such construction, acquisition or development.

**"Clerk"** shall mean the City Clerk of the Issuer, or such other person as may be duly authorized to act on his or her behalf.

**"Code"** shall mean the Internal Revenue Code of 1986, as amended, and the regulations and rules thereunder in effect or proposed.

**"Connection Fees"** shall mean, collectively, the Sewer Connection Fees, the Water Connection Fees, and any similar charge imposed and related to capacity of any other portion of the System.

**"Construction Fund"** shall mean the fund established pursuant to Section 4.04 hereof.

**"Consulting Engineers"** shall mean any engineering firm of reputation for skill and experience with respect to the construction, maintenance and operation of facilities similar to the facilities that make up all or a portion of the System, which is duly licensed under the laws of the State of Florida and designated by the Issuer to perform the duties of the Consulting Engineers under the provisions hereof.

**"Cost,"** when used in connection with a Project, shall mean (1) the Issuer's cost of physical construction; (2) costs of acquisition by or for the Issuer of such Project; (3) costs of land and interests therein and the cost of the Issuer incidental to such acquisition; (4) the cost of any indemnity and surety bonds and premiums for insurance during construction; (5) all interest due to be paid on the Bonds and other obligations relating to the System during the period of acquisition and construction of such Project and for such period subsequent to completion as the Issuer shall determine and shall be allowable under applicable provisions of the Code; (6) engineering, legal and other consultant fees and expenses; (7) costs and expenses of the financing, including audits, fees and expenses of any Paying Agent, Registrar, escrow agent or depository; (8) amounts, if any, required by this Resolution to be paid into the Interest Account upon the issuance of any Series of Bonds; (9) payments, when due (whether at the maturity of principal or the due date of interest or upon redemption) on any indebtedness of the Issuer (other than the Bonds) incurred for a Project for the System; (10) costs of machinery, equipment and supplies and reserves required by the Issuer for the commencement of operation of such Project; and (11) any other costs properly attributable to such construction or acquisition, as determined by generally accepted accounting principles applicable to public utility systems similar to the System, and shall include reimbursement to the Issuer for any such items of Cost heretofore paid by the Issuer and interest on any interfund loan related thereto. Any Supplemental Resolution may provide for additional items to be included in the aforesaid Costs.

**"Counterparty"** shall mean the entity entering into a Hedge Agreement with the Issuer. Counterparty shall also include any guarantor of such entity's obligations under such Hedge Agreement.

**"Credit Bank"** shall mean as to any particular Series of Bonds, the Person (other than an Insurer) providing a letter of credit, a line of credit or other credit or liquidity facility, as designated in the Supplemental Resolution providing for the issuance of such Bonds.

**"Credit Facility"** shall mean as to any particular Series of Bonds, an irrevocable letter of credit, a line of credit or other credit or legal liquidity facility (other than a Bond Insurance Policy), as approved in the Supplemental Resolution providing for the issuance of such Bonds.

**"Debt Service"** shall mean, at any time, the aggregate amount in the then applicable period of time of (1) interest required to be paid on the Outstanding Bonds during such period of time, except to the extent that such interest is to be paid from deposits in the Interest Account or Construction Fund made from Bond proceeds for such purpose, (2) principal of Outstanding Serial Bonds maturing in such period of time, and (3) the Sinking Fund Installments scheduled to be paid during such period of time. For purposes of this definition, (A) all amounts payable on a Capital Appreciation Bond shall be considered a principal payment in the year it becomes due, (B) with respect to debt service on any Bonds which relate to a Qualified Hedge Agreement, interest on such Bonds during the term of such Qualified Hedge Agreement shall be deemed to be the Hedge Payments coming due during such period of time, (C) if any Series of Bonds has 25% or more of the aggregate principal amount of such Series coming due in any one year, Debt Service shall be determined on such Series during such period of time as if the principal of and interest on such Series were being paid from the date of issuance thereof in substantially equal annual amounts over a period of 25 years, (D) the amount, if any, on deposit in the Reserve Account (or any subaccount thereof), on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Bonds which are secured by such Reserve Account (or subaccount thereof) and in each preceding year until such amount is exhausted, and (E) with respect to debt service on any Federal Subsidy Bonds, when determining the interest on such Bonds for any particular Interest Date the amount of the corresponding Federal Subsidy Payment shall be deducted from the amount of interest which is due and payable to the holders of such Bonds on the Interest Date, but only to the extent that the Issuer reasonably believes that it will be in receipt of such Federal Subsidy Payment on or prior to such Interest Date.

**"Debt Service Reserve Fund Policy Agreement"** shall mean any agreement securing the obligation of the Issuer to repay Policy Costs associated with a Reserve Account Letter of Credit or Reserve Account Insurance Policy.

**"Federal Securities"** shall mean non-callable direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of Treasury) or non-callable obligations the principal of and interest on which are unconditionally guaranteed by the United States of America. All such obligations shall not permit redemption prior to maturity at the option of the obligor.

**"Federal Subsidy Bonds"** shall mean bonds issued under Section 54AA of the Code, Section 1400U-2 of the Code or any other applicable provision of the Code, the interest on which is not exempt from federal income taxation, with respect to which the Issuer elects to receive, or is otherwise entitled to receive, Federal Subsidy Payments from the United States Department of the Treasury.

**"Federal Subsidy Payments"** shall mean the direct payments made by the United States Department of the Treasury to the Issuer with respect to any Federal Subsidy Bonds pursuant to Sections 54AA(g), 6431 and 1400U-2 of the Code, or any other applicable provision of the Code.

**"Fiscal Year"** shall mean the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law.

**"Fitch"** means Fitch Ratings and any assigns and successors thereto.

**"Governing Body"** shall mean the City Commission of the City of Lake Worth Beach, Florida, or its successor in function.

**"Gross Revenues"** shall mean all income and moneys received by the Issuer from the rates, fees, rentals, charges and other income to be made and collected by the Issuer for the use of the products, services and facilities to be provided by the System, or otherwise received by the Issuer or accruing to the Issuer in the management and operation of the System, calculated in accordance with generally accepted accounting principles applicable to public utility systems similar to the System, including, without limiting the generality of the foregoing, (1) proceeds from use and occupancy insurance on the System, (2) Investment Earnings, and (3) Operating Government Grants. "Gross Revenues" shall not include (A) Capital Government Grants, (B) proceeds of Bonds or other Issuer debt, (C) moneys deposited to the Rate Stabilization Fund from the Utility Reserve Fund, (D) Connection Fees, (E) proceeds of Special Assessments, and (F) any gain resulting from the valuation of investment securities or Hedge Agreements at market value and any other gain that does not require or result in the receipt of cash.

**"Hedge Agreement"** shall mean an agreement in writing between the Issuer and the Counterparty pursuant to which (1) the Issuer agrees to pay to the Counterparty an amount, either at one time or periodically, which may, but is not required to, be determined by reference to the amount of interest (which may be at a fixed or variable rate) payable on a notional amount specified in such agreement during the period specified in such agreement and (2) the Counterparty agrees to pay to the Issuer an amount, either at one time or periodically, which may, but is not required to, be determined by reference to the amount of interest (which may be at a fixed or variable rate) payable on all or a portion of a notional amount specified in such agreement during the period specified in such agreement. Hedge Agreement shall also include any financial product or agreement which is used by the Issuer as a hedging device with respect to its obligations to pay interest on Bonds, or any portion thereof, which is designated by the Issuer as a "Hedge Agreement."



**"Hedge Payments"** shall mean any amounts payable by the Issuer as interest on the related notional amount under a Qualified Hedge Agreement; excluding, however, any payments due as a penalty or a fee or by virtue of termination of a Qualified Hedge Agreement or any obligation to provide collateral.

**"Hedge Receipts"** shall mean any amounts receivable by the Issuer on the related notional amount under a Qualified Hedge Agreement.

**"Insurer"** shall mean such Person as shall be in the business of insuring or guaranteeing the payment of principal of and interest on municipal securities and whose credit is such that, at the time of any action or consent required or permitted by the Insurer pursuant to the terms of this Resolution, all municipal securities insured or guaranteed by it are then rated, because of such insurance or guarantee, in one of the three highest categories (without regard to gradations, such as "+" or "-" or "1, 2 or 3" of such categories) by at least one of the Rating Agencies.

**"Interest Account"** shall mean the separate account in the Sinking Fund established pursuant to Section 4.05(C) hereof.

**"Interest Date"** or **"interest payment date"** shall be such date or dates for the payment of interest on the Bonds as provided pursuant to Section 2.01 hereof and by Supplemental Resolution.

**"Investment Earnings"** shall mean all income and earnings derived from the investment of moneys in the funds and accounts established hereunder, other than the Rebate Fund.

**"Issuer"** shall mean the City of Lake Worth Beach, Florida, a municipal corporation and public body corporate and politic of the State of Florida, or any successor thereto.

**"Maximum Annual Debt Service"** shall mean the largest aggregate amount of the Annual Debt Service becoming due in any Fiscal Year in which Bonds are Outstanding.

**"Maximum Interest Rate"** shall mean, with respect to any particular Variable Rate Bonds, a numerical rate of interest, which shall be set forth in, or determined in accordance with, the Supplemental Resolution authorizing the issuance of such Bonds, or in such other documentation relating to such Variable Rate Bonds, that shall be the maximum rate of interest such Bonds may at any particular time bear.

**"Mayor"** shall mean the Mayor or Vice-Mayor of the City of Lake Worth Beach, Florida, and such other person as shall be duly authorized to act on his or her behalf.

**"Moody's"** shall mean Moody's Investors Service, and any assigns and successors thereto.

**"Net Revenues"** shall mean Gross Revenues less Operating Expenses.

**"Operating Expenses"** shall mean the Issuer's expenses for operation, maintenance and repairs with respect to the System and shall include, without limiting the generality of the foregoing, administration and other indirect expenses of the Issuer related and apportioned to the

System, payments for the purchase of materials essential to or used in the operation of the System, including bulk purchases of water, sewage, or electric services, fees for the management of the System or any portion thereof, accounting, legal and engineering expenses, ordinary and current rentals of equipment or other property, refunds of moneys lawfully due to others, payments to others for disposal of sewage or other wastes, payments to pension, retirement, health and hospitalization funds, and any other expenses required to be paid for or with respect to proper operation or maintenance of the System, including appropriate reserves therefor, all to the extent properly attributable to the System in accordance with generally accepted accounting principles applicable to public utility systems similar to the System, and disbursements for the expenses, liabilities and compensation of any Paying Agent or Registrar under this Resolution, but does not include any costs or expenses in respect of original construction or improvement other than expenditures necessary to prevent an interruption or continuance of an interruption of service or of Gross Revenues or minor capital expenditures necessary for the proper and economical operation or maintenance of the System, or any payments in lieu of taxes or franchise fees made to the Issuer's general fund, or any provision for interest, depreciation, amortization or similar charges, any non-cash charges, or any loss resulting from the valuation of investment securities or Hedge Agreements at market value and any other loss that does not require or result in the expenditure of cash.

**"Operating Government Grant,"** when used with respect to the System, shall mean any sum of money heretofore or hereafter received by the Issuer from the United States of America or any agency thereof or from the State of Florida or any agency or political subdivision thereof as or on account of a grant or contribution, not repayable by the Issuer, for the purpose of funding Operating Expenses or paying Debt Service on Bonds or otherwise allowed by the terms thereof to be used to pay Operating Expenses or Debt Service.

**"Operation and Maintenance Fund"** shall mean the fund created pursuant to Section 4.05(B) hereof.

**"Outstanding,"** when used with reference to Bonds and as of any particular date, shall describe all Bonds theretofore and thereupon being authenticated and delivered except, (1) any Bond in lieu of which other Bond or Bonds have been issued under agreement to replace lost, mutilated or destroyed Bonds, (2) any Bond surrendered by the Holder thereof in exchange for other Bond or Bonds under Sections 2.05 and 2.06 hereof, (3) Bonds deemed to have been paid pursuant to Section 9.01 hereof and (4) Bonds cancelled after purchase in the open market or because of payment at, or redemption prior to, maturity.

**"Paying Agent"** shall mean for each Series of Bonds, the paying agent appointed by the Issuer for such Series of Bonds and its successor or assigns, if any.

**"Person"** shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, governmental entity or other legal entity.

**"Pledged Funds"** shall mean (1) the Net Revenues, and (2) until applied in accordance with the provisions of this Resolution, all moneys, including investments thereof, in the funds and accounts established hereunder, except (A) the Rebate Fund, (B) to the extent moneys

therein shall be required to pay the Operating Expenses of the System in accordance with the terms hereof, and (C) any moneys set aside in a particular subaccount of the Reserve Account if such moneys shall be pledged solely for the payment of a Series of Bonds for which it was established in accordance with the provisions hereof.

**"Policy Costs"** shall mean, collectively, the repayment of draws, reasonable expenses and interest related to a Reserve Account Insurance Policy and/or Reserve Account Letter of Credit.

**"Prerefunded Obligations"** shall mean any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (1) which are (A) not callable prior to maturity or (B) as to which irrevocable instructions have been given to the fiduciary for such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified in such instructions, (2) which are fully secured as to principal, redemption premium, if any, and interest by a fund held by a fiduciary consisting only of cash or Federal Securities, secured in substantially the manner set forth in Section 9.01 hereof, which fund may be applied only to the payment of such principal of, redemption premium, if any, and interest on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as the case may be, (3) as to which the principal of and interest on the Federal Securities, which have been deposited in such fund along with any cash on deposit in such fund are sufficient, as verified by an independent certified public accountant or other expert in such matters, to pay principal of, redemption premium, if any, and interest on the bonds or other obligations on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in clause (1) above and are not available to satisfy any other claims, including those against the fiduciary holding the same, and (4) which are rated in the highest rating category (without regard to gradations, such as "+" or "-" or "1, 2 or 3" of such categories) of one of the Rating Agencies.

**"Principal Account"** shall mean the separate account in the Sinking Fund established pursuant to Section 4.05(C) hereof.

**"Project"** shall mean any structure, property or facility for public use which the Issuer from time to time may determine to construct, acquire or equip as part of the System, together with all equipment, structures and other facilities necessary or appropriate in connection therewith which are financed in whole or in part with the indebtedness secured by this Resolution. This term is to be broadly construed as including any lawful undertaking which will accrue to the benefit of the System, including, without limitation, financing improvements to the Issuer's facilities, joint ventures and acquisition of partial interests or contractual rights, and including modification, disposal, replacement or cancellation of a Project previously authorized, should such modification, disposal, replacement or cancellation be permitted under this Resolution.

**"Qualified Hedge Agreement"** shall mean a Hedge Agreement with a Counterparty that at the time it enters into such Hedge Agreement is rated "A-" or better by Standard & Poor's and "A3" or better by Moody's.

**"Rate Consultant"** shall mean any accountant, engineer or consultant or firm of accountants, engineers or consultants chosen by the Issuer with reputation for skill and experience in reviewing and recommending rates, fees and charges for utility systems similar to the System.

**"Rate Stabilization Fund"** shall mean the "Rate Stabilization Fund" established pursuant to Section 4.05(F) hereof.

**"Rating Agencies"** means Fitch, Moody's and Standard & Poor's.

**"Rebate Fund"** shall mean the Rebate Fund established pursuant to Section 4.05(E) hereof.

**"Redemption Price"** shall mean, with respect to any Bond or portion thereof, the principal amount or portion thereof, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or this Resolution.

**"Refunding Securities"** shall mean Federal Securities and Prerefunded Obligations.

**"Registrar"** shall mean for each Series of Bonds, the bond registrar appointed by the Issuer for such Series of Bonds and its successor or assigns, if any.

**"Renewal and Replacement Fund"** shall mean the fund created pursuant to Section 4.05(D) hereof.

**"Renewal and Replacement Fund Requirement"** shall mean, on the date of calculation, an amount of money equal to (1) five percent of the Gross Revenues received by the Issuer in the immediately preceding Fiscal Year, or (2) such greater or lesser amount as may be certified to the Issuer by the Consulting Engineers as an amount appropriate for the purposes of this Resolution.

**"Reserve Account"** shall mean the separate account in the Sinking Fund established pursuant to Section 4.05(C) hereof.

**"Reserve Account Insurance Policy"** shall mean the insurance policy deposited in the Reserve Account in lieu of or in partial substitution for cash on deposit therein pursuant to Section 4.06(B)(4).

**"Reserve Account Letter of Credit"** shall mean a letter of credit or line of credit or other credit facility (other than a Reserve Account Insurance Policy) deposited in the Reserve Account in lieu of or in partial substitution for cash on deposit therein pursuant to Section 4.06(B)(4) hereof.

**"Reserve Account Requirement"** shall mean, as of any date of calculation for the Reserve Account or subaccount therein, an amount equal to the lesser of (1) Maximum Annual Debt Service for all Outstanding Bonds secured thereby, (2) 125% of the average Annual Debt Service for all Outstanding Bonds secured thereby, or (3) the maximum amount of Bond proceeds which may be deposited to the Reserve Account without subjecting the same to yield

restriction under the Code, or causing interest on any of the Bonds secured thereby (other than Taxable Bonds) to be included in gross income for purposes of federal income taxation or otherwise violating applicable provisions of the Code; provided, however, the Issuer may establish by Supplemental Resolution a different Reserve Account Requirement with respect to any particular Series of Bonds pursuant to Section 4.06(B)(4) hereof, which Reserve Account Requirement may be \$0.00. In computing the Reserve Account Requirement in respect of a Series of Bonds that constitutes Variable Rate Bonds, the interest rate on such Bonds shall be assumed to be (A) if such Variable Rate Bonds have been Outstanding for at least 12 months prior to the date of calculation, the highest of (i) the actual rate of interest on the date of calculation, (ii) the average interest rate borne by such Variable Rate Bonds for the 12-month period immediately preceding each date of calculation, and (iii) the Bond Buyer Revenue Bond Index most recently published prior to the time of calculation, and (B) if such Variable Rate Bonds have not been Outstanding for at least 12 months prior to the date of calculation, the higher of (i) the actual rate of interest on the date of calculation, and (ii) the Bond Buyer Revenue Bond Index most recently published prior to the time of calculation. The Reserve Account Requirement shall be calculated as of April 1 of each year with respect to the next succeeding Fiscal Year.

**"Resolution"** shall mean this Resolution, as the same may from time to time be amended, modified or supplemented by Supplemental Resolution.

**"Revenue Fund"** shall mean the fund created pursuant to Section 4.05(A) hereof.

**"Serial Bonds"** shall mean all of the Bonds other than the Term Bonds.

**"Series"** shall mean all the Bonds delivered on original issuance in a simultaneous transaction and identified pursuant to Section 2.01 hereof or a Supplemental Resolution authorizing the issuance by the Issuer of such Bonds as a separate Series, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

**"Sewer Connection Fees"** shall mean the fees and charges, if any, which relate to acquiring, constructing, equipping or expanding the capacity of the sewer facilities of the System for the purpose of paying or reimbursing the equitable share of the capital cost relating to such acquisition, construction, expansion or equipping of capacity of the sewer facilities or expansion thereof in order to serve new users of the sewer facilities of the System, to the extent the same are lawfully levied, collected and pledged. "Sewer Connection Fees" include those fees and charges currently known under Florida law as "impact fees" but shall not include fees and charges imposed for the cost of physically hooking up or connecting to the System.

**"Sinking Fund"** shall mean the fund established pursuant to Section 4.05(C) hereof.

**"Sinking Fund Installment"** shall mean an amount designated as such by Supplemental Resolution and established with respect to the Term Bonds.

**"Special Assessments"** means any and all assessments against property benefited by the System or any part thereof.

**"Standard and Poor's"** or **"S&P"** shall mean S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC, and any assigns and successors thereto.

**"State"** shall mean the State of Florida.

**"Subordinated Indebtedness"** shall mean that indebtedness of the Issuer, subordinate and junior to the Bonds, issued in accordance with the provisions of Section 6.01 hereof or deemed subordinate and junior to the Bonds in accordance with the provisions hereof or in accordance with the provisions of such Subordinated Indebtedness.

**"Supplemental Resolution"** shall mean any resolution of the Issuer amending or supplementing this Resolution enacted and becoming effective in accordance with the terms of Sections 8.01, 8.02 and 8.03 hereof.

**"System"** shall mean any and all water production, transmission, treatment and distribution facilities, sewage collection, transmission, treatment and disposal facilities, reclaimed water (reuse) facilities, and electric production, transmission and distribution facilities now owned or hereafter owned by the Issuer, which System shall also include any and all improvements, extensions and additions thereto hereafter constructed or acquired either from the proceeds of Bonds or from any other sources, together with all property, real or personal, tangible or intangible, now or hereafter owned or used in connection therewith, including all contractual rights, rights to capacity and obligations or undertakings associated therewith. "System" shall also include any other utility facilities if and to the extent the Issuer determines by Supplemental Resolution to include such utility or facilities within the System as described herein.

**"Taxable Bonds"** means any Bond, other than Federal Subsidy Bonds, which states, in the body thereof, that the interest income thereon is includable in the gross income of the Holder thereof for federal income taxation purposes or that such interest is subject to federal income taxation. Except as otherwise provided herein, Taxable Bonds shall not include Federal Subsidy Bonds.

**"Term Bonds"** shall mean those Bonds which shall be designated as Term Bonds hereby or by Supplemental Resolution.

**"Term Bonds Redemption Account"** shall mean the separate account in the Sinking Fund established pursuant to Section 4.05(C) hereof.

**"Utility Reserve Fund"** shall mean the fund created pursuant to Section 4.05(G) hereof.

**"Variable Rate Bonds"** shall mean Bonds issued with a variable, adjustable, convertible or other similar rate which is not fixed in percentage for the entire term thereof at the date of issue.

**"Water Connection Fees"** shall mean the fees and charges, if any, which relate to acquiring, constructing, equipping or expanding the capacity of the water facilities of the System for the purpose of paying or reimbursing the equitable share of the capital cost relating to such acquisition, construction, expansion or equipping of capacity of the water facilities or expansion

thereof in order to serve new users of the water facilities of the System, to the extent the same are lawfully levied, collected and pledged. "Water Connection Fees" include those fees and charges currently known under Florida law as "impact fees" but shall not include fees and charges imposed for the cost of physically hooking up or connecting to the System.

The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Resolution; the term "heretofore" shall mean before the date of adoption of this Resolution; and the term "hereafter" shall mean after the date of adoption of this Resolution.

Words importing the masculine gender include every other gender.

Words importing the singular number include the plural number, and vice versa.

**SECTION 1.02. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the provisions of the Act. The Issuer has ascertained and hereby determined that adoption of this Resolution is necessary to carry out the powers, purposes and duties expressly provided in the Act, that each and every matter and thing as to which provision is made herein is necessary in order to carry out and effectuate the purposes of the Issuer in accordance with the Act and to carry out and effectuate the plan and purpose of the Act, and that the powers of the Issuer herein exercised are in each case exercised in accordance with the provisions of the Act and in furtherance of the purposes of the Issuer.

**SECTION 1.03. RESOLUTION TO CONSTITUTE CONTRACT.** In consideration of the purchase and acceptance of any or all of the Bonds by those who shall hold the same from time to time, the provisions of this Resolution shall be a part of the contract of the Issuer with the Holders of the Bonds, and shall be deemed to be and shall constitute a contract between the Issuer, the Holders from time to time of the Bonds and any Insurer or Credit Bank. The pledge made in the Resolution and the provisions, covenants and agreements herein set forth to be performed by or on behalf of the Issuer shall be for the equal benefit, protection and security of the Holders of any and all of said Bonds and any Insurer or Credit Bank, but only to the extent and in accordance with the terms hereof. All of the Bonds, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided in or pursuant to this Resolution.

**SECTION 1.04. FINDINGS.** It is hereby ascertained, determined and declared that:

(A) The Issuer has heretofore determined that it is necessary and in the best interests of the health, safety and welfare of the Issuer and its inhabitants that the Issuer own, operate, maintain, improve, manage and expand the System.

(B) It is necessary and desirable and in the best interests of the Issuer to borrow moneys from time to time to improve and expand the System and to refinance certain indebtedness related to the System.

(C) The Bonds issued hereunder shall be secured by the Pledged Funds as provided herein and such Pledged Funds have not been pledged or encumbered except with respect to

certain previously issued indebtedness which shall be refunded simultaneously with or prior to the first issuance of Bonds hereunder.

(D) The estimated Gross Revenues to be derived in each year hereafter from the operation of the System will be sufficient to pay all the Operating Expenses, the principal of and interest on the Bonds and Subordinated Indebtedness, as the same become due, and all other payments provided for in this Resolution.

(E) The principal of and interest on the Bonds and Subordinated Indebtedness and all other payments provided for in this Resolution will be paid solely from the Pledged Funds in accordance with the terms hereof; and the ad valorem taxing power of the Issuer will never be necessary or authorized to pay the principal of and interest on the Bonds and Subordinated Indebtedness, or to make any other payments provided for in this Resolution, and neither the Bonds nor any Subordinated Indebtedness shall constitute a lien upon the System or upon any other property whatsoever of or in the Issuer.

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**ARTICLE II**  
**AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS**

**SECTION 2.01. AUTHORIZATION OF BONDS.** This Resolution creates an issue of Bonds of the Issuer to be designated as "City of Lake Worth Beach, Florida Consolidated Utility Revenue Bonds" which may be issued in one or more Series as hereinafter provided. The aggregate principal amount of the Bonds which may be executed and delivered under this Resolution is not limited except as is or may hereafter be provided in this Resolution or as limited by the Act.

The Bonds may, if and when authorized by the Issuer pursuant to this Resolution, be issued in one or more Series, with such further appropriate particular designations added to or incorporated in such title for the Bonds of any particular Series as the Issuer may determine and as may be necessary to distinguish such Bonds from the Bonds of any other Series. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

The Bonds shall be issued for such purpose or purposes; shall bear interest at such rate or rates not exceeding the maximum rate permitted by law; and shall be payable in lawful money of the United States of America on such dates; all as determined by Supplemental Resolution.

The Bonds shall be issued in such denominations and such form, whether coupon or registered; shall be dated such date; shall bear such numbers; shall be payable in such manner and at such place or places; shall contain such redemption provisions; shall have such Paying Agents and Registrars; shall mature in such years and amounts; shall have such Interest Dates and the proceeds shall be used in such manner; all as determined or provided for by Supplemental Resolution. The Issuer may issue Bonds which may be secured by a Credit Facility or by a Bond Insurance Policy all as shall be determined by Supplemental Resolution. All other terms and provisions with respect to any Series of Bonds shall be determined in accordance with a Supplemental Resolution. The Governing Body may delegate approval of the terms, details and sale of a Series of Bonds to an Authorized Issuer Officer pursuant to a Supplemental Resolution.

**SECTION 2.02. EXECUTION OF BONDS.** The Bonds shall be executed in the name of the Issuer with the manual or facsimile signature of the Mayor, and the official seal of the Issuer shall be imprinted thereon, attested and countersigned with the manual or facsimile signature of the Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds or whose facsimile signature shall appear thereon shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of such Bond shall hold the proper office of the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized. The Issuer may adopt and use for such purposes the facsimile signatures of any such persons who shall have held such offices at any time after the date of the adoption of this Resolution, notwithstanding that either or

both shall have ceased to hold such office at the time the Bonds shall be actually sold and delivered.

**SECTION 2.03. AUTHENTICATION.** No Bond of any Series shall be secured hereunder or entitled to the benefit hereof or shall be valid or obligatory for any purpose unless there shall be manually endorsed on such Bond a certificate of authentication by the Registrar or such other entity as may be approved by the Issuer for such purpose. Such certificate on any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Resolution. The form of such certificate shall be substantially in the form provided in Section 2.07 hereof.

**SECTION 2.04. TEMPORARY BONDS.** Until the definitive Bonds of any Series are prepared, the Issuer may execute, in the same manner as is provided in Section 2.02 hereof, and deliver, upon authentication by the Registrar pursuant to Section 2.03 hereof, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, except as to the denominations thereof, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in denominations authorized by the Issuer by subsequent resolution and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Issuer, at its own expense, shall prepare and execute definitive Bonds, which shall be authenticated by the Registrar. Upon the surrender of such temporary Bonds for exchange, the Registrar, without charge to the Holder thereof, shall deliver in exchange therefor definitive Bonds, of the same aggregate principal amount and Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds issued pursuant to this Resolution. All temporary Bonds surrendered in exchange for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith cancelled by the Registrar.

**SECTION 2.05. BONDS MUTILATED, DESTROYED, STOLEN OR LOST.** In case any Bond shall become mutilated, or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver, and the Registrar shall authenticate, a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder furnishing the Issuer and the Registrar proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer or the Registrar may prescribe and paying such expenses as the Issuer and the Registrar may incur. All Bonds so surrendered shall be cancelled by the Registrar. If any of the Bonds shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same or cause the Bond to be paid, upon being indemnified as aforesaid, and if such Bonds be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this Section 2.05 shall constitute original, additional contractual obligations on the part of the Issuer whether or not the lost, stolen or destroyed Bond be at any time found by anyone, and such duplicate Bond shall be entitled to equal and proportionate benefits and rights as to lien on the Pledged Funds to the same extent as all other Bonds issued hereunder.

**SECTION 2.06. INTERCHANGEABILITY, NEGOTIABILITY AND TRANSFER.** Bonds, upon surrender thereof at the designated corporate trust office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing, may, at the option of the Holder thereof, be exchanged for an equal aggregate principal amount of registered Bonds of the same Series and maturity of any other authorized denominations.

The Bonds issued under this Resolution shall be and have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code of the State of Florida, subject to the provisions for registration and transfer contained in this Resolution and in the Bonds. So long as any of the Bonds shall remain Outstanding, the Issuer shall maintain and keep, at the designated corporate trust office of the Registrar, books for the registration and transfer of the Bonds.

Each Bond shall be transferable only upon the books of the Issuer, at the designated corporate trust office of the Registrar, under such reasonable regulations as the Issuer may prescribe, by the Holder thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed and guaranteed by the Holder or his duly authorized attorney. Upon the transfer of any such Bond, the Issuer shall issue, and cause to be authenticated, in the name of the transferee a new Bond or Bonds of the same aggregate principal amount and Series and maturity as the surrendered Bond. The Issuer, the Registrar and any Paying Agent or fiduciary of the Issuer may deem and treat the Person in whose name any Outstanding Bond shall be registered upon the books of the Issuer as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if applicable, and interest on such Bond and for all other purposes, and all such payments so made to any such Holder or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid and neither the Issuer nor the Registrar nor any Paying Agent or other fiduciary of the Issuer shall be affected by any notice to the contrary.

The Registrar, in any case where it is not also the Paying Agent in respect to any Series of Bonds, forthwith (A) following the fifteenth day prior to an Interest Date for such Series; (B) following the fifteenth day next preceding the date of first mailing of notice of redemption of any Bonds of such Series; and (C) at any other time as reasonably requested by the Paying Agent of such Series, shall certify and furnish to such Paying Agent the names, addresses and holdings of Bondholders and any other relevant information reflected in the registration books. Any Paying Agent of any fully registered Bond shall effect payment of interest on such Bonds by mailing a check to the Holder entitled thereto or may, in lieu thereof, upon the request of such Holder, transmit such payment by bank wire transfer for the account of such Holder.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Issuer shall execute and deliver Bonds and the Registrar shall authenticate such Bonds in accordance with the provisions of this Resolution. Execution of Bonds by the Mayor and Clerk for purposes of exchanging, replacing or transferring Bonds may occur at the time of the original delivery of the Series of which such Bonds are a part. All Bonds surrendered in any such exchanges or transfers shall be held by the Registrar in safekeeping until directed by the

Issuer to be cancelled by the Registrar. For every such exchange or transfer of Bonds, the Issuer or the Registrar may make a charge sufficient to reimburse it for any tax, fee, expense or other governmental charge required to be paid with respect to such exchange or transfer, but no other charge shall be made to any owner of Bonds for the privilege of exchanging or registering the transfer of Bonds under the provisions of this Resolution.

The Issuer and the Registrar shall not be obligated to make any such exchange or transfer of Bonds of any Series during the 15 days next preceding an Interest Date on the Bonds of such Series (other than Capital Appreciation Bonds and Variable Rate Bonds), or, in the case of any proposed redemption of Bonds of such Series, then, for the Bonds subject to redemption, during the 15 days next preceding the date of the first mailing of notice of such redemption and continuing until such redemption date.

The Issuer may elect to issue any Bonds as uncertificated registered public obligations (not represented by instruments), commonly known as book-entry obligations, provided it shall establish a system of registration therefor by Supplemental Resolution.

**SECTION 2.07. FORM OF BONDS.** The text of the Bonds, except for Capital Appreciation Bonds and Variable Rate Bonds, the form of which shall be provided by Supplemental Resolution, shall be in substantially the following form with such omissions, insertions and variations as may be necessary and/or desirable and approved by the Mayor prior to the issuance thereof (which necessity and/or desirability and approval shall be presumed by such officer's execution of the Bonds and the Issuer's delivery of the Bonds to the purchaser or purchasers thereof):

[Remainder of page intentionally left blank]

No. R-

\$

**UNITED STATES OF AMERICA  
STATE OF FLORIDA  
CITY OF LAKE WORTH BEACH, FLORIDA  
CONSOLIDATED UTILITY REVENUE BONDS,  
SERIES \_\_\_\_\_**

<u>Interest</u> <u>Rate</u>	<u>Maturity</u> <u>Date</u>	<u>Date of</u> <u>Original Issue</u>	<u>CUSIP</u>
--------------------------------	--------------------------------	---	--------------

Registered Holder:

Principal Amount:

**KNOW ALL MEN BY THESE PRESENTS**, that the City of Lake Worth Beach, Florida, a municipal corporation and public body corporate and politic of the State of Florida (the "Issuer"), for value received, hereby promises to pay, solely from the Pledged Funds hereinafter described, to the Registered Holder identified above, or registered assigns as hereinafter provided, on the Maturity Date identified above, the Principal Amount identified above and to pay interest on such Principal Amount from the Date of Original Issue identified above or from the most recent interest payment date to which interest has been paid at the Interest Rate per annum identified above on \_\_\_\_\_ and \_\_\_\_\_ of each year commencing \_\_\_\_\_, until such Principal Amount shall have been paid, except as the provisions hereinafter set forth with respect to redemption prior to maturity may be or become applicable hereto.

Such Principal Amount and interest and the premium, if any, on this Bond are payable in any coin or currency of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts. Such Principal Amount and the premium, if any, on this Bond, are payable at the designated corporate trust office of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, as Paying Agent. Payment of each installment of interest shall be made to the person in whose name this Bond shall be registered on the registration books of the Issuer maintained by \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, as Registrar, at the close of business on the date which shall be the fifteenth day (whether or not a business day) of the calendar month next preceding each interest payment date and shall be paid by a check of such Paying Agent mailed to such Registered Holder at the address appearing on such registration books or, at the request of such Registered Holder, by bank wire transfer for the account of such Holder. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of \$\_\_\_\_\_ (the "Bonds") of like date, tenor and effect, except as to maturity date, interest rate, denomination and number, issued to finance \_\_\_\_\_, in and for the Issuer, under the authority of and in full compliance with the Constitution and laws of the State of Florida, particularly the City Charter, Chapter 166, Part II, Florida Statutes, and other applicable provisions of law (the "Act"), and Resolution No.\_\_\_\_\_, adopted by the City Commission of the Issuer on October 6, 2020, as the same may be amended and supplemented (collectively, the "Resolution"), and is subject to all the terms and conditions of the Resolution.

This Bond and the interest hereon are payable solely from and secured by a lien upon and a pledge of (1) the Net Revenues (as defined in the Resolution) to be derived from the operation of the Issuer's consolidated utility system (the "System"), and (2) until applied in accordance with the provisions of the Resolution, all moneys, including investments thereof, in the funds and accounts established by the Resolution, except (A) the Rebate Fund, (B) to the extent moneys therein shall be required to pay the Operating Expenses (as defined in the Resolution) and (C) any moneys set aside in a particular subaccount of the Reserve Account, if such moneys shall be pledged solely for the payment of a different Series of Bonds for which it was established in accordance with the provisions of the Resolution, subject in each case to the application thereof for the purposes and on the conditions permitted by the Resolution (collectively, the "Pledged Funds"). It is expressly agreed by the Registered Holder of this Bond that the full faith and credit of the Issuer are not pledged to the payment of the principal of, premium, if any, and interest on this Bond and that such Holder shall never have the right to require or compel the exercise of any taxing power of the Issuer to the payment of such principal, premium, if any, and interest. This Bond and the obligation evidenced hereby shall not constitute a lien upon the System or any other property of the Issuer, but shall constitute a lien only on, and shall be payable solely from, the Pledged Funds in accordance with the terms of the Resolution.

IT IS EXPRESSLY AGREED BY THE REGISTERED HOLDER OF THIS BOND THAT THE FULL FAITH AND CREDIT OF THE ISSUER, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THIS BOND AND THAT SUCH HOLDER SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF ANY TAXING POWER OF THE ISSUER, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, TO THE PAYMENT OF SUCH PRINCIPAL, PREMIUM, IF ANY, AND INTEREST. THIS BOND AND THE OBLIGATION EVIDENCED HEREBY SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OF THE ISSUER, BUT SHALL CONSTITUTE A LIEN ONLY ON, AND SHALL BE PAYABLE SOLELY FROM, THE PLEDGED FUNDS. THE ISSUER MAY ISSUE ADDITIONAL OBLIGATIONS ON PARITY WITH THE BONDS IN ACCORDANCE WITH THE TERMS OF THE RESOLUTION.

[The Issuer has established a book-entry system of registration for the Bonds. Except as specifically provided otherwise in the Resolution, an agent will hold this Bond on behalf of the beneficial owner thereof. By acceptance of a confirmation of purchase, delivery or transfer, the beneficial owner of this Bond shall be deemed to have agreed to such arrangement.]

This Bond is transferable in accordance with the terms of the Resolution only upon the books of the Issuer kept for that purpose at the designated corporate trust office of the Registrar by the Registered Holder hereof in person or by his attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Holder or his attorney duly authorized in writing, and thereupon a new Bond or Bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor, and upon the payment of the charges, if any, therein prescribed. The Bonds are issuable in the form of fully registered Bonds in the denomination of [\$5,000 and any integral multiple thereof,] not exceeding the aggregate principal amount of the Bonds. The Issuer, the Registrar and any Paying Agent may treat the Registered Holder of this Bond as the absolute owner hereof for all purposes, whether or not this Bond shall be overdue, and shall not be affected by any notice to the contrary. The Issuer shall not be obligated to make any exchange or transfer of the Bonds during the 15 days next preceding an interest payment date or, in the case of any proposed redemption of the Bonds, then, for the Bonds subject to such redemption, during the 15 days next preceding the date of the first mailing of notice of such redemption.

(INSERT REDEMPTION PROVISIONS)

Redemption of this Bond under the preceding paragraphs shall be made as provided in the Resolution upon notice given by first class mail sent at least 30 days prior to the redemption date to the Registered Holder hereof at the address shown on the registration books maintained by the Registrar; provided, however, that failure to mail notice to the Registered Holder hereof, or any defect therein, shall not affect the validity of the proceedings for redemption of other Bonds as to which no such failure or defect has occurred. In the event that less than the full principal amount hereof shall have been called for redemption, the Registered Holder hereof shall surrender this Bond in exchange for one or more Bonds in an aggregate principal amount equal to the unredeemed portion of principal, as provided in the Resolution.

[As long as the book-entry only system is used for determining beneficial ownership of the Bonds, notice of redemption will only be sent to Cede & Co. Cede & Co. will be responsible for notifying the DTC Participants, who will in turn be responsible for notifying the beneficial owners of the Bonds. Any failure of Cede & Co. to notify any DTC Participant, or of any DTC Participant to notify the beneficial owner of any such notice, will not affect the validity of the redemption of the Bonds.]

Reference to the Resolution and any and all resolutions supplemental thereto and modifications and amendments thereof and to the Act is made for a description of the pledge and covenants securing this Bond, the nature, manner and extent of enforcement of such pledge and covenants, and the rights, duties, immunities and obligations of the Issuer.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond, exist, have happened and have been performed, in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, and that the issuance of the Bonds does not violate any constitutional or statutory limitations or provisions.

Neither the members of the City Commission of the Issuer nor any person executing this Bond shall be liable personally hereon or be subject to any personal liability or accountability by reason of the issuance hereof.

[This Bond is one of a series of Bonds which were validated by judgment of the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County, Florida, rendered on \_\_\_\_\_, \_\_\_\_\_.]

This Bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.



**IN WITNESS WHEREOF**, the City of Lake Worth Beach, Florida has issued this Bond and has caused the same to be executed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk, and its official seal or a facsimile thereof to be affixed or reproduced hereon, all as of Date of Original Issue.

**CITY OF LAKE WORTH BEACH, FLORIDA**

(SEAL)

---

Mayor

ATTEST:

---

City Clerk

APPROVED AS TO FORM:

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Nabors, Giblin & Nickerson, P.A.

**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds of the Issue described in the within-mentioned Resolution.

DATE OF AUTHENTICATION:

\_\_\_\_\_

\_\_\_\_\_  
Registrar

By: \_\_\_\_\_  
Authorized Officer

[Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by the authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.]

**ASSIGNMENT**

**FOR VALUE RECEIVED**, the undersigned sells, assigns and transfers unto

\_\_\_\_\_

Insert Social Security or Other Identifying Number of Assignee

\_\_\_\_\_

(Name and Address of Assignee)

\_\_\_\_\_

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, as attorneys to register the transfer of the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed:

\_\_\_\_\_  
**NOTICE:** Signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

\_\_\_\_\_  
**NOTICE:** The signature to this assignment must correspond with the name of the Registered Holder as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever and the Social Security or other identifying number of such assignee must be supplied.

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common

TEN ENT -- as tenants by the entireties

JT TEN -- as joint tenants with right of survivorship and not as tenants in common

UNIF TRANS MIN ACT -- \_\_\_\_\_  
(Cust.)

Custodian for \_\_\_\_\_

under Uniform Transfers to Minors Act of \_\_\_\_\_  
(State)

Additional abbreviations may also be used though not in list above.

## **ARTICLE III REDEMPTION OF BONDS**

**SECTION 3.01. PRIVILEGE OF REDEMPTION.** The terms of this Article III shall apply to the redemption of Bonds other than Capital Appreciation Bonds or Variable Rate Bonds. The terms and provisions relating to redemption of Capital Appreciation Bonds and Variable Rate Bonds shall be provided by Supplemental Resolution. The provisions of this Article III may also be modified pursuant to Supplemental Resolution to accommodate any redemption provisions with respect to Federal Subsidy Bonds.

**SECTION 3.02. SELECTION OF BONDS TO BE REDEEMED.** The Bonds shall be redeemed only in the principal amount of \$5,000 each and integral multiples thereof. The Issuer shall, at least 35 days prior to the redemption date (unless a shorter time period shall be satisfactory to the Registrar) notify the Registrar of such redemption date and of the principal amount of Bonds to be redeemed and, if less than all of the Outstanding Bonds are to be redeemed, the particular maturities and portions thereof to be redeemed. For purposes of any redemption of less than all of the Outstanding Bonds of a single maturity, the particular Bonds or portions of Bonds to be redeemed shall be selected not more than 45 days and not less than 35 days prior to the redemption date by the Registrar from the Outstanding Bonds of the maturity or maturities designated by the Issuer by such method as the Registrar shall deem fair and appropriate (which may include a pro-rata or pass-through distribution) and which may provide for the selection for redemption of Bonds or portions of Bonds in principal amounts of \$5,000 and integral multiples thereof. If less than all of a Term Bond is to be redeemed the aggregate principal amount to be redeemed shall be allocated to the Sinking Fund Installments on a pro-rata basis unless the Issuer, in its discretion, designates a different allocation.

If less than all of the Outstanding Bonds of a single maturity are to be redeemed, the Registrar shall promptly notify the Issuer and Paying Agent (if the Registrar is not the Paying Agent for such Bonds) in writing of the Bonds or portions of Bonds selected for redemption and, in the case of any Bond selected for partial redemption, the principal amount thereof to be redeemed.

**SECTION 3.03. NOTICE OF REDEMPTION.** Notice of such redemption, which shall specify the Bond or Bonds (or portions thereof) to be redeemed and the date and place for redemption, shall be given by the Registrar on behalf of the Issuer, and (A) shall be filed with the Paying Agents of such Bonds, (B) shall be mailed first class, postage prepaid, not less than 30 days nor more than 45 days prior to the redemption date to all Holders of Bonds to be redeemed at their addresses as they appear on the registration books kept by the Registrar as of the date of mailing of such notice, and (C) shall be mailed, certified mail, postage prepaid, at least 35 days prior to the redemption date to the registered securities depositories and one or more nationally recognized municipal bond information services as hereinafter provided in this Section 3.03. Failure to mail such notice to such depositories or services or the Holders of the Bonds to be redeemed, or any defect therein, shall not affect the proceedings for redemption of Bonds as to which no such failure or defect has occurred. Such notice shall also be mailed to the Insurer or Credit Bank, if any, of such Bonds to be redeemed. Failure of any Holder to receive any notice mailed as herein provided shall not affect the proceedings for redemption of such

Holder's Bonds. Notwithstanding the foregoing, the Issuer may establish separate redemption provisions by a Supplemental Resolution in connection with any Series of Bonds.

Each notice of redemption shall state: (1) the CUSIP numbers and any other distinguishing number or letter of all Bonds being redeemed, (2) the original issue date of such Bonds, (3) the maturity date and rate of interest borne by each Bond being redeemed, (4) the redemption date, (5) the Redemption Price, (6) the date on which such notice is mailed, (7) if less than all Outstanding Bonds are to be redeemed, the certificate number (and, in the case of a partial redemption of any Bond, the principal amount) of each Bond to be redeemed, (8) that on such redemption date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued thereon to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable, (9) that the Bonds to be redeemed, whether as a whole or in part, are to be surrendered for payment of the Redemption Price at the designated office of the Registrar at an address specified, (10) the name and telephone number of a person designated by the Registrar to be responsible for such redemption, (11) unless sufficient funds have been set aside by the Issuer for such purpose prior to the mailing of the notice of redemption, that such redemption is conditioned upon the deposit of sufficient funds for such purpose on or prior to the date set for redemption, and (12) any other conditions that must be satisfied prior to such redemption.

The Issuer may provide that a redemption may be contingent upon the occurrence of certain condition(s) and that if such condition(s) do not occur the notice of redemption will be rescinded, provided notice of rescission shall be mailed in the manner described above to all affected Bondholders as soon as practicable.

**SECTION 3.04. REDEMPTION OF PORTIONS OF BONDS.** Any Bond which is to be redeemed only in part shall be surrendered at any place of payment specified in the notice of redemption (with due endorsement by, or written instrument of transfer in form satisfactory to the Registrar duly executed by, the Holder thereof or his attorney duly authorized in writing) and the Issuer shall execute and the Registrar shall authenticate and deliver to the Holder of such Bond, without service charge, a new Bond or Bonds, of any authorized denomination, as requested by such Holder in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bonds so surrendered.

**SECTION 3.05. PAYMENT OF REDEEMED BONDS.** Notice of redemption having been given substantially as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar and/or Paying Agent at the appropriate Redemption Price, plus accrued interest. All Bonds which have been redeemed shall be cancelled and destroyed by the Registrar and shall not be reissued.

**ARTICLE IV**  
**SECURITY; FUNDS AND ACCOUNTS; APPLICATION OF GROSS REVENUES**

**SECTION 4.01. BONDS NOT TO BE INDEBTEDNESS OF ISSUER.** The Bonds shall not be or constitute general obligations or indebtedness of the Issuer as "bonds" within the meaning of any constitutional or statutory provision, but shall be special obligations of the Issuer, payable solely from and secured by a lien upon and pledge of the Pledged Funds, in the manner and to the extent provided in this Resolution. No Holder of any Bond shall ever have the right to compel the exercise of any ad valorem taxing power to pay such Bond, or be entitled to payment of such Bond from any moneys of the Issuer except from the Pledged Funds in the manner and to the extent provided herein. The Bonds and the obligations evidenced thereby shall not constitute a lien upon the System or any other property of the Issuer, but shall constitute a lien only on, and shall be payable solely from, the Pledged Funds.

**SECTION 4.02. SECURITY FOR BONDS.** The payment of the principal of or Redemption Price, if applicable, and interest on the Bonds shall be secured forthwith equally and ratably by a pledge of and lien upon the Pledged Funds; provided, however, a Series of Bonds may be further secured by a Credit Facility or Bond Insurance Policy in addition to the security provided herein; and provided further that a Series of Bonds may be secured independently of any other Series of Bonds by the establishment of a separate subaccount in the Reserve Account for such Series of Bonds or by not being secured in any manner by the Reserve Account as provided in a Supplemental Resolution. Issuers of a Reserve Account Insurance Policy or Reserve Account Letter of Credit shall be secured in accordance with the provisions hereof. In addition, the Issuer does hereby irrevocably pledge and grant a lien upon the Pledged Funds to the payment of the Policy Costs in accordance with the provisions hereof; provided, however, such pledge and lien shall be junior and subordinate in all respects to the pledge of and lien upon such Pledged Funds granted hereby to the Bondholders. The Issuer does hereby irrevocably pledge the Pledged Funds to the payment of the principal of or Redemption Price, if applicable, and interest on the Bonds in accordance with the provisions hereof. Except as otherwise provided by Supplemental Resolution, the obligation of the Issuer to make Hedge Payments to a Counterparty pursuant to a Qualified Hedge Agreement shall be on parity with the Bonds as to lien on and pledge of the Pledged Funds in accordance with the terms hereof (any other payments related to a Qualified Hedge Agreement, including fees, penalties, termination payments and the obligation to collateralize, shall be Subordinated Indebtedness of the Issuer).

The Pledged Funds shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Issuer.

**SECTION 4.03. SEPARATE ACCOUNTS.** The moneys required to be accounted for in each of the funds, accounts and subaccounts established in this Resolution, particularly those described in this Article IV, may be deposited in a single bank account, and funds allocated to the various funds, accounts and subaccounts established herein may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the moneys on deposit therein and such investments for the various purposes of such funds, accounts and subaccounts as herein provided. The Issuer may, by

Supplemental Resolution, establish a third-party depository to hold any of the funds and accounts established hereunder.

The designation and establishment of the various funds, accounts and subaccounts in and by this Resolution shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues as herein provided.

**SECTION 4.04. CONSTRUCTION FUND.** The Issuer covenants and agrees to establish a special fund to be known as the "City of Lake Worth Beach, Florida Consolidated Utility System Construction Fund," which shall be used only for payment of the Cost of a Project. Moneys in the Construction Fund, until applied in payment of any item of the Cost of a Project in the manner hereinafter provided, shall be subject to a lien and charge in favor of the Holders of the Bonds and for the further security of such Holders.

There shall be paid into the Construction Fund the amounts required to be so paid by the provisions of this Resolution, and there may be paid into the Construction Fund, at the option of the Issuer, any moneys received for or in connection with a Project by the Issuer from any other source. The Issuer shall establish within the Construction Fund a separate account for each Project the Cost of which is to be paid in whole or in part out of the Construction Fund.

The proceeds of insurance maintained pursuant to this Resolution against physical loss of or damage to a Project, or of contractors' performance bonds with respect thereto pertaining to the period of construction thereof, shall be deposited into the appropriate account of the Construction Fund.

Any moneys received by the Issuer from the State or from the United States of America or any agencies thereof for the purpose of financing part of the Cost of a Project shall be deposited into the appropriate account of the Construction Fund and used in the same manner as other Bond proceeds are used therein; provided that separate accounts or subaccounts may be established in the Construction Fund for moneys received pursuant to the provisions of this paragraph whenever required by federal or State law.

The Issuer covenants that the acquisition, construction and installation of each Project will be completed without delay and in accordance with sound engineering practices. The Issuer shall make disbursements or payments from the applicable account of the Construction Fund to pay Costs of the Project for which it was established, except as otherwise provided below. The Issuer shall keep records of such disbursements and payments and shall retain all such records for such period of time as required by applicable law. The Issuer shall make available the records at all reasonable times for inspection by any Holder of any of the Bonds or the agent or representative of any Holder of any of the Bonds.

Notwithstanding any of the other provisions of this Section 4.04, to the extent that other moneys are not available therefor, amounts in an account of the Construction Fund shall be applied to the payment of principal and interest on Bonds.



The date of completion of the acquisition, construction and equipping of a Project shall be documented by an Authorized Issuer Officer or the Clerk in the appropriate records of the Issuer. Promptly after the date of the completion of a Project, and after paying or making provision for the payment of all unpaid items of the Cost of such Project, the Issuer shall deposit in the following order of priority any balance of moneys remaining in an account in the Construction Fund in (A) another account of the Construction Fund for which an Authorized Issuer Officer has determined that there are insufficient moneys present to pay the Cost of the related Project, (B) the Reserve Account, to the extent of a deficiency therein, and (C) such other fund or account established hereunder as shall be determined by the Issuer or for any other lawful purpose, provided the Issuer has received the prior approval of Bond Counsel to the effect that such transfer shall not adversely affect the exclusion, if any, of interest on the Bonds (other than Taxable Bonds) from gross income for purposes of federal income taxation or shall not otherwise affect the status of any Outstanding Bonds issued as Federal Subsidy Bonds or the Issuer's receipt of Federal Subsidy Payments with respect to any Outstanding Federal Subsidy Bonds.

**SECTION 4.05. CREATION OF FUNDS AND ACCOUNTS.** The Issuer covenants and agrees to establish the following funds and accounts:

- (A) The "City of Lake Worth Beach, Florida Consolidated Utility Revenue Fund."
- (B) The "City of Lake Worth Beach, Florida Consolidated Utility Operation and Maintenance Fund."
- (C) The "City of Lake Worth Beach, Florida Consolidated Utility Sinking Fund." The Issuer shall maintain four separate accounts in the Sinking Fund: the "Interest Account," the "Principal Account," the "Term Bonds Redemption Account" and the "Reserve Account."
- (D) The "City of Lake Worth Beach, Florida Consolidated Utility Renewal and Replacement Fund."
- (E) The "City of Lake Worth Beach, Florida Consolidated Utility Rebate Fund."
- (F) The "City of Lake Worth Beach, Florida Consolidated Utility Rate Stabilization Fund."
- (G) The "City of Lake Worth Beach, Florida Consolidated Utility Reserve Fund".

Moneys in the aforementioned funds and accounts (except for moneys in the Rebate Fund), until applied in accordance with the provisions hereof, shall be subject to a lien and charge in favor of the Holders of the Bonds and for the further security of such Holders, to the extent provided herein.

The Issuer may at any time and from time to time appoint one or more depositaries to hold, for the benefit of the Bondholders, any one or more of the funds and accounts established hereby. Such depositary or depositaries shall perform at the direction of the Issuer the duties of the Issuer in depositing, transferring and disbursing moneys to and from each of such funds or accounts as herein set forth, and all records of such depositary in performing such duties shall be

open at all reasonable times to inspection by the Issuer and its agents and employees. Any such depository shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and be qualified under applicable State law.

Notwithstanding the foregoing, none of the aforementioned funds and accounts are required to be established prior to the time any such fund or account is required to be funded or otherwise utilized hereunder.

**SECTION 4.06. DISPOSITION OF GOVERNMENT GRANTS AND GROSS REVENUES.** (A) (1) In the event the Issuer receives a Government Grant, the use and withdrawal of moneys from such Government Grant shall be governed by the terms of the Government Grant and applicable law.

(2) The Issuer shall deposit promptly, as received, all Gross Revenues into the Revenue Fund.

Moneys in the Revenue Fund shall first be used each month to deposit in the Operation and Maintenance Fund such sums as are necessary to pay Operating Expenses for the ensuing month; provided the Issuer may transfer moneys from the Revenue Fund to the Operation and Maintenance Fund at any time to pay Operating Expenses to the extent there is a deficiency in the Operation and Maintenance Fund for such purpose. Amounts in the Operation and Maintenance Fund shall be paid out from time to time by the Issuer for Operating Expenses, including any expenses relating to the purchase or redemption of Term Bonds as provided in Section 4.06(B)(3) hereof.

The remaining moneys in the Revenue Fund shall be applied in accordance with Section 4.06(B) hereof.

(B) Any deposits remaining in the Revenue Fund after the aforementioned transfers to the Operation and Maintenance Fund shall be disposed of by the Issuer on or before the 25th day of each month, commencing in the month immediately following the delivery of any of the Bonds to the purchasers thereof, or such later date as hereinafter provided, in the following manner and in the following order of priority:

(1) Interest Account. The Issuer shall deposit or credit to the Interest Account the sum which, together with the balance in said Account, shall equal the interest on all Bonds Outstanding (except as to Capital Appreciation Bonds) accrued and unpaid and to accrue to the end of the then current calendar month. All Hedge Receipts and Federal Subsidy Payments shall be deposited directly to the Interest Account upon receipt. With respect to interest on Bonds which have corresponding Hedge Payments, interest on such Bonds during the term of the Qualified Hedge Agreement shall also be deemed to include the corresponding Hedge Payments. Moneys in the Interest Account shall be applied by the Issuer (a) for deposit with the Paying Agents to pay the interest on the Bonds on or prior to the date the same shall become due and (b) for Hedge Payments. Any Federal Subsidy Payments deposited to the Interest Account shall be deemed to have been applied to the payment of interest on the Federal Subsidy Bonds to which such Payments relate. The Issuer shall adjust the amount of the deposit to the Interest Account

not later than a month immediately preceding any Interest Date so as to provide sufficient moneys in the Interest Account to pay the interest on the Bonds coming due on such Interest Date. No further deposit need be made to the Interest Account when the moneys therein are equal to the interest coming due on the Outstanding Bonds on the next succeeding Interest Date. With respect to debt service on any Bonds which are subject to a Qualified Hedge Agreement, any Hedge Payments due to the Counterparty to the Qualified Hedge Agreement relating to such Bonds shall be paid to such Counterparty on a parity basis with the aforesaid required payments into the Sinking Fund. In computing the interest on Variable Rate Bonds which shall accrue during a calendar month, the interest rate on such Variable Rate Bonds shall be assumed to be (A) if such Variable Rate Bonds have been Outstanding for at least 24 months prior to the commencement of such calendar month, the highest average interest rate borne by such Variable Rate Bonds for any 30-day period, and (B) if such Variable Rate Bonds have not been Outstanding for at least 24 months prior to the date of calculation, the Bond Buyer Revenue Bond Index most recently published prior to the commencement of such calendar month.

(2) Principal Account. Commencing in the month which is one year prior to the first principal payment date, the Issuer shall next deposit into the Principal Account the sum which, together with the balance in said Account, shall equal the principal amounts on all Bonds Outstanding accrued and unpaid and that portion of the principal next due which would have accrued on such Bonds during the then current calendar month if such principal amounts were deemed to accrue monthly (assuming that a year consists of 12 equivalent calendar months having 30 days each) except for the Sinking Fund Installments to be deposited pursuant to Section 4.06(B)(3) hereof, in equal amounts from the next preceding principal payment due date, or, if there be no such preceding payment due date, from a date no later than one year preceding the due date of such principal amount. Moneys in the Principal Account shall be applied by the Issuer for deposit with the Paying Agents to pay the principal of the Bonds on or prior to the date the same shall mature, and for no other purpose. Serial Capital Appreciation Bonds shall be payable from the Principal Account in the years in which such Bonds mature and monthly payments into the Principal Account on account of such Bonds shall commence in the twelfth month immediately preceding the maturity date of such Bonds. The Issuer shall adjust the amount of the deposit to the Principal Account not later than the month immediately preceding any principal payment date so as to provide sufficient moneys in the Principal Account to pay the principal on Bonds becoming due on such principal payment date. No further deposit need be made to the Principal Account when the moneys therein are equal to the principal coming due on the Outstanding Bonds on the next succeeding principal payment date.

(3) Term Bonds Redemption Account. Commencing in the month which is one year prior to the first Sinking Fund Installment due date, there shall be deposited to the Term Bonds Redemption Account the sum which, together with the balance in such Account, shall equal the Sinking Fund Installments on all Bonds Outstanding accrued and unpaid and that portion of the Sinking Fund Installments of all Bonds Outstanding next due which would have accrued on such Bonds during the then current calendar month if such Sinking Fund Installments were deemed to accrue monthly (assuming that a year consists of 12 equivalent calendar months having 30 days each) in equal amounts from the next preceding Sinking Fund Installment due date, or, if there is no such preceding Sinking Fund Installment due date, from a date not later than one year preceding the due date of such Sinking Fund Installment. Moneys in the Term Bonds Redemption Account shall be used to purchase or redeem Term Bonds in the manner herein

provided, and for no other purpose. Term Capital Appreciation Bonds shall be payable from the Term Bonds Redemption Account in the years in which such Bonds mature and monthly payments into the Term Bonds Redemption Account on account of such Bonds shall commence in the twelfth month immediately preceding the due date of the related Sinking Fund Installments. The Issuer shall adjust the amount of the deposit to the Term Bonds Redemption Account in the month immediately preceding any Sinking Fund Installment Date so as to provide sufficient moneys in the Term Bonds Redemption Account to pay the Sinking Fund Installments becoming due on such date. Payments to the Term Bonds Redemption Account shall be on parity with payments to the Principal Account.

Amounts accumulated in the Term Bonds Redemption Account with respect to any Sinking Fund Installment (together with amounts accumulated in the Interest Account with respect to interest, if any, on the Term Bonds for which such Sinking Fund Installment was established) may be applied by the Issuer, on or prior to the 60th day preceding the due date of such Sinking Fund Installment, (a) to the purchase of Term Bonds of the Series and maturity for which such Sinking Fund Installment was established, or (b) to the redemption at the applicable Redemption Prices of such Term Bonds, if then redeemable by their terms. Amounts in the Term Bonds Redemption Account which are used to redeem Term Bonds shall be credited against the next succeeding Sinking Fund Installment which shall become due on such Term Bonds. The applicable Redemption Price (or principal amount of maturing Term Bonds) of any Term Bonds so purchased or redeemed shall be deemed to constitute part of the Term Bonds Redemption Account until such Sinking Fund Installment date, for the purposes of calculating the amount of such Account. As soon as practicable after the 60th day preceding the due date of any such Sinking Fund Installment, the Issuer shall proceed to call for redemption on such due date, by causing notice to be given as provided in Section 3.03 hereof, Term Bonds of the Series and maturity for which such Sinking Fund Installment was established (except in the case of Term Bonds maturing on a Sinking Fund Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment. The Issuer shall pay out of the Term Bonds Redemption Account and the Interest Account to the appropriate Paying Agents, on or before the day preceding such redemption date (or maturity date), the amount required for the redemption (or for the payment of such Term Bonds then maturing), and such amount shall be applied by such Paying Agents to such redemption (or payment). All expenses in connection with the purchase or redemption of Term Bonds shall be paid by the Issuer from the Operation and Maintenance Fund.

(4) Reserve Account. There shall be deposited to the Reserve Account an amount which would enable the Issuer to restore the funds on deposit in the Reserve Account to an amount equal to the Reserve Account Requirement applicable thereto. All deficiencies in the Reserve Account must be made up no later than 12 months from the date such deficiency first occurred, whether such shortfall was caused by an increase in the applicable Reserve Account Requirement, a decrease in the aggregate market value of the investments therein of more than 5% or withdrawal (whether from cash or a Reserve Account Insurance Policy or Reserve Account Letter of Credit). On or prior to each principal payment date and Interest Date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), moneys in the Reserve Account shall be applied by the Issuer to the payment of the principal of or Redemption Price, if applicable, and interest on the Bonds to the extent moneys in the Interest Account, the Principal Account and the Term Bonds Redemption Account shall be insufficient

for such purpose, but only to the extent the moneys transferred from the Utility Reserve Fund for such purposes pursuant to Section 4.06(B)(8) hereof shall be inadequate to fully provide for such insufficiency. Whenever there shall be surplus moneys in the Reserve Account by reason of a decrease in the Reserve Account Requirement or as a result of a deposit in the Reserve Account of a Reserve Account Letter of Credit or a Reserve Account Insurance Policy, such surplus moneys, to the extent practicable, shall be deposited by the Issuer into the Utility Reserve Fund. The Issuer shall promptly inform each Insurer and Credit Bank of any draw upon the Reserve Account for purposes of paying the principal of and interest on the Bonds.

Upon the issuance of any Series of Bonds under the terms, limitations and conditions as herein provided, the Issuer shall fund the Reserve Account in an amount at least equal to the applicable Reserve Account Requirement to the extent such Series of Bonds are to be secured by the Reserve Account or any subaccount therein; provided, however, nothing herein shall be construed to require the Issuer to fund the Reserve Account or any subaccount for any Series of Bonds. Upon the adoption of the Supplemental Resolution authorizing the issuance of a Series of Bonds, the Issuer shall determine whether such Series of Bonds shall be secured by the Reserve Account or any subaccount therein and, if the Issuer determines that the Series of Bonds will be secured by the Reserve Account or any subaccount therein, the Issuer shall also establish the Reserve Account Requirement applicable thereto. Such required amount, if any, shall be paid in full or in part from the proceeds of such Series of Bonds or may be accumulated in equal monthly payments to the Reserve Account over a period of months from the date of issuance of such Series of Bonds, which shall not exceed 36 months.

Notwithstanding the foregoing provisions, in lieu of or in substitution of any required deposits into the Reserve Account, the Issuer may cause to be deposited into the Reserve Account a Reserve Account Insurance Policy and/or Reserve Account Letter of Credit for the benefit of the Bondholders in an amount equal to the difference between the Reserve Account Requirement applicable thereto and the sums then on deposit in the Reserve Account, if any. The Issuer may also substitute a Reserve Account Insurance Policy and/or Reserve Account Letter of Credit for cash on deposit in the Reserve Account upon compliance with the terms of this Section 4.06(B)(4). Such Reserve Account Insurance Policy and/or Reserve Account Letter of Credit shall be payable to the Paying Agent (upon the giving of notice as required thereunder) on any Interest Date or redemption date on which a deficiency exists which cannot be cured by moneys in any other fund or account held pursuant to this Resolution and available for such purpose. Upon the initial deposit of any such Reserve Account Insurance Policy and/or Reserve Account Letter of Credit, the provider thereof shall be either (a) an insurer whose municipal bond insurance policies insuring the payment, when due, or the principal of and interest on municipal bond issues results in such issues being rated in one of the three highest rating categories by a Rating Agency (without regard to gradations, such as "plus" or "minus" or "1," "2" or "3"), or (b) a commercial bank, insurance company or other financial institution which has been assigned a rating in one of the two highest rating categories by a Rating Agency (without regard to gradations, such as "plus" or "minus" or "1," "2" or "3"). Any Reserve Account Insurance Policy and/or Reserve Account Letter of Credit shall equally secure all Bonds secured by the Reserve Account or subaccount into which such Policy or Letter of Credit is deposited.

Each Reserve Account Insurance Policy and Reserve Account Letter of Credit shall provide for a revolving feature under which the amount available thereunder will be reinstated to

the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of the provider of the Reserve Account Insurance Policy or Reserve Account Letter of Credit to reimbursement will be further subordinated to cash replenishment of the Reserve Account to an amount equal to the difference between the full original amount available under the Reserve Account Insurance Policy or Reserve Account Letter of Credit and the amount then available for further draws or claims. If the provider of a Reserve Account Insurance Policy or Reserve Account Letter of Credit becomes insolvent, the obligation to reimburse the provider of the Reserve Account Insurance Policy or Reserve Account Letter of Credit shall be subordinate to the cash replenishment of the Reserve Account. Where applicable, the amount available for draws or claims under a Reserve Account Insurance Policy or Reserve Account Letter of Credit may be reduced by the amount of cash or investments deposited in the Reserve Account pursuant to the provisions hereof.

If three days prior to an interest or principal payment date, or such other period of time as shall be required by the terms of the Reserve Account Insurance Policy or Reserve Account Letter of Credit, the Issuer shall determine that a deficiency exists in the amount of moneys available to pay in accordance with the terms hereof interest and/or principal due on the Bonds on such date, the Issuer shall immediately notify (a) the issuer of the applicable Reserve Account Insurance Policy and/or the issuer of the Reserve Account Letter of Credit and submit a demand for payment pursuant to the provisions of such Reserve Account Insurance Policy and/or the Reserve Account Letter of Credit, (b) the Paying Agent, and (c) the Insurer or Credit Bank, if any, of the amount of such deficiency and the date on which such payment is due.

In the event the Reserve Account or any subaccount therein contains both a Reserve Account Insurance Policy or Reserve Account Letter of Credit and cash, the cash shall be drawn down completely prior to any draw on the Reserve Account Insurance Policy or Reserve Account Letter of Credit. In the event more than one Reserve Account Insurance Policy or Reserve Account Letter of Credit meeting the criteria set forth herein is on deposit in the Reserve Account, amounts required to be drawn thereon shall be done on a pro-rata basis. The Issuer agrees to pay all Policy Costs owing in regard to any Reserve Account Insurance Policy or Reserve Account Letter of Credit from the Pledged Funds. Pledged Funds shall be applied in accordance with this Section 4.06(B)(4), first, to reimburse the issuer of the Reserve Account Insurance Policy or Reserve Account Letter of Credit for amounts advanced under such instruments, second, to replenish any cash deficiencies in the Reserve Account, and, third, to pay the issuer of the Reserve Account Insurance Policy or Reserve Account Letter of Credit applicable expenses and interest on amounts advanced under such instruments. This Resolution shall not be discharged or defeased while any obligations are owing in regard to a Reserve Account Insurance Policy or Reserve Account Letter of Credit on deposit in the Reserve Account. The Issuer agrees not to optionally redeem Bonds unless all amounts owing in regard to a Reserve Account Insurance Policy or Reserve Account Letter of Credit on deposit in the Reserve Account have been paid in full.

The Issuer may evidence its obligation to reimburse the issuer of any Reserve Account Letter of Credit or Reserve Account Insurance Policy by executing and delivering to such issuer a promissory note or other evidence therefor; provided, however, any such note or evidence (a) shall not be a general obligation of the Issuer the payment of which is secured by the full faith and credit or taxing power of the Issuer, and (b) shall be payable solely from the Pledged Funds

in the manner provided herein. The obligation to reimburse the provider of a Reserve Account Insurance Policy or Reserve Account Letter of Credit for any Policy Costs shall be subordinate to the payment of debt service on the Bonds.

Any consent or approval of any Insurer described in this Section 4.06(B)(4) shall be required only so long as there are Outstanding Bonds secured by a Bond Insurance Policy issued by such Insurer which is in full force and effect and the commitments of which have been honored by such Insurer. The term "Paying Agent" as used in this Section 4.06(B)(4) may include one or more Paying Agents for the Outstanding Bonds.

Whenever the amount of cash in the Reserve Account, together with the other amounts in the Debt Service Fund, are sufficient to fully pay all Outstanding Bonds in accordance with their terms (including principal or applicable Redemption Price and interest thereon), the funds on deposit in the Reserve Account may be transferred to the other Accounts of the Sinking Fund for the payment of the Bonds.

The Issuer may also establish a separate subaccount in the Reserve Account for any Series of Bonds and provide a pledge of such subaccount to the payment of such Series of Bonds apart from the pledge provided herein. To the extent a Series of Bonds is secured separately by a subaccount of the Reserve Account, the Holders of such Bonds shall not be secured by any other moneys in the Reserve Account. Moneys in a separate subaccount of the Reserve Account shall be maintained at the Reserve Account Requirement applicable to such Series of Bonds secured by the subaccount; provided the Supplemental Resolution authorizing such Series of Bonds may establish the Reserve Account Requirement relating to such separate subaccount of the Reserve Account at such level as the Issuer deems appropriate. In the event the Issuer by Supplemental Resolution establishes the Reserve Account Requirement for a particular Series of Bonds to be zero (0.00) or it shall determine that such Series are not to be secured in any manner by the Reserve Account or a subaccount, then it shall not be required to establish a separate subaccount; provided, however, such Series of Bonds shall have no lien on or pledge of any moneys on deposit in the Reserve Account. Moneys used to replenish the Reserve Account shall be deposited in the separate subaccounts in the Reserve Account and in the Reserve Account on a pro-rata basis. In the event the Issuer shall maintain a Reserve Account Insurance Policy or Reserve Account Letter of Credit and moneys in any subaccount, the moneys shall be used prior to making any disbursements under such Reserve Account Insurance Policy or Reserve Account Letter of Credit.

(5) Renewal and Replacement Fund. There shall be deposited to the Renewal and Replacement Fund monthly such sums as shall be sufficient to pay 1/12 of the Renewal and Replacement Fund Requirement until the amount accumulated in such Fund is equal to the Renewal and Replacement Fund Requirement, taking into account the market value of investments in such Fund; provided, however, that (a) such Renewal and Replacement Fund Requirement may be increased or decreased as the Consulting Engineers shall certify to the Issuer is necessary for the purposes of the Renewal and Replacement Fund, and (b) in the event that the Consulting Engineers shall certify that the Renewal and Replacement Fund Requirement is excessive for the purposes of the Renewal and Replacement Fund, such excess amount as may be on deposit therein may be transferred by the Issuer from the Renewal and Replacement Fund for deposit into the Utility Reserve Fund. The moneys in the Renewal and Replacement Fund

shall be applied by the Issuer for the purpose of paying the cost of major extensions, improvements or additions to, or the replacement or renewal of capital assets of, the System, or extraordinary repairs of the System; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), moneys in the Renewal and Replacement Fund shall be applied for the payment into the Interest Account, the Principal Account, and the Term Bonds Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent moneys transferred from the Utility Reserve Fund for such purpose pursuant to Section 4.06(B)(8) hereof, together with moneys available in the Reserve Account for such purpose pursuant to Section 4.06(B)(4) hereof, shall be inadequate to fully provide for such insufficiency. Moneys in the Renewal and Replacement Fund may also be transferred to the Operation and Maintenance Fund to fund Operating Expenses to the extent Gross Revenues shall be insufficient for such purpose; provided, however, such transfer shall be treated as an interfund loan and shall be repaid from Gross Revenues as described in this Section 4.06(B)(5) within one year from the date of such transfer.

(6) Subordinated Indebtedness. Gross Revenues in the Revenue Fund shall next be applied by the Issuer for the payment of any accrued debt service on Subordinated Indebtedness incurred by the Issuer in connection with the System and in accordance with the proceedings authorizing such Subordinated Indebtedness.

(7) Sinking Fund. There shall be deposited to the Interest Account, the Principal Account and the Term Bonds Redemption Account, in that order, sufficient moneys such that the amounts on deposit therein shall equal, respectively, the interest, principal and Sinking Fund Installment next coming due on the Bonds Outstanding; provided, however, no deposit need be made to the Principal Account or Term Bonds Redemption Account until a date one year preceding the due date of such principal amount or Sinking Fund Installment.

(8) Utility Reserve Fund. The balance of any Gross Revenues remaining in said Revenue Fund shall be deposited in the Utility Reserve Fund and applied to the payment, on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), into the Interest Account, the Principal Account and the Term Bonds Redemption Account when the moneys therein shall be insufficient to pay the principal of and interest on the Bonds coming due. Moneys not required to meet such a deficiency shall be deposited to the Reserve Account to make up any deficiency therein, and thereafter to the Rebate Fund to the extent moneys are required to be deposited therein. Thereafter, moneys in the Utility Reserve Fund may be applied for (A) the purchase or redemption of Bonds, (b) payment of Subordinated Indebtedness, (c) payment of other obligations incurred with respect to the System, (d) deposit to the Rate Stabilization Fund, (e) improvements, renewals and replacements to the System or for (f) any lawful purpose of the Issuer up to a maximum amount with respect to clause (f) of 10% of the Gross Revenues of the System for such Fiscal Year; provided, however, that none of such revenues shall ever be used for the purposes provided in this Section 4.06(B)(8) unless all payments required in Sections 4.06(B)(1) through 4.06(B)(6) hereof, including any deficiencies for prior payments, have been made in full to the date of such use.



(C) Whenever moneys on deposit in the Sinking Fund are sufficient to fully pay all Outstanding Bonds in accordance with their terms (including principal or applicable Redemption Price and interest thereon), no further deposits to the Sinking Fund need be made. If on any payment date the Gross Revenues are insufficient to deposit the required amount in any of the funds or accounts or for any of the purposes provided above, the deficiency shall be made up on the subsequent payment dates.

The Issuer, in its discretion, may use moneys in the Principal Account and the Interest Account to purchase or redeem Bonds coming due on the next principal payment date, provided such purchase or redemption does not adversely affect the Issuer's ability to pay the principal or interest coming due on such principal payment date on the Bonds not so purchased or redeemed.

(D) In the event the Issuer shall issue a Series of Bonds secured by a Credit Facility, the Issuer may establish separate subaccounts in the Interest Account, the Principal Account and the Term Bonds Redemption Account to provide for payment of the principal of and interest on such Series; provided payment from the Pledged Funds of one Series of Bonds shall not have preference over payment of any other Series of Bonds. The Issuer may also deposit moneys in such subaccounts at such other times and in such other amounts from those provided in Section 4.06(B) as shall be necessary to pay the principal of and interest on such Bonds as the same shall become due, all as provided by the Supplemental Resolution authorizing such Bonds.

In the case of Bonds secured by a Credit Facility, amounts on deposit in the Sinking Fund may be applied as provided in the applicable Supplemental Resolution to reimburse the Credit Bank for amounts drawn under such Credit Facility to pay the principal of, premium, if any, and interest on such Bonds or to pay the purchase price of any such Bonds which are tendered by the holders thereof for payment; provided such Credit Facility shall have no priority over Bondholders or an Insurer to amounts on deposit in the Sinking Fund. Other payments due to a Credit Bank in relation to obligations arising under its Credit Facility may be on parity with the Bonds as to source of and security for payment to the extent provided in the Supplemental Resolution relating thereto.

**SECTION 4.07. REBATE FUND.** Amounts on deposit in the Rebate Fund shall be held in trust by the Issuer and used solely to make required rebates to the United States (except to the extent the same may be transferred to the Revenue Fund) and the Bondholders shall have no right to have the same applied for debt service on the Bonds. For any Series of Bonds for which the rebate requirements of Section 148(f) of the Code are applicable, the Issuer agrees to undertake all actions required of it in its arbitrage certificate relating to such Series of Bonds, including, but not limited to:

(A) making a determination in accordance with the Code of the amount required to be deposited in the Rebate Fund;

(B) depositing the amount determined in clause (A) above into the Rebate Fund;

(C) paying on the dates and in the manner required by the Code to the United States Treasury from the Rebate Fund and any other legally available moneys of the Issuer such amounts as shall be required by the Code to be rebated to the United States Treasury; and

(D) keeping such records of the determinations made pursuant to this Section 4.07 as shall be required by the Code, as well as evidence of the fair market value of any investments purchased with proceeds of the Bonds.

The provisions of the above-described arbitrage certificates may be amended without the consent of any Holder, Credit Bank or Insurer from time to time as shall be necessary, in the opinion of Bond Counsel, to comply with the provisions of the Code.

**SECTION 4.08. RATE STABILIZATION FUND.** The Issuer may transfer into the Rate Stabilization Fund such moneys which are on deposit in the Utility Reserve Fund as it deems appropriate. The Issuer may transfer such amount of moneys from the Rate Stabilization Fund to the Revenue Fund as it deems appropriate; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), moneys in the Rate Stabilization Fund shall be applied for the payment into the Interest Account, the Principal Account and the Term Bonds Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent moneys transferred from the Utility Reserve Fund and Renewal and Replacement Fund for such purposes pursuant to Sections 4.06(B)(8) and 4.06(B)(5) hereof, together with moneys available in the Reserve Account for such purpose pursuant to Section 4.06(B)(4) hereof, shall be inadequate to fully provide for such insufficiency.

**SECTION 4.09. INVESTMENTS.** Moneys on deposit in the Revenue Fund, the Construction Fund, the Sinking Fund, the Operation and Maintenance Fund, the Utility Reserve Fund, the Rate Stabilization Fund and the Renewal and Replacement Fund shall be continuously secured in the manner by which the deposit of public funds are authorized to be secured by the laws of the State. Moneys on deposit in the Construction Fund, the Revenue Fund, the Operation and Maintenance Fund, the Principal Account, the Interest Account, the Term Bonds Redemption Account, the Renewal and Replacement Fund, the Rate Stabilization Fund and the Utility Reserve Fund shall be invested and reinvested by the Issuer in Authorized Investments, maturing not later than the dates on which such moneys will be needed for the purposes of such fund or account. Moneys on deposit in the Reserve Account shall be invested in Authorized Investments, maturing no later than ten years from the date of investment. All investments shall be valued at cost; provided, however, that the amounts on deposit in the Reserve Account shall be valued at the market price thereof. Investments in the Reserve Account shall be valued by the Issuer on an annual basis as of April 1 of each year.

Any and all income received from the investment of moneys in each separate account of the Revenue Fund, the Construction Fund, the Interest Account, the Principal Account, the Term Bonds Redemption Account, the Utility Reserve Fund, the Renewal and Replacement Fund (to the extent such income and other amounts in such Fund do not exceed the Renewal and Replacement Fund Requirement), the Rate Stabilization Fund and the Reserve Account (to the extent such income and the other amounts in the Reserve Account does not exceed the Reserve Account Requirement), shall be retained in such respective Fund or Account.

Any and all income received from the investment of moneys in the Renewal and Replacement Fund (only to the extent such income and the other amounts in such Fund exceed

the Renewal and Replacement Fund Requirement) and the Reserve Account (only to the extent such income and the other amounts in the Reserve Account exceeds the Reserve Account Requirement), shall be deposited upon receipt thereof in the Revenue Fund.

Nothing in this Resolution shall prevent any Authorized Investments acquired as investments of or security for funds held under this Resolution from being issued or held in book-entry form on the books of the Department of the Treasury of the United States.

## **ARTICLE V COVENANTS**

**SECTION 5.01. GENERAL.** The Issuer hereby makes the following covenants, in addition to all other covenants in this Resolution, with each and every successive Holder of any of the Bonds so long as any of said Bonds remain Outstanding.

**SECTION 5.02. OPERATION AND MAINTENANCE.** The Issuer will maintain or cause to be maintained the System and all portions thereof in good condition and will operate or cause to be operated the same in an efficient and economical manner, making or causing to be made such expenditures for equipment and for renewals, repairs and replacements as may be proper for the sound and economical operation and maintenance thereof. The Issuer may contract with a responsible Person which has experience in the operation of utility systems similar to the System for the operation and maintenance of the System.

**SECTION 5.03. ANNUAL BUDGET.** The Issuer shall annually prepare and adopt, prior to the beginning of each Fiscal Year, an Annual Budget in accordance with applicable law. No expenditure for Operating Expenses shall be made in any Fiscal Year in excess of the aggregate amount provided for Operating Expenses in the Annual Budget until the Governing Body shall have approved the increased expenditures by resolution or ordinance. The amount expended for Operating Expenses in any Fiscal Year will not exceed the reasonable and necessary amount therefor, and the Issuer will not expend any amount for maintenance, repair and operation of the System from Gross Revenues in excess of the total amount provided for Operating Expenses in the Annual Budget, as the same may be amended. Nothing in this Section shall limit the amount which the Issuer may expend for Operating Expenses in any Fiscal Year, provided any amounts expended therefor in excess of the total amount provided in the Annual Budget shall be received by the Issuer from some source other than the Gross Revenues.

If for any reason the Issuer shall not have adopted the Annual Budget before the first day of any Fiscal Year, other than the first Fiscal Year, the preliminary budget for such year, if it be approved by the Consulting Engineers or Rate Consultant, or otherwise the Annual Budget for the preceding Fiscal Year, shall be deemed to be in effect for such Fiscal Year until the Annual Budget for such Fiscal Year is adopted.

The Issuer shall mail copies of such Annual Budgets and amended Annual Budgets and all resolutions and ordinances authorizing increased expenditures for operation and maintenance to any Credit Bank or Insurer of Bonds who shall file its address with an Authorized Issuer Officer or the Clerk and request in writing that copies of all such Annual Budgets and resolutions and ordinances be furnished to it and shall make available all such Annual Budgets and resolutions and ordinances authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder or Holders of Bonds or to anyone acting for and on behalf of such Holder or Holders.

**SECTION 5.04 RATES.** The Issuer shall fix, establish, maintain and collect such rates, fees and charges for the product, services and facilities of the System, and revise the same from time to time, whenever necessary, so as always to provide (A) Net Revenues in each Fiscal Year (excluding from the computation of Operating Expenses for any Fiscal Year any amount

received from any source other than Gross Revenues and applied to the payment of Operating Expenses in such Fiscal Year) equal to at least (1) 120% of the Annual Debt Service becoming due in such Fiscal Year, plus (2) 105% of debt service in such Fiscal Year on all Subordinated Indebtedness, plus (3) 100% of (i) any amounts required by the terms hereof to be deposited in the Reserve Account or with any issuer of a Reserve Account Letter of Credit or Reserve Account Insurance Policy in such Fiscal Year to pay Policy Costs, and (ii) all required deposits during such Fiscal Year to the Renewal and Replacement Fund.

Such rates, fees or other charges shall not be so reduced so as to be insufficient to provide adequate Net Revenues for the purposes provided therefor by this Resolution.

If, in any Fiscal Year, the Issuer shall fail to comply with the requirements contained in this Section 5.04, it shall promptly cause the Rate Consultant to review its rates, fees, charges, income, Gross Revenues, Operating Expenses and methods of operation and to make written recommendations in a timely manner as to the methods by which the Issuer may seek to comply with the requirements set forth in this Section 5.04. The Issuer shall forthwith commence to implement such recommendations to the extent required so as to cause it to thereafter comply with said requirements. So long as the Issuer implements such recommendations within 120 days of the receipt thereof, the Issuer's failure to comply with this Section 5.04 shall not be considered an Event of Default under Section 7.01 hereof, so long as the Gross Revenues, together with moneys in the Funds and Accounts created in Article IV of this Resolution and available for the purposes described therein, are sufficient to pay in cash the Operating Expenses and Annual Debt Service for such Fiscal Year.

Anything in this Resolution to the contrary notwithstanding, if the Issuer shall fail to comply with the recommendations of the Rate Consultant described above, the registered owners of not less than ten percent (10%) in principal amount of all Bonds then Outstanding may institute and prosecute an action or proceeding in any court or before any board or commission having jurisdiction to compel the Issuer to comply with the recommendations and the requirements of the preceding paragraph of this Section 5.04. So long as the issuer of a Bond Insurance Policy or Credit Facility issued for the benefit of any Outstanding Bonds shall not be in default in its payment obligations under such Bond Insurance Policy or Credit Facility, the Insurer or Credit Bank, as applicable, shall be deemed to be the registered owner of all Bonds covered by the applicable Bond Insurance Policy or Credit Facility for purposes of this paragraph.

**SECTION 5.05. BOOKS AND RECORDS.** The Issuer shall keep books, records and accounts of the revenues and operations of the System, which shall be kept separate and apart from all other books, records and accounts of the Issuer, and the Holders of any Bonds Outstanding or the duly authorized representatives thereof shall have the right at all reasonable times to inspect all books, records and accounts of the Issuer relating thereto.

**SECTION 5.06. ANNUAL AUDIT.** The Issuer shall, immediately after the close of each Fiscal Year, cause the books, records and accounts relating to the System to be properly audited by a recognized independent firm of certified public accountants, and shall require such accountants to complete their report of such Annual Audit in accordance with applicable law.

Each Annual Audit shall be in conformity with generally accepted accounting principles as applied to governmental entities, and shall, either as part of said Annual Audit or in a separate report, demonstrate compliance by the Issuer with the rate covenant set forth in Section 5.04 hereof. A copy of each Annual Audit shall regularly be furnished to any Credit Bank or Insurer who shall have furnished its address to the Clerk and requested in writing that the same be furnished to it.

**SECTION 5.07. NO MORTGAGE OR SALE OF THE SYSTEM.** The Issuer irrevocably covenants, binds and obligates itself not to sell, lease, encumber or in any manner dispose of the System as a whole or any substantial part thereof (except as provided below) until all of the Bonds and all interest thereon shall have been paid in full or provision for payment has been made in accordance with Section 9.01 hereof.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System in the following manner, if any one of the following conditions exist: (A) such property is not necessary for the operation of the System, (B) such property is not useful in the operation of the System, (C) such property is not profitable in the operation of the System, or (D) in the case of a lease of such property, such lease will be advantageous to the System and will not materially adversely affect the security for the Bondholders.

Prior to any such sale, lease or other disposition of said property: (1) if the amount to be received therefor is not in excess of five percent (5%) of the market value of the gross plant of the System, an Authorized Issuer Officer shall make a finding in writing determining that one or more of the conditions for sale, lease or disposition of property provided for in the second paragraph of this Section 5.07 have been met; or (2) if the amount to be received from such sale, lease or other disposition of said property shall be in excess of five percent (5%) of the market value of the gross plant of the System, (a) an Authorized Issuer Officer and the Consulting Engineers shall each first make a finding in writing determining that one or more of the conditions for sale, lease or other disposition of property provided for in the second paragraph of this Section 5.07 have been met, (b) the Governing Body shall, by resolution, duly adopt, approve and concur in the finding of the Authorized Issuer Officer and the Consulting Engineers, and (c) the Issuer shall obtain an opinion of Bond Counsel to the effect that such sale, lease or other disposition is not in violation of the Act and will not adversely affect the exclusion from gross income of interest on the Bonds (other than Taxable Bonds) for federal tax purposes or shall not otherwise affect the status of any Outstanding Bonds issued as Federal Subsidy Bonds or the Issuer's receipt of Federal Subsidy Payments with respect to any Outstanding Federal Subsidy Bonds.

Except as otherwise required under applicable provisions of the Code, the proceeds from any such sale or other disposition shall be deposited, first, into the Renewal and Replacement Fund to the extent necessary to make the amount therein equal to the Renewal and Replacement Fund Requirement, and, second, into the Utility Reserve Fund. Proceeds from any lease of assets of the System shall constitute Gross Revenues and shall be deposited in the Revenue Fund.

The transfer of the System as a whole from the control of the Governing Body to some other board or authority which may hereafter be created for the purpose of owning, operating or

controlling the System and which constitutes a governmental entity, interest on obligations issued by which are excluded from gross income for purposes of federal income taxation (other than obligations similar to Taxable Bonds or Federal Subsidy Bonds), shall not be deemed prohibited by this Section 5.07 and such successor board or authority shall fall within the definition of "Issuer" in Section 1.01 hereof.

Notwithstanding the foregoing provisions of this Section 5.07, the Issuer shall have the authority to sell for fair and reasonable consideration any land comprising a part of the System which is no longer necessary or useful in the operation of the System and the proceeds derived from the sale of such land shall be disposed of in accordance with the provisions of the fourth paragraph of this Section 5.07.

The Issuer may make contracts or grant licenses for the operation of, or grant easements or other rights with respect to, any part of the System if such contract, license, easement or right does not, in the opinion of the Consulting Engineers, as evidenced by a certificate to that effect filed with the Issuer, impede or restrict the operation by the Issuer of the System, but any payments to the Issuer under or in connection with any such contract, license, easement or right in respect of the System or any part thereof shall constitute Gross Revenues and shall be deposited in the Revenue Fund.

**SECTION 5.08. INSURANCE.** The Issuer will carry such insurance as is ordinarily carried by private or public entities owning and operating utilities similar to the System with a reputable insurance carrier or carriers, in such amounts as the Issuer shall determine to be sufficient, and such other insurance against loss or damage by fire, explosion, hurricane, tornado or other hazards and risks, and said property loss or damage insurance shall at all times be in an amount or amounts equal to the fair appraisal value of the buildings, properties, furniture, fixtures and equipment of the System, or such other amount or amounts as the Consulting Engineers or an insurance consultant who has a favorable reputation and experience and is qualified to survey risks and to recommend insurance coverage for Persons engaged in operations similar to the System, shall recommend or approve as sufficient.

The Issuer may establish certain levels of insurance for which the Issuer may self-insure. Such levels of insurance shall be in amounts as recommended in writing by an insurance consultant who has a favorable reputation and experience and is qualified to survey risks and to recommend insurance coverage for Persons engaged in operations similar to the System.

The proceeds from property loss and casualty insurance shall be deposited in the Renewal and Replacement Fund and, together with other available funds of the Issuer, shall be used to repair or replace the damaged portion of the System; provided, however, if the Issuer makes a determination in accordance with Section 5.07 hereof that such portion of the System is no longer necessary or useful in the operation of the System, such proceeds shall (1) if such proceeds equal or exceed \$500,000, (a) be applied to the redemption or purchase of Bonds or (b) be deposited in irrevocable trust for the payment of Bonds in the manner set forth in Section 9.01, provided the Issuer has received an opinion of Bond Counsel to the effect that such deposit shall not adversely affect the exclusion, if any, from gross income of interest on the Outstanding Bonds for purposes of federal income taxation (other than Taxable Bonds) and will not otherwise affect the status of any Outstanding Bonds issued as Federal Subsidy Bonds or the Issuer's

receipt of Federal Subsidy Payments with respect to any Outstanding Federal Subsidy Bonds, or (2) if such proceeds are less than \$500,000, be deposited in the Revenue Fund.

**SECTION 5.09. NO FREE SERVICE.** The Issuer will not render or cause to be rendered any free services of any nature by its System, nor will any preferential rates be established for users of the same class; provided, however, the foregoing clause shall not be construed to prevent the Issuer from establishing various classes of users based on any factors deemed necessary or desirable by the Issuer. Different rates may be established for different classes. Whenever the Issuer, including its departments, agencies and instrumentalities, shall avail itself of the product, facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged to the Issuer and any such department, agency or instrumentality. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds to the Revenue Fund sufficient sums to pay such charges. The revenues so received shall be deemed to be Gross Revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other Gross Revenues derived from such operation of the System.

**SECTION 5.10. NO IMPAIRMENT OF RIGHTS; NO COMPETING SYSTEM.** (A) The Issuer will not enter into any contract or contracts, nor take any action, the results of which might impair the rights of the Holders of the Bonds.

(B) To the extent permitted by law, the Issuer will not hereafter grant, or cause, consent to or allow the granting of any franchise or permit to any Person for the operation of any competing electric, water or sewer service facilities or the furnishing of services similar to those provided by the System within the jurisdiction of the Issuer if such operations or services will have a material adverse effect on the Issuer's ability to meet its obligations hereunder. Notwithstanding the foregoing, the Issuer reserves the right to permit the ownership and operation of water or sewer service facilities or both by itself or by others in any territory which is not in any service area now or hereafter served by the System.

**SECTION 5.11. COMPULSORY CONNECTIONS.** In order better to secure the prompt payment of principal and interest on the Bonds, as well as for the purpose of protecting the health and welfare of the inhabitants of the Issuer, and acting under authority of the general laws of Florida, the Issuer, to the extent permitted by law, will require, where service by the System is available, the owner of every lot or parcel of land within the jurisdiction of the Issuer to connect to the water and sewer facilities of the System. The Issuer may establish reasonable rules and regulations regarding such connections and may provide for reasonable exemptions from such connection policy.

**SECTION 5.12. ENFORCEMENT OF CHARGES.** The Issuer shall compel the prompt payment of rates, fees and charges imposed in connection with the System, and to that end will vigorously enforce all of the provisions of any ordinance or resolution of the Issuer having to do with System connections and charges, and all of the rights and remedies permitted the Issuer under law, including the requirement for the making of a reasonable deposit by each user, the requirement for lawful disconnection of services for all premises delinquent in the payment of any duly invoiced bill, and the securing of injunction against the disposition of



sewage or industrial waste into the sewer facilities of the System by any premises delinquent in the payment of such charges.

**SECTION 5.13. UNIT BILLS.** In every instance in which a building or structure on a lot is connected to any portion of the facilities of the System, which building or structure is also connected to other facilities of the System and receives services therefrom, the Issuer shall submit to the owner or occupant of such lot a single bill for all applicable electric, water and sewer service and shall refuse to accept payment for any of the charge relating to a particular service of the System without payment of the charges for all other services of the System.

**SECTION 5.14. COVENANTS WITH CREDIT BANKS AND INSURERS.** The Issuer may make such covenants as it may in its sole discretion determine to be appropriate with any Insurer, Credit Bank or other financial institution that shall agree to insure or to provide for Bonds of any one or more Series credit or liquidity support that shall enhance the security or the value of such Bonds. Such covenants may be set forth in the applicable Supplemental Resolution or in an agreement approved by Supplemental Resolution and shall be binding on the Issuer, the Registrar, the Paying Agent and all the Holders of Bonds the same as if such covenants were set forth in full in this Resolution and shall not diminish the security for any of the Bonds Outstanding.

**SECTION 5.15. CONSULTING ENGINEERS.** The Issuer shall employ Consulting Engineers, whose duties shall be to make any certificates and perform any other acts required or permitted of the Consulting Engineers under this Resolution. The Consulting Engineers shall, from time to time, recommend the amount of the Renewal and Replacement Fund Requirement. Copies of any reports, recommendations and estimates of the Consulting Engineers shall be filed with the Issuer for inspection by Bondholders, Credit Banks and Insurers, if such inspection is requested. In addition, at least once every three years, the Consulting Engineers shall prepare an assessment of the condition of the System, a review of the capital improvement budget and operating budget and financial projections, which shall be compiled in a report and submitted to the Governing Body.

**SECTION 5.16. FEDERAL INCOME TAXATION COVENANTS; TAXABLE BONDS.** The Issuer covenants with the Holders of each Series of Bonds (other than Taxable Bonds and Federal Subsidy Bonds) that it shall not use the proceeds of such Series of Bonds in any manner which would cause the interest on such Series of Bonds to be or become included in gross income for purposes of federal income taxation.

The Issuer covenants with the Holders of each Series of Bonds (other than Taxable Bonds) that neither the Issuer nor any Person under its control or direction will make any use of the proceeds of such Series of Bonds (or amounts deemed to be proceeds under the Code) in any manner which would cause such Series of Bonds to be "arbitrage bonds" within the meaning of the Code and neither the Issuer nor any other Person shall do any act or fail to do any act which would cause the interest on any Series of Bonds (other than Taxable Bonds and Federal Subsidy Bonds) to become subject to inclusion within gross income for purposes of federal income taxation.

The Issuer hereby covenants with the Holders of each Series of Bonds (other than Taxable Bonds and Federal Subsidy Bonds) that it will comply with all provisions of the Code necessary to maintain the exclusion from gross income of interest on the Bonds for purposes of federal income taxation, including, in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code.

The Issuer may, if it so elects, issue one or more Series of Taxable Bonds the interest on which is (or may be) includable in the gross income of the Holder thereof for federal income taxation purposes, so long as each Bond of such Series states in the body thereof that interest payable thereon is (or may be) subject to federal income taxation and provided that the issuance thereof will not cause interest on any other Bonds theretofore issued hereunder to be or become subject to federal income taxation. The other covenants set forth in this Section 5.19 shall not apply to any Taxable Bonds.

**SECTION 5.17. COVENANTS RELATING TO FEDERAL SUBSIDY BONDS.** The Issuer covenants with respect to any Bonds issued as Federal Subsidy Bonds that it will:

(A) File, on a timely basis, Internal Revenue Service Form 8038-CP or such other form or forms required by the United States Department of Treasury to receive Federal Subsidy Payments in connection with any Bonds issued as Federal Subsidy Bonds.

(B) Deposit promptly the Federal Subsidy Payments received from the United States Department of Treasury, if any, to the Interest Account of the Sinking Fund to pay interest on the Federal Subsidy Bonds.

(C) Comply with all provisions of the Code, all Treasury Regulations promulgated thereunder, and any applicable notice, ruling or other formal interpretation issued by the United States Department of Treasury or the Internal Revenue Service, in order for the Bonds issued as Federal Subsidy Bonds to be and to remain Federal Subsidy Bonds.

(D) Not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the Issuer's receipt of Federal Subsidy Payments or the status of the Bonds issued as Federal Subsidy Bonds, or any portion thereof, as Federal Subsidy Bonds. The Issuer covenants that it will not directly or indirectly use or permit the use of any proceeds of Bonds issued as Federal Subsidy Bonds or any other of its funds or take or omit to take any action that would cause the Bonds issued as Federal Subsidy Bonds to be or become "arbitrage bonds" within the meaning of Section 148(a) or to fail to meet any other applicable requirements of the Code.

**SECTION 5.18 INSPECTION.** The System shall be inspected and its operations reviewed every two Fiscal Years by the Issuer or, at the option of the Issuer, by the Consulting Engineer, and immediately following such inspection a written report on the condition of the System and manner of operations shall be filed with the Clerk. A copy of the report shall be available for inspection at the offices of the Issuer and mailed to any Bondholder or to an Insurer or Credit Bank upon written request.

If the report shows that the System is not in good operating condition, then the Issuer shall notify each Insurer and Credit Bank and, to the extent funds in the Operation and Maintenance Fund or the Renewal and Replacement Fund are available, shall immediately make or cause to be made such repairs as shall be necessary to place the System in good operating condition. If the report shows that the operation or maintenance of the System are not in conformity with the provisions of this Resolution, the Issuer shall immediately take such reasonable steps as are necessary to comply with such provisions.

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**ARTICLE VI**  
**SUBORDINATED INDEBTEDNESS AND ADDITIONAL BONDS**

**SECTION 6.01. SUBORDINATED INDEBTEDNESS.** The Issuer will not issue any other obligations, except under the conditions and in the manner provided herein, payable from the Pledged Funds or the Gross Revenues or voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien thereon in favor of the Bonds and the interest thereon. The Issuer may at any time or from time to time issue evidences of indebtedness payable in whole or in part out of Pledged Funds and which may be secured by a pledge of Pledged Funds; provided, however, that such pledge shall be, and shall be expressed to be, subordinated in all respects to the pledge of the Pledged Funds created by this Resolution and provided further that the issuance of such Subordinated Indebtedness shall be subject to any provisions contained in financing documents securing outstanding Subordinated Indebtedness to the extent such provisions impact on the ability of the Issuer to issue other Subordinated Indebtedness. The Issuer shall have the right to covenant with the holders from time to time of any Subordinated Indebtedness to add to the conditions, limitations and restrictions under which any Additional Bonds may be issued under the provisions of Section 6.02 hereof. The Issuer agrees to pay promptly any Subordinated Indebtedness as the same shall become due.

**SECTION 6.02. ISSUANCE OF ADDITIONAL BONDS.** No Additional Bonds, payable on a parity with the Bonds then Outstanding pursuant to this Resolution, shall be issued except upon the conditions and in the manner herein provided. The Issuer may issue one or more Series of Additional Bonds for any one or more of the following purposes: (i) financing or refinancing the Cost of a Project, or the completion thereof, or (ii) refunding any or all Outstanding Bonds, any Subordinated Indebtedness of the Issuer, or any other indebtedness of the Issuer that it may lawfully refund with proceeds of Bonds.

No such Additional Bonds shall be issued unless the following conditions are complied with:

(A) Except in the case of Additional Bonds issued for the purpose of refunding Outstanding Bonds, the Issuer shall certify that it is current in all deposits into the various funds and accounts established hereby and all payments theretofore required to have been deposited or made by it under the provisions of this Resolution, including a certification that all due and payable Policy Costs have been deposited or made, and the Issuer is in compliance with the covenants and agreements of this Resolution, or if not in compliance, that the issuance of such Additional Bonds will create such compliance.

(B) An independent certified public accountant or the Rate Consultant shall certify to the Issuer that the amount of the Net Revenues (excluding Investment Earnings with respect to the Construction Fund) received by the Issuer during the immediately preceding Fiscal Year or any 12 consecutive months selected by the Issuer of the 24 months immediately preceding the issuance of said Additional Bonds, adjusted as hereinafter provided, were equal to (1) at least 120% of the Maximum Annual Debt Service of the Outstanding Bonds and the Additional Bonds then proposed to be issued, plus (2) 105% of any debt service during such 12-month period on Subordinated Indebtedness, plus (3) 100% of (a) any amounts required by the terms hereof to be

deposited in the Reserve Account or with any issuer of a Reserve Account Letter of Credit or Reserve Account Insurance Policy to pay any Policy Costs, and (b) all required deposits to the Renewal and Replacement Fund during such 12-month period.

(C) For the purpose of determining the Debt Service under this Section 6.02, the interest rate on Additional Bonds that are proposed to be issued as Variable Rate Bonds shall be deemed to be the Bond Buyer Revenue Bond Index most recently published prior to the sale of such Additional Bonds.

(D) For the purpose of determining the Debt Service under this Section 6.02, the interest rate on Outstanding Variable Rate Bonds (not subject to a Qualified Hedge Agreement) shall be deemed to be (1) if such Variable Rate Bonds have been Outstanding for at least 12 months prior to the date of sale of such Additional Bonds, the highest of (a) the actual rate of interest borne by such Variable Rate Bonds on the date of sale, and (b) the average interest rate borne by such Variable Rate Bonds during the 12-month period preceding the date of sale, or (2) if such Variable Rate Bonds have not been Outstanding for at least 12 months prior to the date of sale of such Additional Bonds, the higher of (a) the actual rate of interest borne by the Variable Rate Bonds on the date of sale, and (b) the Bond Buyer Revenue Bond Index most recently published prior to the sale of such Additional Bonds.

(E) For the purpose of this Section 6.02, the phrase "immediately preceding Fiscal Year or any 12 consecutive months selected by the Issuer of the 24 months immediately preceding the issuance of said Additional Bonds" shall be sometimes referred to as "12 consecutive months" or the "12-month period."

(F) The Net Revenues calculated pursuant to the foregoing Section 6.02(B) may be adjusted upon the written advice of the Rate Consultant, at the option of the Issuer, as follows:

(1) If the Issuer, prior to the issuance of the proposed Additional Bonds, shall have increased the rates, fees or other charges for the product, services or facilities of the System, the Net Revenues for the 12 consecutive months shall be adjusted to show the Net Revenues which would have been derived from the System in such 12 consecutive months as if such increased rates, fees or other charges for the product, services or facilities of the System had been in effect during all of such 12 consecutive months.

(2) If the Issuer shall have acquired or has contracted to acquire any privately or publicly owned existing utility system that will become part of the System, the cost of which shall be paid from all or part of the proceeds of the issuance of the proposed Additional Bonds, then the Net Revenues derived from the System during the 12 consecutive months shall be increased by adding to the Net Revenues for said 12 consecutive months the Net Revenues which would have been derived from said existing utility system as if such existing utility system had been a part of the System during such 12 consecutive months. For the purposes of this paragraph, the Net Revenues derived from said existing utility system during such 12 consecutive months shall be adjusted to determine such Net Revenues by deducting the cost of operation and maintenance of said existing utility system from the gross revenues of said system. Such Net Revenues shall take into account any increase in rates imposed on customers of such utility system on or prior to the acquisition thereof by the Issuer.

(3) If the Issuer, in connection with the issuance of Additional Bonds, shall enter into a contract (with a duration not less than the final maturity of such Additional Bonds) with any public or private entity whereby the Issuer agrees to furnish services in connection with any utility system, then the Net Revenues of the System during the 12 consecutive months shall be increased by the least amount which said public or private entity shall guarantee to pay in any one year for the furnishing of said services by the Issuer, after deducting therefrom the proportion of operating expenses and repair, renewal and replacement cost attributable in such year to such services.

(4) In the event the Issuer shall be constructing or acquiring additions, extensions or improvements to the System from the proceeds of such Additional Bonds and shall have established fees, rates or charges to be charged and collected from users of such facilities when service is rendered, such Net Revenues for the 12 consecutive months may be adjusted by adding thereto 100% of the Net Revenues estimated by the Rate Consultant to be derived during the first 12 months of operation after completion of the construction or acquisition of said additions, extensions and improvements from the customers of the facilities to be financed by Additional Bonds together with other funds on hand or lawfully obtained for such purpose; provided such customers must represent existing occupied structures that will be added to the System upon completion of the proposed additions, extensions or improvements.

(5) If the Issuer shall add new customers subsequent to the commencement of the 12 consecutive months, the Rate Consultant may adjust the Net Revenues to reflect the Net Revenues that would have been received by the Issuer if such customers had been in place for the entire 12 consecutive months.

(7) The Net Revenues shall be adjusted for any period the System or any portion thereof was not owned by the Issuer to reflect government ownership of the System or such portion.

(G) Additional Bonds shall be deemed to have been issued pursuant to this Resolution the same as the Outstanding Bonds, and all of the other covenants and other provisions of this Resolution (except as to details of such Additional Bonds inconsistent therewith) shall be for the equal benefit, protection and security of the Holders of all Bonds issued pursuant to this Resolution. Except as provided in Sections 4.02 and 4.06 hereof, all Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Pledged Funds and their sources and security for payment therefrom without preference of any Bonds over any other.

(H) In the event any Additional Bonds are issued for the purpose of refunding any Bonds then Outstanding, the conditions of Section 6.02(B) shall not apply, provided that the issuance of such Additional Bonds shall result in a reduction of Debt Service. The conditions of Section 6.02(B) shall apply to Additional Bonds issued to refund Subordinated Indebtedness and to Additional Bonds issued for refunding purposes which cannot meet the conditions of this paragraph.

(I) In connection with the issuance of any Series of Additional Bonds, the Issuer shall receive an opinion of the City Attorney of the Issuer or Bond Counsel that the issuance of such

Additional Bonds has been duly authorized and that all legal requirements constituting a condition precedent to the delivery of such Additional Bonds have been fulfilled.

**SECTION 6.03. BOND ANTICIPATION NOTES.** The Issuer may issue notes in anticipation of the issuance of Bonds which shall have such terms and details and be secured in such manner, not inconsistent with this Resolution, as shall be provided by Supplemental Resolution.

**SECTION 6.04. ACCESSION OF SUBORDINATED INDEBTEDNESS TO PARITY STATUS WITH BONDS.** The Issuer may provide for the accession of Subordinated Indebtedness to the status of complete parity with the Bonds, if (A) the Issuer shall meet all the requirements imposed upon the issuance of Additional Bonds by Sections 6.02(A) and (B) hereof, assuming for purposes of said requirements, that such Subordinated Indebtedness shall be Additional Bonds, (B) and the facilities financed or refinanced by such Subordinated Indebtedness shall be, or become part of, the System. If the aforementioned conditions are satisfied, the Subordinated Indebtedness shall be deemed to have been issued pursuant to this Resolution the same as the Outstanding Bonds, and such Subordinated Indebtedness shall be considered Bonds for all purposes provided in this Resolution.

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## ARTICLE VII

### DEFAULTS AND REMEDIES

**SECTION 7.01. EVENTS OF DEFAULT.** The following events shall each constitute an "Event of Default":

(A) Default shall be made in the payment of the principal of, Sinking Fund Installment, redemption premium or interest on any Bond when due. In determining whether a payment default has occurred, no effect shall be given to payment made under a Bond Insurance Policy.

(B) There shall occur the dissolution or liquidation of the Issuer, or the filing by the Issuer of a voluntary petition in bankruptcy, or the commission by the Issuer of any act of bankruptcy, or adjudication of the Issuer as a bankrupt, or assignment by the Issuer for the benefit of its creditors, or appointment of a receiver for the Issuer, or the entry by the Issuer into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Issuer in any proceeding for its reorganization instituted under the provisions of the Federal Bankruptcy Act, as amended, or under any similar act in any jurisdiction which may now be in effect or hereafter enacted.

(C) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Resolution on the part of the Issuer to be performed, and such default shall continue for a period of 90 days after written notice of such default shall have been received from the Holders of not less than 25% of the aggregate principal amount of Bonds Outstanding. Notwithstanding the foregoing, the Issuer shall not be deemed to be in default hereunder if such default can be cured within a reasonable period of time and if the Issuer in good faith institutes appropriate curative action and diligently pursues such action until default has been corrected.

**SECTION 7.02. REMEDIES.** Any Holder of Bonds issued under the provisions of this Resolution or any trustee or receiver acting for such Bondholders may either at law or in equity, by suit, action, mandamus or other proceedings in any court of competent jurisdiction, protect and enforce any and all rights under the Laws of the State of Florida, or granted and contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution or by any applicable statutes to be performed by the Issuer or by any officer thereof; provided, however, that no Holder, trustee or receiver shall have the right to declare the Bonds immediately due and payable.

The Holder or Holders of Bonds in an aggregate principal amount of not less than 25% of the Bonds then Outstanding may by a duly executed certificate in writing appoint a trustee for Holders of Bonds issued pursuant to this Resolution with authority to represent such Bondholders in any legal proceedings for the enforcement and protection of the rights of such Bondholders and such certificate shall be executed by such Bondholders or their duly authorized attorneys or representatives, and shall be filed in the office of the Clerk. Notice of such appointment, together with evidence of the requisite signatures of the Holders of not less than



25% in aggregate principal amount of Bonds Outstanding and the trust instrument under which the trustee shall have agreed to serve shall be filed with the Issuer and the trustee and notice of such appointment shall be given to all Holders of Bonds in the same manner as notices of redemption are given hereunder. After the appointment of the first trustee hereunder, no further trustees may be appointed; however, the Holders of a majority in aggregate principal amount of all the Bonds then Outstanding may remove the trustee initially appointed and appoint a successor and subsequent successors at any time.

**SECTION 7.03. DIRECTIONS TO TRUSTEE AS TO REMEDIAL PROCEEDINGS.** The Holders of a majority in principal amount of the Bonds then Outstanding (or any Insurer insuring any then Outstanding Bonds) have the right, by an instrument or concurrent instruments in writing executed and delivered to the trustee, to direct the method and place of conducting all remedial proceedings to be taken by the trustee hereunder with respect to the Series of Bonds owned by such Holders or insured by such Insurer, provided that such direction shall not be otherwise than in accordance with law or the provisions hereof, and that the trustee shall have the right to decline to follow any direction which in the opinion of the trustee would be unjustly prejudicial to Holders of Bonds not parties to such direction.

**SECTION 7.04. REMEDIES CUMULATIVE.** No remedy herein conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy or remedies, 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.

**SECTION 7.05. WAIVER OF DEFAULT.** No delay or omission of any Bondholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by Section 7.02 to the Bondholders may be exercised from time to time, and as often as may be deemed expedient.

**SECTION 7.06. APPLICATION OF MONEYS AFTER DEFAULT.** If an Event of Default shall happen and shall not have been remedied, the Issuer or a trustee or receiver appointed for the purpose shall apply all Pledged Funds (except as for amounts in the subaccounts of the Reserve Account which shall be applied to the payment of the Series of Bonds for which they were established) as follows and in the following order:

A. To the payment of the reasonable and proper charges, expenses and liabilities of the trustee or receiver and Registrar hereunder;

B. To the payment of the amounts required for reasonable and necessary Operating Expenses, and for the reasonable renewals, repairs and replacements of the System necessary to prevent loss of Gross Revenues, as certified by the Consulting Engineer;

C. To the payment of the interest (including Hedge Payments) and principal or Redemption Price, if applicable, then due on the Bonds, as follows:

(1) Unless the principal of all the Bonds shall have become due and payable, all such moneys shall be applied:

FIRST: to the payment to the Persons entitled thereto of all installments of interest (including Hedge Payments) then due, in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or preference;

SECOND: to the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due at maturity or upon mandatory redemption prior to maturity (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of Section 9.01 of this Resolution), in the order of their due dates, with any accrued and unpaid interest upon such Bonds from the respective dates upon which they became due, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with any accrued and unpaid interest, then to the payment first of such interest, ratably according to the amount of such interest due on such date, and then to the payment of such principal, ratably according to the amount of such principal due on such date, to the Persons entitled thereto without any discrimination or preference; and

THIRD: to the payment of the Redemption Price of any Bonds called for optional redemption pursuant to the provisions of this Resolution plus any accrued and unpaid interest.

(2) If the principal of all the Bonds shall have become due and payable, all such moneys shall be applied to the payment of the principal and interest (including Hedge Payments) then due and unpaid upon the Bonds, with interest thereon as aforesaid, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto without any discrimination or preference.

D. To the payment of all amounts owed to the Insurers and Credit Banks not covered by A, B or C above and all amounts owed to Counterparties not covered by A, B or C above on a pro rata basis.

**SECTION 7.07. CONTROL BY INSURER.** To the extent an Insurer makes any payment of principal of or interest on Bonds in accordance with its Bond Insurance Policy, such Insurer shall become subrogated to the rights of the recipients of such payments in accordance with the terms of its Bond Insurance Policy. Upon the occurrence and continuance of an Event of Default, an Insurer of a Series of Bonds, if such Insurer shall not be in payment default under its Bond Insurance Policy, shall be deemed to be the sole owner of such Bonds for purposes of (A) directing and controlling the enforcement of all rights and remedies with respect to such Series of Bonds, including any waiver of an Event of Default and removal of any trustee, and (B) exercising any voting right or privilege or giving any consent or direction or taking any other action that the Holders of such Bonds are entitled to take pursuant to this Article VII hereof. No provision expressly recognizing or granting rights in or to an Insurer shall be modified without

the consent of such Insurer. An Insurer's rights under this Section 7.07 shall be suspended during any period in which such Insurer is in default in its payment obligations under its Bond Insurance Policy (except to the extent of amounts previously paid by such Insurer and due and owing to such Insurer) and shall be of no force or effect if its Bond Insurance Policy is no longer in effect or if the Insurer asserts that its Bond Insurance Policy is not in effect or if the Insurer waives such rights in writing. The rights granted to an Insurer under this Section 7.07 are granted in consideration of such Insurer issuing its Bond Insurance Policy. The Issuer shall provide each Insurer immediate notice of any Event of Default described in Section 7.01(A) hereof and notice of any other Event of Default occurring hereunder within 30 days of the occurrence thereof. Each Insurer of any Bonds hereunder shall be considered a third-party beneficiary to the Resolution with respect to such Bonds.

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**ARTICLE VIII  
SUPPLEMENTAL RESOLUTIONS**

**SECTION 8.01. SUPPLEMENTAL RESOLUTION WITHOUT BONDHOLDERS' CONSENT.** The Issuer, from time to time and at any time, may adopt such Supplemental Resolutions without the consent of the Bondholders or the Insurers or the Credit Banks (which Supplemental Resolution shall thereafter form a part hereof) for any of the following purposes:

(A) To cure any ambiguity or formal defect or omission or to correct any inconsistent provisions in this Resolution or to clarify any matters or questions arising hereunder.

(B) To grant to or confer upon the Bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Bondholders.

(C) To add to the conditions, limitations and restrictions on the issuance of Bonds under the provisions of this Resolution other conditions, limitations and restrictions thereafter to be observed.

(D) To add to the covenants and agreements of the Issuer in this Resolution other covenants and agreements thereafter to be observed by the Issuer or to surrender any right or power herein reserved to or conferred upon the Issuer.

(E) To specify and determine the matters and things referred to in Section 2.01 hereof, including the issuance of Additional Bonds, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with this Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first delivery of such Bonds.

(F) To authorize Projects or to change or modify the description of any Project.

(G) To specify and determine matters necessary or desirable for the issuance of Variable Rate Bonds, Federal Subsidy Bonds or Capital Appreciation Bonds.

(H) To provide for the establishment of a separate subaccount or subaccounts in the Reserve Account which shall independently secure one or more Series of Bonds.

(I) To make any other change that, in the opinion of the Issuer, would not materially adversely affect the interests of the Holders of the Bonds. In making such determination, the Issuer shall not take into consideration any Bond Insurance Policy.

**SECTION 8.02. SUPPLEMENTAL RESOLUTION WITH BONDHOLDERS' AND INSURER'S CONSENT.** Subject to the terms and provisions contained in this Section 8.02 and Sections 8.01 and 8.03 hereof, the Holder or Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Resolution to the contrary notwithstanding, to consent to and approve the adoption of such Supplemental Resolutions hereto as shall be deemed necessary or desirable by the Issuer for the purpose of supplementing, modifying, altering, amending, adding

to or rescinding, in any particular, any of the terms or provisions contained in this Resolution; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified Series or maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section 8.02. Any Supplemental Resolution which is adopted in accordance with the provisions of this Section 8.02 shall also require the written consent of the Insurer of any Bonds which are Outstanding at the time such Supplemental Resolution shall take effect if such Insurer is not in payment default under its Bond Insurance Policy. No Supplemental Resolution may be approved or adopted which shall permit or require, without the consent of all affected Bondholders, (A) an extension of the maturity of the principal of or the payment of the interest on any Bond issued hereunder, (B) reduction in the principal amount of any Bond or the Redemption Price or the rate of interest thereon, (C) the creation of a lien upon or a pledge of the Pledged Funds other than the lien and pledge created by this Resolution or except as otherwise permitted or provided hereby which materially adversely affects any Bondholders, (D) a preference or priority of any Bond or Bonds over any other Bond or Bonds (except as to the establishment of separate subaccounts in the Reserve Account provided in Section 4.06(B)(4) hereof), or (E) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Resolution. Nothing herein contained, however, shall be construed as making necessary the approval by Bondholders or the Insurers or the Credit Banks of the adoption of any Supplemental Resolution as authorized in Section 8.01 hereof.

If at any time the Issuer shall determine that it is necessary or desirable to adopt any Supplemental Resolution pursuant to this Section 8.02, the Clerk shall cause the Registrar to give notice of the proposed adoption of such Supplemental Resolution and the form of consent to such adoption to be mailed, postage prepaid, to all Bondholders at their addresses as they appear on the registration books. Such notice shall briefly set forth the nature of the proposed Supplemental Resolution and shall state that copies thereof are on file at the offices of the Clerk and the Registrar for inspection by all Bondholders. The Issuer shall not, however, be subject to any liability to any Bondholder by reason of its failure to cause the notice required by this Section 8.02 to be mailed and any such failure shall not affect the validity of such Supplemental Resolution when consented to and approved as provided in this Section 8.02.

Whenever the Issuer shall deliver to the Clerk an instrument or instruments in writing purporting to be executed by the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding, which instrument or instruments shall refer to the proposed Supplemental Resolution described in such notice and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the Issuer may adopt such Supplemental Resolution in substantially such form, without liability or responsibility to any Holder of any Bond, whether or not such Holder shall have consented thereto.

If the Holders of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the adoption of such Supplemental Resolution shall have consented to and approved the adoption thereof as herein provided, no Holder of any Bond shall have any right to object to the adoption of such Supplemental Resolution, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the

propriety of the adoption thereof, or to enjoin or restrain the Issuer from adopting the same or from taking any action pursuant to the provisions thereof.

Notwithstanding the foregoing, the initial purchasers of Additional Bonds shall be deemed to have consented in writing to any amendments to the Resolution that are to become effective on or after the issuance of such Additional Bonds in accordance with this Section 8.02 if the proposed amendments are reasonably disclosed in the offering documentation prepared and distributed in connection with the issuance of such Additional Bonds and the related Supplemental Resolution provides that such initial purchasers have so consented through their purchase.

Upon the adoption of any Supplemental Resolution pursuant to the provisions of this Section 8.02, this Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Resolution of the Issuer and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced in all respects under the provisions of this Resolution as so modified and amended.

**SECTION 8.03. AMENDMENT WITH CONSENT OF INSURER ONLY.** For purposes of amending this Resolution pursuant to Section 8.02 hereof, an Insurer of Bonds shall be considered the Holder of such Bonds which it has insured. The consent of the Holders of such Bonds shall not be required if the Insurer of such Bonds shall consent to the amendment as provided by this Section 8.03. Prior to adoption of any amendment made pursuant to this Section 8.03, notice of such amendment shall be delivered to the rating agencies rating the Bonds. Upon filing with the Clerk of evidence of such consent the Insurer or Insurers as aforesaid, the Issuer may adopt such Supplemental Resolution. After the adoption by the Issuer of such Supplemental Resolution, notice thereof shall be mailed in the same manner as notices of an amendment under Section 8.02 hereof.

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## **ARTICLE IX DEFEASANCE**

**SECTION 9.01. DEFEASANCE.** If (A) the Issuer shall pay or cause to be paid or there shall otherwise be paid to the Holders of any Series of Bonds the principal and interest or Redemption Price, plus accrued interest, due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, and (B) the Issuer shall pay all Policy Costs owing to any provider of a Reserve Account Letter of Credit or Reserve Account Insurance Policy and all amounts owing to any Insurer or Credit Bank relating to such Series of Bonds, then all covenants, agreements and other obligations of the Issuer to the holders of such Series of Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Paying Agents shall pay over or deliver to the Issuer all money or securities held by them pursuant to this Resolution which are not required for payment or redemption of any Series of Bonds not theretofore surrendered for such payment or redemption.

Any Bonds or interest installments appertaining thereto shall be deemed to have been paid within the meaning of this Section 9.01 if (i) in case any such Bonds are to be redeemed prior to the maturity thereof, there shall have been taken all action necessary to call such Bonds for redemption and notice of such redemption shall have been duly given or provision shall have been made for the giving of such notice, and (ii) there shall have been deposited in irrevocable trust with a banking institution or trust company by or on behalf of the Issuer either moneys in an amount which shall be sufficient, or Refunding Securities verified by an independent certified public accountant or nationally recognized company that provides verification services for municipal bonds to be in such amount that the principal of and the interest on or redemption price which when due will provide moneys which, together with the moneys, if any, deposited with such banking institution or trust company at the same time shall be sufficient, to pay the principal or redemption price of and interest due and to become due on said Bonds on and prior to the maturity date thereof. Except as hereafter provided, neither the Refunding Securities nor any moneys so deposited with such banking institution or trust company nor any moneys received by such bank or trust company on account of principal of or redemption price, if applicable, or interest on said Refunding Securities shall be withdrawn or used for any purpose other than, and all such moneys shall be held in trust for and be applied to, the payment, when due, of the principal of or redemption price of the Bonds for the payment of which they were deposited and the interest accruing thereon to the date of maturity or redemption; provided, however, the Issuer may substitute new Refunding Securities and moneys for the deposited Refunding Securities and moneys if the new Refunding Securities and moneys are sufficient to pay the principal of and interest on or redemption price of the refunded Bonds.

For purposes of determining whether Variable Rate Bonds shall be deemed to have been paid prior to the maturity or the redemption date thereof, as the case may be, by the deposit of moneys, or specified Refunding Securities and moneys, if any, in accordance with this Section 9.01, the interest to come due on such Variable Rate Bonds on or prior to the maturity or redemption date thereof, as the case may be, shall be calculated at the Maximum Interest Rate; provided, however, that if on any date, as a result of such Variable Rate Bonds having borne interest at less than the Maximum Interest Rate for any period, the total amount of moneys and specified Refunding Securities on deposit for the payment of interest on such Variable Rate Bonds is in excess of the total amount which would have been required to be deposited on such

date in respect of such Variable Rate Bonds in order to satisfy this Section 9.01, such excess shall be paid to the Issuer free and clear of any trust, lien, pledge or assignment securing the Bonds or otherwise existing under this Resolution.

If Bonds are not to be redeemed or paid within 30 days after any such defeasance described in this Section 9.01, the Issuer shall cause the Registrar to mail a notice to the Holders of such Bonds that the deposit required by this Section 9.01 of moneys or Refunding Securities has been made and said Bonds are deemed to be paid in accordance with the provisions of this Section 9.01 and stating such maturity date upon which moneys are to be available for the payment of the principal of and interest on or redemption price of said Bonds. Failure to provide said notice shall not affect the Bonds being deemed to have been paid in accordance with the provisions of this Section 9.01.

Nothing herein shall be deemed to require the Issuer to call any of the Outstanding Bonds for redemption prior to maturity pursuant to any applicable optional redemption provisions, or to impair the discretion of the Issuer in determining whether to exercise any such option for early redemption.

Notwithstanding anything herein to the contrary, in the event that the principal of or interest due on the Bonds shall be paid by an Insurer or Insurers, such Bonds shall remain Outstanding, shall not be defeased or otherwise satisfied and shall not be considered paid by the Issuer, and the pledge of the Pledged Funds and all covenants, agreements and other obligations of the Issuer to the Bondholders shall continue to exist and such Insurer or Insurers shall be subrogated to the rights of such Bondholders.

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**ARTICLE X  
MISCELLANEOUS**

**SECTION 10.01. CAPITAL APPRECIATION BONDS.** For the purposes of (A) receiving payment of the Redemption Price if a Capital Appreciation Bond is redeemed prior to maturity, or (B) receiving payment of a Capital Appreciation Bond if the principal of all Bonds becomes due and payable under the provisions of this Resolution, or (C) computing the amount of Bonds held by the Holder of a Capital Appreciation Bond in giving to the Issuer or any trustee or receiver appointed to represent the Bondholders any notice, consent, request or demand pursuant to this Resolution for any purpose whatsoever, the principal amount of a Capital Appreciation Bond shall be deemed to be its Accreted Value.

**SECTION 10.02. SALE OF BONDS.** The Bonds shall be issued and sold at public or private sale at one time or in installments from time to time and at such price or prices as shall be consistent with the provisions of the Act, the requirements of this Resolution and other applicable provisions of law, all as provided in a Supplemental Resolution.

**SECTION 10.03. SEVERABILITY OF INVALID PROVISIONS.** If any one or more of the covenants, agreements or provisions of this Resolution shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements and provisions of this Resolution and shall in no way affect the validity of any of the other covenants, agreements or provisions hereof or of the Bonds issued hereunder.

**SECTION 10.04. VALIDATION AUTHORIZED.** To the extent deemed necessary by Bond Counsel or desirable by the City Attorney, Bond Counsel is authorized to institute appropriate proceedings for validation of a Series of Bonds herein authorized pursuant to Chapter 75, Florida Statutes.

**SECTION 10.05. EFFECT OF COVENANTS.** All covenants, agreements, stipulations or obligations of the Issuer contained in this Resolution shall be deemed to be covenants, agreements, stipulations or obligations of the Issuer, the Governing Body and of each department, board or agency of the Issuer, to the full extent authorized or permitted by law, and all such covenants, agreements, stipulations and obligations shall bind or inure to the benefit of the successor or successors thereof from time to time.

Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or upon the Governing Body by the provisions of this Resolution shall be exercised or performed by the Governing Body, or by such other officers, board, body or commission as may be required by law to exercise such powers or to perform such duties. No covenant, agreement, stipulation or obligation contained in this Resolution shall be deemed to be a covenant, agreement, stipulation or obligation of any member, agent or employee of the Governing Body in his or her individual capacity.

**SECTION 10.06. FURTHER ACTS.** The officers and agents of the Issuer are hereby authorized and directed to do all the acts and things required of them by the Bonds and this Resolution, for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements contained in the Bonds and this Resolution.

**SECTION 10.07. HEADINGS NOT PART OF RESOLUTION.** Any headings preceding the texts of the several Articles and Sections hereof and any table of contents, marginal notes or footnotes appended to copies hereof shall be solely for convenience of reference, and shall not constitute a part of this Resolution, nor shall they affect its meaning, construction or effect.

**SECTION 10.08. BENEFICIARIES UNDER RESOLUTION.** Except as otherwise expressly provided herein, nothing in this Resolution, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the Issuer, the Bondholders, the Insurers and the Credit Banks, any right, remedy or claim, legal or equitable, under or by reason of this Resolution or any provisions hereof, this Resolution and all its provisions being intended to be and being for the sole and exclusive benefit of the Issuer, the Bondholders, the Insurers and the Credit Banks, in the manner and to the extent expressly provided herein.

**SECTION 10.09. ACTION REQUIRED ON NON-BUSINESS DAY.** In the event that any payment, action or notice required by this Resolution is required or scheduled for a day that is not a Business Day, except as otherwise provided in this Resolution, such payment, action or notice shall take place on the next succeeding Business Day with the same effect as if made on the required or scheduled date, and no Event of Default shall exist solely because of the failure to make such payment, take such action or give such notice on such required or scheduled date.

**SECTION 10.10. GOVERNING LAW; VENUE.** This Resolution, each Series of Bonds to be issued hereunder and any other instruments necessary for the issuance of any Series of Bonds, shall be executed and delivered with the intent that, except to the extent specifically provided otherwise in such documents, the laws of the State of Florida shall govern their construction. Venue shall lie in Palm Beach County, Florida.

**SECTION 10.11. REPEAL OF INCONSISTENT RESOLUTIONS.** All ordinances, resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

**SECTION 10.12. EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption.

The passage of this resolution was moved by \_\_\_\_\_, seconded by \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo	_____
Vice Mayor Andy Amoroso	_____
Commissioner Scott Maxwell	_____
Commissioner Omari Hardy	_____
Commissioner Herman Robinson	_____

The Mayor thereupon declared this resolution duly passed and adopted on the 6th day of October, 2020.

LAKE WORTH BEACH CITY  
COMMISSION

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Pam Triolo, Mayor

ATTEST:

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Deborah M. Andrea, CMC, City Clerk

APPROVED AS TO FORM:



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Nabors, Giblin & Nickerson, P.A.

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, SUPPLEMENTING RESOLUTION NO. 45-2020 OF THE CITY; AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$113,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF LAKE WORTH BEACH, FLORIDA CONSOLIDATED UTILITY REVENUE BONDS, SERIES 2020, TO PROVIDE FUNDS FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CAPITAL IMPROVEMENTS TO THE CITY'S CONSOLIDATED UTILITY SYSTEM; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS; PROVIDING CERTAIN TERMS AND DETAILS OF SUCH BONDS, INCLUDING AUTHORIZING A NEGOTIATED SALE OF SAID BONDS AND THE EXECUTION AND DELIVERY OF A BOND PURCHASE CONTRACT WITH RESPECT THERETO UPON COMPLIANCE WITH CERTAIN PARAMETERS; APPOINTING THE PAYING AGENT AND REGISTRAR WITH RESPECT TO SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT WITH RESPECT THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE CERTIFICATE; AUTHORIZING THE PURCHASE OF BOND INSURANCE AND A RESERVE ACCOUNT INSURANCE POLICY AND THE EXECUTION AND DELIVERY OF AN INSURANCE AGREEMENT OR AGREEMENTS WITH RESPECT THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF A CUSTODY AGREEMENT AND AN ESCROW DEPOSIT AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, as follows:**

**SECTION 1. FINDINGS.** It is hereby found and determined that:

(A) On October 6, 2020, the City Commission of the City of Lake Worth Beach, Florida (the "City" or "Issuer") duly adopted Resolution No. 45-2020 (the "Original Resolution"). All

capitalized terms not otherwise defined herein shall have the meanings set forth in the Original Resolution.

(B) The Original Resolution, as supplemented hereby, is referred to herein as the "Bond Resolution."

(C) The Original Resolution provides for the issuance of the Bonds, upon meeting the requirements set forth in the Original Resolution.

(D) The City deems it to be in the best interests of its citizens and taxpayers to issue its Consolidated Utility Revenue Bonds, Series 2020 (the "Bonds") for the purpose of financing and refinancing the acquisition and construction of certain capital improvements to the City's consolidated utility system (the "Project," as described in the Original Resolution).

(E) The principal of and interest on the Bonds and all required sinking fund, reserve and other payments shall be limited obligations of the City, payable solely from the Pledged Funds set forth in the Original Resolution. The Bonds shall not constitute a general obligation, or a pledge of the faith, credit or taxing power of the City, the State of Florida, or any political subdivision thereof, within the meaning of any constitutional or statutory provisions, except to the extent specifically set forth in the Original Resolution. Neither the State of Florida, nor any political subdivision thereof, nor the City shall be obligated (1) to exercise its ad valorem taxing power in any form on any real or personal property of or in the City to pay the principal of the Bonds, the interest thereon, or other costs incidental thereto or (2) to pay the same from any other funds of the City except from the Net Revenues and other amounts constituting the Pledged Funds, as described and in the manner provided in the Original Resolution.

(F) Due to the present volatility of the market for tax-exempt obligations such as the Bonds, it is in the best interest of the City to sell the Bonds by a negotiated sale, allowing the City to enter the market at the most advantageous time, rather than at a specified advertised date, thereby permitting the City to obtain the best possible price and interest rate for the Bonds. The City shall receive the information required by Section 218.385, Florida Statutes, in connection with the negotiated sale of the Bonds. A copy of the letter of the underwriters for the Bonds containing the aforementioned information is a condition precedent to the execution and delivery by the Issuer of the Purchase Contract referred to below.

(G) Morgan Stanley & Co. LLC and Raymond James & Associates, Inc. (collectively, the "Underwriters") expect to offer to purchase the Bonds from the City and submit a Bond Purchase Agreement in the form attached hereto as Exhibit A (the "Purchase Contract") expressing the terms of such offer, and, assuming compliance with the provisions of Section 5 hereof, the Issuer does hereby find and determine that it is in the best financial interest of the Issuer that the terms expressed in the Purchase Contract be accepted by the Issuer.

(H) The Original Resolution provides that the Bonds shall mature on such dates and in such amounts, shall bear such rates of interest, shall be payable in such places and shall be subject to

such redemption provisions as shall be determined by Supplemental Resolution adopted by the City; and it is now appropriate that the City determine parameters for such terms and details.

**SECTION 2. AUTHORITY FOR THIS SUPPLEMENTAL RESOLUTION.** This Supplemental Resolution is adopted pursuant to Articles II and VIII of the Original Resolution, the provisions of the Act (as defined in the Original Resolution), including the Ordinance, and other applicable provisions of law.

**SECTION 3. AUTHORIZATION AND DESCRIPTION OF THE BONDS.** The City hereby determines to issue separate series of Bonds in an aggregate principal amount not exceeding \$113,000,000, the exact respective principal amounts to be as set forth in the Purchase Contract, to be known as its "Consolidated Utility Revenue Bonds, Series 2020" for the principal purpose of financing the Cost of the Project.

The Bonds shall be dated as of their date of delivery, shall be issued as fully registered Bonds, numbered consecutively from one upward in order of maturity with the prefix "R"; shall bear interest from their date of delivery, payable semi-annually, on April 1 and October 1 of each year, commencing on April 1, 2021, at such rates and maturing in such amounts on October 1 of such years as to be set forth in the Purchase Contract. The Bonds shall be issued in denominations of \$5,000 and any integral multiple thereof.

The Bonds shall be subject to redemption prior to maturity as set forth in the Purchase Contract. The Bonds shall be subject to a book-entry system of registration described in the Official Statement referenced below.

**SECTION 4. AUTHORIZATION OF THE PROJECT.** The acquisition and implementation of the Project (including the reimbursement to the Issuer of certain costs incurred with respect thereto), is hereby authorized by the Issuer.

**SECTION 5. SALE OF THE BONDS.** Upon delivery to the Mayor and the City Clerk of a Purchase Contract substantially in the form of Exhibit A attached hereto, evidencing:

- (A) Bonds in an aggregate principal amount not exceeding \$113,000,000;
- (B) A final maturity of the Bonds of not later than October 1, 2051;
- (C) A true interest cost with respect to the Bonds of not greater than 5.0% per annum;
- (D) Optional redemption of the Bonds beginning no later than October 1, 2030 at a price no greater than 100% of par; and
- (E) An Underwriters' discount not in excess of \$3.00 per \$1,000 of Bonds;

the Bonds shall be sold to the Underwriters pursuant to the Purchase Contract at the purchase price provided therein (including any original issue discounts or original issue premiums); all terms and

conditions set forth in the Purchase Contract being hereby approved. Upon compliance with the foregoing, the Mayor is hereby authorized and directed to execute the Purchase Contract and to deliver the same to the Underwriters.

**SECTION 6. OFFICIAL STATEMENT; PRELIMINARY OFFICIAL STATEMENT; CONTINUING DISCLOSURE CERTIFICATE.**

(A) The form, terms and provisions of the Official Statement (the "Official Statement"), dated the date of execution of the Purchase Contract, in substantially the form of the Preliminary Official Statement attached hereto as Exhibit B, which shall also include the terms and provisions set forth in the executed version of the Purchase Contract, relating to the Bonds, be and the same hereby are approved with respect to the information therein contained. The Mayor and the City Clerk, upon execution of the Purchase Contract described above, are hereby authorized and directed to execute and deliver the Official Statement in the name and on behalf of the City, and thereupon to cause the Official Statement to be delivered to the Underwriters with such changes, amendments, omissions and additions as may be approved by the Mayor. The use of the Preliminary Official Statement in substantially the form attached hereto as Exhibit B (the "Preliminary Official Statement") in the marketing of the Bonds is hereby authorized, and the Official Statement, including any such changes, amendments, modifications, omissions and additions as approved by the Mayor, and the information contained therein are hereby authorized to be used in connection with the sale of the Bonds to the public. Execution by the Mayor and the City Clerk of the Official Statement shall be deemed to be conclusive evidence of approval of such changes, amendments, modifications, omissions and additions. The Mayor and City Clerk are hereby authorized to deem the Preliminary Official Statement "final," within the meaning of Securities and Exchange Commission Rule 15c2-12, except for permitted omissions as described therein.

(B) In order to enable the Underwriters to comply with the provisions of SEC Rule 15c2-12 relating to secondary market disclosure, the Mayor is hereby authorized and directed to execute and deliver the Continuing Disclosure Certificate in the name and on behalf of the City substantially in the form attached hereto as Exhibit C, with such changes, amendments, omissions and additions as shall be approved by the Mayor, her execution and delivery thereof being conclusive evidence of such approval.

**SECTION 7. APPOINTMENT OF REGISTRAR AND PAYING AGENT.** U.S. Bank National Association is hereby designated Registrar and Paying Agent for the Bonds. The Mayor and the City Clerk are hereby authorized to enter into any agreement which may be necessary to effect the transactions contemplated by this Section 7.

**SECTION 8. PURCHASE OF RESERVE POLICY AND BOND INSURANCE POLICY.** The City hereby authorizes the purchase of a Reserve Account Insurance Policy and a Bond Insurance Policy from a nationally-recognized bond insurance company with respect to its issuance of the Bonds. The authority to select the bond insurer is hereby delegated to the Mayor, based upon the advice of the City's financial advisor. In connection therewith, the City hereby authorizes and directs the Mayor to execute and deliver an Insurance Agreement (including a separate agreement, if necessary, with respect to the Reserve Account Insurance Policy) and a bond



insurance commitment, and the City Clerk to attest the same under the official seal of the City. The Insurance Agreement shall be in substantially the form of the Insurance Agreement attached hereto as Exhibit D, with such changes, amendments, modifications, omissions and additions as may be approved by the Mayor. Execution by the Mayor of the Insurance Agreement and any separate Reserve Account Insurance Policy agreement shall be deemed to be conclusive evidence of approval of such changes. All of the provisions of the Insurance Agreement and any separate Reserve Account Insurance Policy agreement, when executed and delivered by the City as authorized herein and when duly authorized, executed and delivered by the insurer, shall be deemed to be a part of this Supplemental Resolution as fully and to the same extent as if incorporated verbatim herein.

**SECTION 9. CUSTODY AGREEMENT.** The City hereby authorizes and directs the Mayor and City Clerk to enter into a Custody Agreement, in substantially the form attached hereto as Exhibit E (the "Custody Agreement"), with such modifications and changes as approved by the Mayor and City Clerk, including the investment of amounts held pursuant thereto, approval to be conclusively presumed by their execution thereof. U.S. Bank National Association is hereby appointed Custodian under the Custody Agreement.

**SECTION 10. ESCROW DEPOSIT AGREEMENT.** The City hereby authorizes and directs the Mayor and City Clerk, if deemed necessary by the City's Bond Counsel to refund the City's Utility System Refunding Revenue Bond, Series 2013 and the City's obligation under the Master Lease Purchase Agreement dated September 27, 2015, to enter into an Escrow Deposit Agreement, in substantially the form attached hereto as Exhibit F (the "Escrow Deposit Agreement"), and which may take the form of separate agreements, with such modifications and changes as approved by the Mayor and City Clerk, including the investment of amounts deposited therein, approval to be conclusively presumed by their execution thereof. U.S. Bank National Association is hereby appointed Escrow Agent under the Escrow Deposit Agreement.

**SECTION 11. GENERAL AUTHORITY.** The members of the City Commission of the City and the officers, attorneys and other agents or employees of the City and the City Clerk are hereby authorized to do all acts and things required of them by this Supplemental Resolution or the Original Resolution, or desirable or consistent with the requirements hereof or the Original Resolution, including the execution of such documents necessary to establish a book-entry system of registration with respect to the Bonds, for the full punctual and complete performance hereof or thereof. Each member, employee, attorney and officer of the City is hereby authorized and directed to execute and deliver any and all papers and instruments and to be and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder. The Mayor and/or the City Clerk are hereby authorized to execute such tax forms or agreements as shall be necessary to effect the transactions contemplated hereby, including designating Bond Counsel to assist or act as agent with respect thereto.

**SECTION 12. ORIGINAL RESOLUTION TO CONTINUE IN FORCE.** Except as herein expressly provided, the Original Resolution and all the terms and provisions thereof, including the covenants contained therein, are and shall remain in full force and effect.

**SECTION 13. SEVERABILITY AND INVALID PROVISIONS.** If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, even though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other covenants, agreements or provisions hereof or the Bonds issued hereunder.

**SECTION 14. EFFECTIVE DATE.** This Supplemental Resolution shall become effective immediately upon its adoption.

The passage of this resolution was moved by \_\_\_\_\_, seconded by \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo  
Vice Mayor Andy Amoroso  
Commissioner Scott Maxwell  
Commissioner Herman Robinson

The Mayor thereupon declared this resolution duly passed and adopted on the 20th day of October, 2020.

LAKE WORTH BEACH CITY COMMISSION

\_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

\_\_\_\_\_  
Deborah M. Andrea, CMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nabors, Giblin & Nickerson, P.A.

**EXHIBIT A**

**FORM OF PURCHASE CONTRACT**

§ \_\_\_\_\_  
**CITY OF LAKE WORTH BEACH, FLORIDA  
CONSOLIDATED UTILITY REVENUE BONDS  
SERIES 2020**

**BOND PURCHASE AGREEMENT**

October \_\_\_\_, 2020

City of Lake Worth Beach, Florida  
7 North Dixie Highway  
Lake Worth Beach, Florida 33460

Ladies and Gentlemen:

Morgan Stanley & Co. LLC (the “Representative”), on behalf of itself and Raymond James & Associates, Inc. (collectively, the “Underwriters”) hereby offers to enter into this Bond Purchase Agreement (this “Purchase Agreement”) with the City of Lake Worth Beach, Florida (the “City”) which, upon the City’s acceptance hereof, will be binding upon the City and the Underwriters. This offer is made subject to acceptance by the City, which acceptance shall be evidenced by the execution of this Purchase Agreement by duly authorized officers of the City prior to 11:59 p.m. Daylight Saving Time on the date hereof. If not so accepted, this offer will be subject to withdrawal by the Underwriters, upon notice delivered to the City, at any time prior to the acceptance hereof by the City.

The Representative represents that it has heretofore been designated by the other Underwriter as its representative with respect to all matters pertaining to this Purchase Agreement. The Representative hereby acknowledges that it has been duly authorized by the other Underwriter to execute this Purchase Agreement and that it has been duly authorized to act hereunder on behalf of the other Underwriter. The Representative has full authority to take such actions as it may deem advisable with respect to all matters pertaining to this Purchase Agreement.

Capitalized but undefined terms used in this Purchase Agreement shall have the meanings assigned to them in the Official Statement (as defined in Section 3(b) hereof) and the Resolution (as defined in Section 2(a) hereof), as applicable.

**Section 1. Purchase and Sale of Series 2020 Bonds.**

(a) Upon the terms and conditions and in reliance on the representations, warranties, and covenants contained in this Purchase Agreement, the Underwriters, jointly and severally, agree to purchase from the City for offering to the public, and the City hereby agrees to sell and deliver to the Underwriters, all (but not less than all) of the City of Lake Worth Beach, Florida

Consolidated Utility Revenue Bonds, Series 2020 (the "Series 2020 Bonds") described in Schedule I attached hereto, at the Purchase Price (as defined below). The purchase price for the Series 2020 Bonds shall be \$ \_\_\_\_\_ (which price represents the par amount of the Series 2020 Bonds of \$ \_\_\_\_\_, plus a [net] original issue premium of \$ \_\_\_\_\_, minus an Underwriters' discount of \$ \_\_\_\_\_ (the "Purchase Price"). The Purchase Price shall be payable by the Underwriters to the City on the Closing Date (as defined in Section 8 hereof), by wire transfer of federal funds, as provided in Section 8 of this Purchase Agreement, and shall be net of the Good Faith Wire (as defined in Section 6 hereof) and the amount of any payment made by the Underwriters on behalf of the City, as instructed by the City to facilitate the Closing (as defined in Section 8 hereof).

(b) The Series 2020 Bonds shall be as described in the Official Statement and as authorized by and issued and secured under the Resolution. The Series 2020 Bonds shall be dated the date of delivery and shall mature at the times and in the amounts, bear interest at the rates and be subject to redemption, all as set forth in Schedule I attached hereto.

(c) The Underwriters acknowledge that:

(i) the Series 2020 Bonds are being issued as Bonds under the Resolution, payable from and secured equally and ratably by a lien on and pledge of the Pledged Funds, consisting of (A) the Net Revenues of the consolidated electric, water and sewer utility system currently owned and operated by the City (the "System"), and (B) until applied in accordance with the provisions of the Resolution, all moneys, including investments thereof, in the funds and accounts established thereunder, except (1) the Rebate Fund, (2) to the extent moneys therein shall be required to pay the Operating Expenses of the System in accordance with the terms thereof, and (3) any moneys set aside in a particular subaccount of the Reserve Account if such moneys shall be pledged solely for the payment of a Series of Bonds for which it was established in accordance with the provisions of the Resolution,

(ii) The Reserve Requirement for the Series 2020 Bonds has been established to be \$ \_\_\_\_\_, which will be funded on the date of delivery of the Series 2020 Bonds by the deposit into [the Reserve Account / a subaccount within the Reserve Account to be held solely for the benefit of the Series 2020 Bonds] of [a portion of the proceeds of the Series 2020 Bonds / a Reserve Account Insurance Policy issued by \_\_\_\_\_ (the "Series 2020 Insurer")] in the full amount of such Reserve Requirement.

[(iii) the Series 2020 Bonds maturing on October 1, 20\_\_\_\_ through October 1, 20\_\_\_\_ (collectively, the "Insured Series 2020 Bonds"), will be further secured by a municipal bond insurance policy (the "Series 2020 Bond Insurance Policy") issued as of the date of delivery of the Insured Series 2020 Bonds by the Series 2020 Insurer,]

(iv) the full faith and credit of the City, the State of Florida (the "State"), or any political subdivision or agency thereof, is not pledged to the payment of the principal of and interest on the Series 2020 Bonds and the holders thereof shall never have the right to require or compel the exercise of any taxing power of the City, the State, or any political subdivision or

agency thereof, to the payment of such principal and interest. The Series 2020 Bonds and the obligation evidenced thereby shall not constitute a lien upon any property of the City, but shall constitute a lien only on, and shall be payable solely from, the Pledged Funds, and

(v) the City may issue additional obligations on parity with the Series 2020 Bonds in accordance with the terms of the Resolution.

(d) The Representative makes the following disclosures to the City, of which the City acknowledges receipt:

(i) the purchase and sale of the Series 2020 Bonds pursuant to this Purchase Agreement is an arm's-length, commercial transaction between the City and the Underwriters in which each of the Underwriters is acting solely as a principal and is not acting as a municipal advisor (within the meaning of Section 15B of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), financial advisor or fiduciary to the City,

(ii) none of the Underwriters have assumed any advisory or fiduciary responsibility to the City with respect to this Purchase Agreement, the offering of the Series 2020 Bonds and the discussions, undertakings and procedures relating thereto (irrespective of whether any Underwriter, or any affiliate of an Underwriter, has provided other services or is currently providing other services to the City on other matters),

(iii) the only obligations the Underwriters have to the City with respect to the transactions contemplated hereby are set forth in this Purchase Agreement,

(iv) the Underwriters have financial and other interests that differ from those of the City, and

(v) the City should consult with its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it deems appropriate in connection with the offering and sale of the Series 2020 Bonds.

**Section 2. Description of Financing.** The following is provided for informational purposes only and shall not affect or control the actual terms and conditions of the Series 2020 Bonds.

(a) The Series 2020 Bonds are authorized to be issued pursuant to (i) the City Charter, the Constitution of the State, Chapter 166, Part II, Florida Statutes, as amended, and other applicable provisions of law (collectively, the "Act"), (ii) Resolution No. 45-2020 adopted by the City Commission of the City of Lake Worth Beach, Florida (the "City Commission") on October 6, 2020 (the "Bond Resolution"), as supplemented by Resolution No. \_\_\_\_ adopted by the City Commission on October 20, 2020 (the "Series 2020 Resolution" and, together with the Bond Resolution, the "Resolution").

(b) The Series 2020 Bonds are being issued for the purposes of (i) financing the acquisition, construction and equipping of certain improvements and additions to the System, (ii) [together with other legally available funds,] repaying certain existing indebtedness incurred for the benefit of the System, (iii) depositing [cash / a Reserve Account Letter of Credit / a Reserve Account Insurance Policy] to satisfy the Reserve Account Requirement for the Series 2020 Bonds, and (iv) paying the costs of issuance of the Series 2020 Bonds [(including the premium for the municipal bond insurance policy and the Reserve Account Letter of Credit / Reserve Account Insurance Policy to be obtained in connection with the issuance of the Series 2020 Bonds].

**Section 3. Delivery of Preliminary Official Statement and Official Statement; Offering of Series 2020 Bonds.**

(a) The City hereby authorizes the distribution by the Underwriters of the Official Statement (as defined in Section 3(b) hereof) in connection with the public offering and sale of the Series 2020 Bonds. The City consents to and ratifies the use by the Underwriters of the Preliminary Official Statement dated October \_\_\_\_, 2020 (such Preliminary Official Statement, including the cover page and all appendices attached thereto and any amendments and supplements thereto that may be authorized by the City for use with respect to the Series 2020 Bonds, being herein called the "Preliminary Official Statement") relating to the Series 2020 Bonds for the purposes of marketing the Series 2020 Bonds in connection with the original public offer, sale and distribution of the Series 2020 Bonds by the Underwriters. As of its date, the Preliminary Official Statement was "deemed final" by the City for purposes of Rule 15c2 12 of the Securities and Exchange Commission (the "SEC") promulgated under the Exchange Act (the "Rule"), except for the permitted omissions described in paragraph (b)(1) of the Rule.

(b) The City agrees to furnish the Underwriters with a final official statement relating to the Series 2020 Bonds dated October \_\_\_\_, 2020 (such final official statement, including the cover page and all appendices attached thereto and any amendments and supplements thereto that may be authorized by the City for use with respect to the Series 2020 Bonds, being herein called the "Official Statement") and shall cause copies of the Official Statement, in sufficient quantity for the Underwriters to comply with applicable rules of the SEC (including the Rule) and the Municipal Securities Rulemaking Board (the "MSRB"), to be available to the Underwriters within seven (7) business days of execution of this Purchase Agreement by the City (but in no event shall an electronic copy be provided later than the Closing Date) and in sufficient time to accompany any confirmation that requests payment from any customer of the Underwriters. The City has delivered or agrees to deliver, as the case may be, to the Underwriters such reasonable quantities of the Preliminary Official Statement and Official Statement as may be necessary to permit the Underwriters to comply with paragraph (b)(4) of the Rule and the other applicable rules of the SEC and the MSRB.

(c) To the extent required by the applicable rules of the SEC or the MSRB, the City hereby authorizes the Representative to file on or before the Closing Date, and the Representative hereby agrees to file or cause to be filed, the Official Statement with the MSRB or its designee (including submission to the MSRB's Electronic Municipal Market Access system ("EMMA")) or other repositories approved from time to time by the SEC (either in addition to or in lieu of the



filings referred to above) within the time frame required by Rule G 32 of the MSRB. Failure of the printer to provide hard copies of the Official Statement within seven (7) business days after the execution of this Purchase Agreement by the City will not constitute a breach of this Purchase Agreement by the City if such failure is caused by the Underwriters or the agent or representative of any Underwriter.

(d) From the date hereof until the earlier of: (i) ninety (90) days after the “End of the Underwriting Period” (as defined in Section 3(e) hereof), or (ii) the time when the Official Statement is available to any person from the MSRB, but in no case less than twenty five (25) days following the End of the Underwriting Period, if any event occurs as a result of which the City or the Representative believes it may be necessary to amend or supplement the Official Statement in order to correct any untrue statement of a material fact contained in the Official Statement or to make the statements therein, in light of the circumstances under which they were made, not misleading, the City and the Representative will notify each other thereof and, if in the opinion of Disclosure Counsel (as defined in Section 9 hereof) such event requires the preparation and publication of a supplement or amendment to the Official Statement, the City will prepare and furnish to the Underwriters an amendment or supplement to the Official Statement such that the Official Statement, as so amended or supplemented, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which such statements were made, not misleading; provided, however, that the Underwriters shall not be liable to the City for any claims arising out of the City’s decision not to amend or supplement the Official Statement. The cost of any such amendment or supplement shall be borne by the City.

(e) For purposes of this Purchase Agreement, the “End of the Underwriting Period” is used as defined in the Rule and shall occur on the later of: (i) the Closing Date, or (ii) when the Underwriters no longer retain an unsold balance of the Series 2020 Bonds for sale to the public. Unless otherwise advised in writing by the Representative on or prior to the Closing Date, or otherwise agreed to by the City and the Representative, the City may assume that the End of the Underwriting Period is the Closing Date.

(f) The Preliminary Official Statement and the Official Statement may be delivered in printed and/or electronic form to the extent permitted by applicable rules of the MSRB and as may be agreed by the City and the Representative. If the Preliminary Official Statement and the Official Statement are prepared for distribution in electronic form, the City hereby confirms that it does not object to distribution of the Preliminary Official Statement and the Official Statement in electronic form.

(g) The City agrees that it will cooperate with the Underwriters in the qualification of the Series 2020 Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriters shall designate; provided, however, that the City shall not be required to register as a dealer or broker in any such jurisdiction, execute a general or special consent to service of process or qualify to do business in connection with any such qualification of the Series 2020 Bonds in any such jurisdiction, nor incur any costs or fees in connection with such qualification of the Series 2020 Bonds.

**Section 4. Public Offering.** The Underwriters agree to make a bona fide initial public offering of all of the Series 2020 Bonds in conformance with all applicable MSRB rules. The executed disclosure statement required of the Underwriters by Section 218.385, Florida Statutes, as amended, is attached to this Purchase Agreement as Schedule II.

**Section 5. Establishment of Issue Price.**

(a) The Representative, on behalf of the Underwriters, agrees to assist the City in establishing the issue price of Series 2020 Bonds and shall execute and deliver to the City at Closing an “issue price” or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached to this Purchase Agreement as EXHIBIT A, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Representative, the City and Bond Counsel (as defined in Section 9 hereof), to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of Series 2020 Bonds.

(b) **[Except as otherwise set forth in EXHIBIT A attached hereto, ]**the City will treat the first price at which ten percent (10%) of each maturity of the Series 2020 Bonds (the “10% test”) is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% test). **[As of the date of this Purchase Agreement, all maturities of the Series 2020 Bonds have satisfied the 10% test. EXHIBIT A attached hereto sets forth the prices at which the Underwriters have sold each maturity of the Series 2020 Bonds to the public.]** **[At or promptly after the execution of this Purchase Agreement, the Representative shall report to the City the price or prices at which it has sold to the public each maturity of the Series 2020 Bonds. If at that time the 10% test has not been satisfied as to any maturity of the Series 2020 Bonds, the Representative agrees to promptly report to the City the prices at which it sells the unsold Series 2020 Bonds of that maturity to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied as to the Series 2020 Bonds of that maturity or until all Series 2020 Bonds of that maturity have been sold to the public.]**

(c) **[The Representative confirms that the Underwriters have offered all maturities of the Series 2020 Bonds to the public on or before the date of this Purchase Agreement at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in EXHIBIT A attached hereto.]** **[EXHIBIT A also sets forth, as of the date of this Purchase Agreement, the maturities, if any, of the Series 2020 Bonds for which the 10% test has not been satisfied and for which the City and the Representative, on behalf of the Underwriters, agree that the restrictions set forth in the next sentence shall apply, which will allow the City to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the “hold-the-offering-price rule”). So long as the hold-the-offering-price rule remains applicable to any maturity of the Series 2020 Bonds, the Underwriters will neither offer nor sell unsold Series 2020 Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:**

- (i) **the close of the fifth (5<sup>th</sup>) business day after the sale date, or**
- (ii) **the date on which the Underwriters have sold at least ten percent (10%) of that maturity of the Series 2020 Bonds to the public at a price that is no higher than the initial offering price to the public.]**

(d) The Representative confirms that:

(i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the Representative is a party) relating to the initial sale of Series 2020 Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to (A) report the prices at which it sells to the public the unsold Series 2020 Bonds of any maturity allotted to it until it is notified by the Representative that either the 10% test has been satisfied as to Series 2020 Bonds of that maturity or all Series 2020 Bonds of that maturity have been sold to the public, and (B) comply with the hold-the-offering-price rule, if and for so long as directed by the Representative and as set forth in the related pricing wires, and

(ii) any agreement among underwriters relating to the initial sale of Series 2020 Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of Series 2020 Bonds to the public to require each broker-dealer that is a party to such retail distribution agreement to (A) report the prices at which it sells to the public the unsold Series 2020 Bonds of each maturity allotted to it until it is notified by the Representative or the Underwriters that either the 10% test has been satisfied as to Series 2020 Bonds of that maturity or all Series 2020 Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Representative or the Underwriters and as set forth in the related pricing wires.

(e) The City acknowledges that, in making the representation set forth in this subsection, the Representative will rely on (i) the agreement of each Underwriter to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Series 2020 Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an Underwriter is a party to a retail distribution agreement that was employed in connection with the initial sale of the Series 2020 Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that each Underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that no Underwriter shall be liable for the failure of any other Underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution

agreement, to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Series 2020 Bonds.

(f) The Underwriters acknowledge that sales of any Series 2020 Bonds to any person that is a related party to an Underwriter shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

(i) “public” means any person (including an individual, trust, estate, partnership, association, company or corporation) other than an underwriter or a related party to an underwriter,

(ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of Series 2020 Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of Series 2020 Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of Series 2020 Bonds to the public),

(iii) a purchaser of any of the Series 2020 Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) “sale date” means the date of execution of this Purchase Agreement by all parties.

**Section 6. Good Faith Wire.** Based on wire instructions previously provided to the Representative, the City hereby acknowledges, receipt of a wire transfer credited to the order of the City in immediately available federal funds in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the “Good Faith Wire”) as security for the performance by the Underwriters of their obligations to accept and pay for the Series 2020 Bonds at the Closing, subject to the terms of this Purchase Agreement.

(a) If the City does not accept this offer, then the Good Faith Wire shall be immediately returned by the City to the Representative and this Purchase Agreement shall become null and void, and of no force or effect, without any other action by the parties hereto. If the City accepts this offer, the City agrees to hold the Good Faith Wire until the Closing Date and, subject to the terms set forth below, Good Faith Wire shall be applied towards the amount due from the Representative as payment of the Purchase Price for the Series 2020 Bonds at Closing.

(b) If the City fails for any reason (other than the Underwriters' non compliance with its obligations under this Purchase Agreement) to deliver the Series 2020 Bonds at the Closing, or if the City shall be unable to satisfy the conditions to the Underwriters' obligation contained in this Purchase Agreement (unless waived by the Representative), or if the Underwriters' obligations shall be terminated for any reason permitted by this Purchase Agreement, the Good Faith Wire shall be returned by the City to the Representative (without interest) and such return shall constitute a full release and discharge of all claims by the Underwriters and the City arising out of the transactions contemplated hereby, except that the City's obligations to pay those costs set forth in Section 11(a) hereof shall remain in full force and effect.

(c) If the Underwriters fail (other than for a reason permitted by this Purchase Agreement) to accept delivery of and to pay for all of the Series 2020 Bonds at the Closing, the Good Faith Wire shall be retained by the City as and for full liquidated damages, and not as a penalty, for such failure and for any defaults hereunder on the part of the Underwriters and such retention shall constitute a full release and discharge of all claims by the City and the Underwriters arising out of the transactions contemplated hereby, except that the Underwriters' obligation to pay those costs set forth in Section 11(b) hereof shall remain in full force and effect. The Underwriters and the City each recognize that in such event the actual damages of the City may be greater or may be less than the amount of the Good Faith Wire. Accordingly, the Underwriters hereby waive any right to claim that the actual damages of the City are less than such sum and the acceptance of this offer by the City shall constitute a waiver of any right the City might otherwise have to additional damages from the Underwriters.

**Section 7. Representations, Warranties and Covenants of the City.** By the City's acceptance hereof, it hereby represents, warrants and covenants to the Underwriters, as of the date of this Purchase Agreement (and it shall be a condition of the obligation of the Underwriters to purchase and accept delivery of the Series 2020 Bonds at the Closing that the City shall so represent and warrant as of the Closing Date), that:

(a) The City is and will be as of the Closing Date a validly existing and lawful municipality of the State, with the powers and authority set forth in the Act.

(b) The City duly adopted the Bond Resolution and the Series 2020 Resolution at meetings of the City Commission duly called and held by the City, and as of the date hereof the Bond Resolution and the Series 2020 Resolution have not been amended, modified or repealed in any material respect (other than as contemplated herein or as described in the Official Statement or with respect to the issuance of the Series 2020 Bonds) and are in full force and effect.

(c) The Resolution duly and validly authorizes the issuance, sale and delivery of the Series 2020 Bonds and the execution and delivery of the City Documents (as defined in Section 7(d) hereof).

(d) The City has full legal right, power and authority to consummate all transactions contemplated by this Purchase Agreement, the Resolution, the Continuing Disclosure Certificate (as defined in Section 9(b) hereof), the Escrow Deposit Agreement dated as of November 1, 2020

(the “Escrow Deposit Agreement”) by and between the City and U.S. Bank National Association, as escrow agent, the Custody Agreement dated as of November 1, 2020 by and between the City and U.S. Bank National Association, as custodian, [the Insurance Agreement dated November \_\_\_\_, 2020 by and between the City and the Series 2020 Insurer relating to the Series 2020 Bond Insurance Policy, the Agreement dated November \_\_\_\_, 2020 by and between the City and the Series 2020 Insurer relating to the Reserve Account Letter of Credit / Reserve Account Insurance Policy delivered in connection with the issuance of the Series 2020 Bonds,] and any other agreements required to be executed by the City relating thereto (collectively, the “City Documents”).

(e) The City is authorized to issue the Series 2020 Bonds for the purposes described in the Resolution.

(f) The City duly and validly authorized all necessary actions to be taken by it for (i) the issuance, sale, and delivery of the Series 2020 Bonds upon the terms set forth herein, (ii) the execution, delivery, and performance of the City Documents, and (iii) the carrying out, giving effect to, and consummation of the transactions contemplated hereby and by the City Documents, including, without limitation, the preparation of the Preliminary Official Statement and Official Statement and the consent to the distribution by the Underwriters of the Preliminary Official Statement and Official Statement.

(g) The City Documents, when executed by the other parties thereto, if any, will have been duly and validly executed and delivered by the City and will be in full force and effect as to the City.

(h) When delivered to and paid for by the Underwriters in accordance with the terms of this Purchase Agreement, the Series 2020 Bonds will be Bonds under the Bond Resolution.

(i) The City will apply the proceeds of the Series 2020 Bonds in the manner described in the Official Statement and will not take or omit to take any action that will in any way cause or result in the proceeds of the sale of the Series 2020 Bonds to be applied in any material respect other than as described in the Official Statement.

(j) Except as described in the Preliminary Official Statement and the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity before or by any court, governmental agency, public board or body, pending or, to the best knowledge of the City, threatened which (i) may affect the existence of the City or the titles or rights of its officers to their respective offices, (ii) may affect or which seeks to prohibit, restrain or enjoin (A) the sale, issuance or delivery of the Series 2020 Bonds or (B) the collection or payment of the Pledged Funds or the pledge and assignment thereof by the City to make payments on the Series 2020 Bonds, (iii) in any way contests or affects the validity or enforceability of any of the City Documents, (iv) contests in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement, (v) contests the powers of the City or, to the best knowledge of the City, any authority or proceedings for the issuance, sale or delivery of the Series 2020 Bonds, the City Documents or any of them or the transactions contemplated thereby, nor, to the

best knowledge of the City, is there any basis therefor wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Series 2020 Bonds, the Resolution or any of the other City Documents, or (vi) if adversely determined against the City, would materially adversely impact the City's financial condition or operations or the Pledged Funds.

(k) To the best of the City's knowledge, the execution and delivery of this Purchase Agreement and the other City Documents, and compliance with the provisions hereof and thereof, will not conflict with or constitute on the part of the City a violation or breach of, or a default under (i) any indenture, mortgage, lease, note agreement or other agreement or instrument to which the City is a party or by which the City is bound, or (ii) any constitutional provision, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the City or any of its activities or properties.

(l) All consents, approvals, authorizations and orders of governmental or regulatory authorities that are required to be obtained by the City in connection with the execution and delivery of this Purchase Agreement and the other City Documents, and the consummation of the transactions contemplated thereby, have been or will be, at Closing, duly obtained and in full force and effect.

(m) (i) Other than the hereinafter defined Excluded Sections, the information contained in the Preliminary Official Statement is, and such information in the Official Statement as of its date and the Closing Date will be (and as the same may be supplemented or amended, consistent with Section 3(d) hereof) true and correct in all material respects and does not and will not, as applicable, contain any untrue statement of a material fact or omit to state a material fact which is necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading, and (ii) notwithstanding the foregoing, the City has not provided the information in and does not provide any assurance that the information contained in the sections or appendices, as the case may be, captioned "DESCRIPTION OF THE 2020 BONDS - Book-Entry Only System," "UNDERWRITING" (but only with respect to the information contained therein provided by the Underwriters), "TAX MATTERS," and "APPENDIX C - FORM OF BOND COUNSEL OPINION" (collectively, the "Excluded Sections") in the Preliminary Official Statement and the Official Statement is true and correct in all material respects; provided, however, that nothing has come to the attention of the City which would cause it to reasonably believe that anything contained in the Excluded Sections contains any untrue statement of a material fact or omits to state a material fact which is necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(n) The City is not in breach of or default under any applicable law or administrative regulation of the State or any applicable judgment or decree or any agreement, indenture, note, bond or loan agreement to which the City is a party, which could materially adversely affect the ability of the City to perform its obligations under the City Documents.

(o) Since December 31, 1975, the City has not been in default in the payment of the principal of, redemption premium, if any, or interest on any indebtedness issued or guaranteed by the City.

(p) The City will cause the Registrar to authenticate and deliver the Series 2020 Bonds when ready for delivery.

(q) Neither the SEC nor any state securities commission has issued or, to the best of the City's knowledge, threatened to issue any order preventing or suspending the use of the Preliminary Official Statement or the Official Statement or the offer, sale or delivery of the Series 2020 Bonds.

(r) Any certificate signed by any of the City's authorized officers and delivered to the Underwriters shall be deemed a representation and warranty by it to the Underwriters as to the statements made therein.

(s) Notwithstanding any provision to the contrary in this Purchase Agreement, the City makes no representation or warranty with respect to compliance with applicable federal or state securities laws or Blue Sky laws of any jurisdiction in connection with the issuance and sale of the Series 2020 Bonds.

**Section 8. Closing.** At or before 1:00 p.m., Eastern Standard Time, on November \_\_\_\_, 2020, or at such other time or on such other date as shall have been mutually agreed upon by the City and the Representative (the "Closing Date"), (a) the City will deliver the Series 2020 Bonds to the Underwriters, in definitive form and duly executed and authenticated, in such authorized denominations and registered in such names as the Representative may request, through the FAST system of registration with The Depository Trust Company ("DTC"), New York, New York, at a place to be agreed upon by the City and the Representative, (b) the City will deliver to the Representative the closing documents hereinafter mentioned, and (c) the Underwriters will accept such delivery and pay the Purchase Price as set forth in Section 1 hereof by wire transfer of federal funds to the order of the "City of Lake Worth Beach, Florida" pursuant to the City's written instruction or as directed by the City for deposit in the various funds established under the Bond Resolution. Such delivery and such acceptance and payment are herein sometimes referred to as the "Closing." Delivery of the other documents as aforesaid shall be made at the offices of the City or at such other location as shall have been mutually agreed upon by the City and the Representative. The Series 2020 Bonds shall bear proper CUSIP numbers and shall be in typewritten form, with a single bond for each interest rate of the Series 2020 Bonds, each such bond to be in a principal amount equal to the principal amount thereof maturing on each maturity date. The Series 2020 Bonds shall be registered in the name of Cede & Co., as nominee of DTC, and will be made available for inspection by the Underwriters in the City not later than the Business Day prior to the Closing Date.

**Section 9. Conditions to Closing.** The Underwriters' obligation to purchase and pay for the Series 2020 Bonds shall be subject to (a) performance by the City of its obligations to be performed hereunder at and prior to the Closing or such earlier time as may be specified herein,



and (b) satisfaction of the following conditions, including the delivery by the City of such documents as are contemplated hereby in form and substance satisfactory to, and the taking of all such action as shall be necessary and appropriate in connection with the transactions contemplated hereby, in the opinion of Nabors, Giblin & Nickerson, P.A., Tampa, Florida (“Bond Counsel” and “Disclosure Counsel”), and Torcivia, Donlon & Goddeau, P.A., West Palm Beach, Florida (“Issuer’s Counsel”).

(a) At the time of the Closing, the Resolution and each of the other City Documents shall be in full force and effect and shall not have been repealed or amended in any material way since the date of this Purchase Agreement, unless agreed to in writing by the Representative.

(b) At or prior to the Closing, the Underwriters shall have received each of the following documents:

(i) each of the following opinions of counsel:

(A) the final approving opinion of Bond Counsel in substantially the form attached to the Official Statement as “APPENDIX C - FORM OF BOND COUNSEL OPINION” and a reliance letter to the Underwriters concerning same,

(B) the supplemental opinion of Bond Counsel in substantially the form attached as EXHIBIT B to this Purchase Agreement,

(C) the opinion of Bond Counsel relating to the defeasance of the Refunded Indebtedness (as defined in the Official Statement) and a reliance letter to the Underwriters concerning same,

(D) the opinion of Issuer’s Counsel in substantially the form attached as EXHIBIT C to this Purchase Agreement,

(E) the opinion of Disclosure Counsel in substantially the form attached as EXHIBIT D to this Purchase Agreement and a reliance letter to the Underwriters concerning same, and

(F) the opinion of the Law Offices of Steve E. Bullock, P.A., Miami, Florida (“Underwriters’ Counsel”) covering such matters as the Representative may reasonably request,

(ii) the Preliminary Official Statement, the Official Statement and each supplement or amendment, if any, thereto, in accordance with Section 3 of this Purchase Agreement,

(iii) a certificate, signed by the Mayor and the Clerk (or any other Authorized Issuer Officers), dated the date of the Preliminary Official Statement, deeming the Preliminary Official Statement “final” for purposes of the Rule,

(iv) a certificate, dated the Closing Date, signed by the Mayor (or any other Authorized Issuer Officer), to the effect that as of such date, no action, suit, proceeding inquiry or investigation, at law or in equity before or by any court governmental agency or public body is pending or, to the best knowledge of the City, threatened (A) challenging the creation, organization or existence of the City or the titles or rights of its officers to their respective offices, or (B) seeking to prohibit, restrain, enjoin, or otherwise contest the sale, issuance or delivery of the Series 2020 Bonds or any portion thereof, or the collection of Pledged Funds, or the pledge of any portion thereof, or (C) in any way contesting or affecting the validity or enforceability of the Series 2020 Bonds, any of the City Documents, or the power of the City to issue the Series 2020 Bonds, to use the Pledged Funds in the manner contemplated in the City Documents to adopt the Bond Resolution or the Series 2020 Resolution, or (D) contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or (E) in which a final unfavorable decision, ruling or finding is likely to materially adversely affect the financial condition or operations of the City or the Pledged Funds, or the validity or enforceability of the Series 2020 Bonds or any of the City Documents or the transactions contemplated thereby (except to the extent disclosed or referred to in the Official Statement); provided, however, that the City may, in the alternative, and in its sole discretion, provide an opinion of Counsel to the City in lieu of any one or more of the certifications required by clauses (A) through (E), and in the case of any such opinion to be rendered by Counsel to the City, such opinion(s) shall be included in the opinion of Issuer's Counsel, the form of which is attached as EXHIBIT C to this Purchase Agreement,

(v) a certificate, dated the Closing Date, signed by the Mayor (or any other Authorized Issuer Officer) to the effect that, to the best of his or her knowledge, (A) the representations and warranties of the City contained in this Purchase Agreement are true and correct in all material respects on and as of the time of the Closing as if made at the time of the Closing; and (B) the statements described in the Preliminary Official Statement and the Official Statement (except with respect to the Excluded Sections, as to which no certification needs to be provided) did not, as of their respective dates, and do not as of the Closing Date, contain any untrue statement of a material fact or omit to state a material fact which should be included therein for the purpose for which the Official Statement is used, and which is necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading,

(vi) certified copies of the Bond Resolution and the Series 2020 Resolution,

(vii) an executed copy of (A) the Continuing Disclosure Certificate of the City, dated the Closing Date, in substantially the form attached to the Official Statement as "APPENDIX E - FORM OF CONTINUING DISCLOSURE CERTIFICATE" (the "Continuing Disclosure Certificate"), and (B) each of the other City Documents,

(viii) an executed copy of the (A) Tax Certificate executed by the City relating to the exclusion from gross income for federal income tax purposes of interest on the Series 2020 Bonds, and (B) Internal Revenue Service Form 8038-G with respect to the Series 2020 Bonds, as completed for filing,

(ix) a request and authorization of the City signed by the Mayor (or any other Authorized Issuer Officer) to the Registrar to authenticate and deliver the Series 2020 Bonds to such person or persons named therein upon payment to or for the account of the City of the Purchase Price, net of the Good Faith Wire [and any amount paid directly to the Series 2020 Insurer, at the direction of the City, to provide for payment of the premium for any Series 2020 Bond Insurance Policy, the Reserve Account Letter of Credit or the Reserve Account Insurance Policy obtained in connection with the issuance of the Series 2020 Bonds],

(x) a copy of the City's DTC Blanket Issuer Letter of Representations,

(xi) an executed copy of the report from \_\_\_\_\_, addressed to the Underwriters, to the effect that such firm has verified the accuracy of the computations relating to the sufficiency of the cash and Federal Securities deposited under the Escrow Deposit Agreement to defease the Refunded Indebtedness,

(xii) a copy of the executed certifications from the Registrar, Paying Agent and Escrow Agent, dated the Closing Date, to the effect that the Registrar, Paying Agent and Escrow Agent (i) is a national banking association, duly organized and validly existing under the laws of the United States of America and authorized to do business in the State, (ii) has duly accepted its duties under the Resolution and each of the City Documents to which it is a party, (iii) has taken all necessary corporate action required to act in its role as Registrar, Paying Agent and Escrow Agent under the Resolution and each of the City Documents to which it is a party, and (iv) has duly executed and delivered each of the City Documents to which it is a party,

(xiii) one executed copy of the report of Stantec Consulting Services Inc., as the consulting engineers for the System in connection with the issuance of the Series 2020 Bonds (the "Consulting Engineer"), included as an appendix to the Preliminary Official Statement and the Official Statement (the "Consulting Engineer's Report"),

(xiv) a certificate, dated the date of the Closing, signed by an authorized officer of the Consulting Engineer stating (A) that the Consulting Engineer consents to the inclusion of the Consulting Engineer's Report in the Preliminary Official Statement and in the Official Statement and to references to such firm contained in the Preliminary Official Statement and in the Official Statement, (B) that the information in the Preliminary Official and the Official Statement relating to the Consulting Engineer, the Consulting Engineer's Report, and the electric utility portion of the System, is accurate in all material respects and does not omit any matter that should be included therein or that is necessary to make the statements made therein regarding such matters, in light of the circumstances under which such statements are made, not misleading, and (C) such other matters as the Underwriters may reasonably require,

(xv) one executed copy of the report of Stantec Consulting Services Inc., as the feasibility consultants for the System in connection with the issuance of the Series 2020 Bonds (the "Feasibility Consultant"), included as an appendix to the Preliminary Official Statement and the Official Statement (the "Feasibility Report"),

(xvi) a certificate, dated the date of the Closing, signed by an authorized officer of the Feasibility Consultant stating (A) that the Feasibility Consultant consents to the inclusion of the Feasibility Report in the Preliminary Official Statement and in the Official Statement and to references to the Feasibility Consultant contained in the Preliminary Official Statement and in the Official Statement, (B) that the information in the Preliminary Official Statement and the Official Statement relating to the Feasibility Consultant, the Feasibility Report and the System, is accurate in all material respects and does not omit any matter that should be included therein or that is necessary to make the statements made therein regarding such matters, in light of the circumstances under which such statements are made, not misleading, and (C) such other matters as the Underwriters may reasonably require,

(xvii) evidence of [ratings on the Insured Series 2020 Bonds by Moody's Investors Service, Inc. ("Moody's") and S&P Global Ratings, a division of Standard & Poor's Financial Services LLC ("S&P"), based on the Series 2020 Bond Insurance Policy, of "\_\_\_\_," with a "\_\_\_\_\_ outlook," and "\_\_\_\_," with a "\_\_\_\_\_ outlook," respectively, and] underlying ratings on the Series 2020 Bonds by Moody's and S&P, without regard to the Series 2020 Bond Insurance Policy, of "\_\_\_\_," with a "\_\_\_\_\_ outlook," and "\_\_\_\_," with a "\_\_\_\_\_ outlook," respectively,

[(xviii) a copy, in standard form and substance, of the executed (A) Series 2020 Bond Insurance Policy, (B) Reserve Account Letter of Credit / Reserve Account Insurance Policy to satisfy the Reserve Account Requirement for the Series 2020 Bonds, and (C) certificates of officers of the Series 2020 Insurer relating to the delivery of such instruments,]

[(xix) an opinion of counsel to the Series 2020 Insurer, dated the Closing Date and addressed to the City and the Underwriters, or a certificate of a duly authorized officer of the Series 2020 Insurer, relating to (A) the corporate status of the Series 2020 Insurer and its eligibility for relief under federal bankruptcy laws, (B) the authority of the Series 2020 Insurer to issue the Series 2020 Bond Insurance Policy and the Reserve Account Letter of Credit / Reserve Account Insurance Policy and the enforceability of such instruments, and (C) the statements contained in the Official Statement relating to the Series 2020 Insurer, the Series 2020 Bond Insurance Policy and the Reserve Account Letter of Credit / Reserve Account Insurance Policy,]

[(xx) such additional legal opinions and certificates as may be required by the Series 2020 Insurer in its commitment to issue the Series 2020 Bond Insurance Policy or the Reserve Account Letter of Credit / Reserve Account Insurance Policy, and]

(xxi) such additional legal opinions, certificates, instruments and other documents as the Underwriters may reasonably require to evidence the accuracy or completeness, as of the date hereof and as of the Closing Date, of the representations and warranties contained herein and of the statements and information contained in the Preliminary Official Statement or in the Official Statement and the due performance or satisfaction on or prior to the Closing Date of the agreements then to be performed or conditions then to be satisfied by the City.

(c) All of the opinions, letters, certificates, instruments and other documents mentioned in this Purchase Agreement shall be deemed to be in compliance with the provisions of this Purchase Agreement if, and only if, in the reasonable judgment of the Underwriters and Underwriters' Counsel, they are satisfactory in form and substance.

**Section 10. Termination of Purchase Agreement.** The Underwriters shall have the right to cancel the obligation to purchase and accept delivery of the Series 2020 Bonds hereunder by written notification from the Representative to the City of the election to cancel if at any time subsequent to the date of this Purchase Agreement and prior to the Closing Date if:

(a) trading in securities generally on the New York Stock Exchange shall have been suspended or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on the New York Stock Exchange, whether by virtue of a determination by that exchange or by order of the SEC or any other governmental authority having jurisdiction, or

(b) a general banking moratorium shall have been declared by federal, New York or Florida banking authorities and be in force, which in the reasonable opinion of the Representative materially adversely affects the market price or marketability of the Series 2020 Bonds or the ability of the Underwriters to enforce confirmations for the purchase, at the contemplated offering prices, of the Series 2020 Bonds, or

(c) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war or other calamity or crisis (including terrorism) the effect of which on financial markets is such as to, in the reasonable opinion of the Representative, materially adversely affect the market price or marketability of the Series 2020 Bonds or the ability of the Underwriters to enforce confirmations for the purchase, at the contemplated offering prices, of the Series 2020 Bonds, or

(d) legislation shall have been enacted by the Congress of the United States or the legislature of the State or shall have been favorably reported out of committee of either body or be pending in committee of either body, or shall have been recommended to the Congress for passage by the President of the United States or a member of the President's Cabinet, or a decision shall have been rendered by a court of the United States or the State or the Tax Court of the United States, or a ruling, resolution, regulation or temporary regulation, release or announcement shall have been made or shall have been proposed to be made by the Treasury Department of the United States or the Internal Revenue Service, or other federal or state authority with appropriate jurisdiction, with respect to federal or state taxation upon interest received on obligations of the general character of the Series 2020 Bonds as contemplated hereby which, in the reasonable opinion of the Representative, materially and adversely affects the market price or marketability of the Series 2020 Bonds or the ability of the Underwriters to enforce confirmations for the purchase, at the contemplated offering prices, of the Series 2020 Bonds, or

(e) a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation, release or no-action letter by or on behalf of the SEC or any other governmental agency

having jurisdiction over the subject matter shall be issued or made to the effect that the issuance, offering or sale of the Series 2020 Bonds, or of obligations of the same general character as the Series 2020 Bonds as contemplated hereby, or any document relating to the issuance, offering or sale of the Series 2020 Bonds is subject to registration or qualification under the Securities Act of 1933, as amended (the "Securities Act"), or the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), or is or would be in violation of any provision of either of such acts or the Exchange Act, or

(f) legislation shall have been enacted by the Congress of the United States or shall have been favorably reported out of committee or be pending in committee, or shall have been recommended to the Congress for passage by the President of the United States or a member of the President's Cabinet, or a decision by a court of the United States shall be rendered, or a ruling, regulation, proposed regulation or statement by or on behalf of the SEC or other governmental agency having jurisdiction of the subject matter shall be made, to the effect that any obligations of the general character of the Series 2020 Bonds, the Resolution, or any comparable securities of the City, are not exempt from the registration, qualification or other requirements of the Securities Act or the Trust Indenture Act or otherwise, or would be in violation of any provision of the federal securities laws, or

(g) an event or circumstance shall exist which, in the reasonable judgment of the Representative (i) makes untrue or incorrect in any material respect, as of the time of such event, any statement of information contained in the Official Statement or (ii) would cause a material omission from the information contained in the Official Statement and which information should be reflected therein in order to make the statements and information contained therein, in light of the circumstances under which they were made, not misleading in any material respect, or

(h) the purchase of and payment for the Series 2020 Bonds by the Underwriters, or their resale or reoffering by the Underwriters, on the terms and conditions contemplated by this Purchase Agreement and the Official Statement, is prohibited by any applicable law or governmental regulation or by order of any court, governmental body, board, agency, or commission, or

(i) any of the ratings or outlook on the Series 2020 Bonds, or any outstanding obligations having a parity lien on Net Revenues with the lien on Net Revenues in favor of the Series 2020 Bonds, shall have been withdrawn, downgraded or suspended, or

(j) additional material restrictions not in force on the date of this Purchase Agreement shall have been imposed on trading in securities generally by a governmental authority, or

(k) any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance or sale of the Series 2020 Bonds or in any way protesting or affecting any authority for or the validity of the Series 2020 Bonds, or any of the City Documents or the transactions contemplated thereby, or the existence or powers of the City or the System, or

(l) any material amendment is made to the Official Statement pursuant to Section 3(d) of this Purchase Agreement which, in the reasonable judgment of the Underwriters, will materially adversely affect the market price or marketability of the Series 2020 Bonds or the ability of the Underwriters to enforce confirmations for the purchase, at the contemplated offering prices, of the Series 2020 Bonds.

#### **Section 11. Expenses.**

(a) Except as provided in paragraph (b) below, the City shall pay any expenses incident to the performance of its obligations hereunder, including but not limited to: (i) the cost of the preparation, reproduction, printing, distribution, mailing, execution, delivery, filing and recording, as the case may be, of the City Documents and all other agreements and instruments required in connection with the consummation of the transactions contemplated hereby, (ii) the cost of the preparation, engraving, printing, execution and delivery of the definitive Series 2020 Bonds, (iii) the fees and disbursements of Bond Counsel, Issuer's Counsel, Disclosure Counsel, and any other experts retained by the City, (iv) the initial or acceptance fee of the Registrar, Paying Agent and Escrow Agent, (v) any fees charged by investment rating agencies for the rating of the Series 2020 Bonds, and (vi) any expenses (included in the expense component of the Underwriters' discount) incurred by the Representative on behalf of the City in connection with the marketing, issuance and delivery of the Series 2020 Bonds, including, but not limited to, meals, transportation, and lodging, of the City's employees and representatives, approved in advance by the City; provided, however, that the City shall have no obligation to pay any expenses of the Representative in the event the Underwriters fail (other than for a reason permitted by this Purchase Agreement) to accept delivery of and pay for all of the Series 2020 Bonds at Closing. Notwithstanding anything in this Purchase Agreement to the contrary, the City's obligation to pay expenses shall be limited to amounts available to it from the proceeds of the sale of the Series 2020 Bonds; provided, however, that in the event of an instance under Section 6(b) hereof when the City fails for any reason (other than each of the Underwriters' non compliance with its obligations under this Purchase Agreement), to deliver the Series 2020 Bonds at the Closing, the City's obligation to pay expenses under this Section 11(a) shall not be limited to amounts available to it from the proceeds of the sale of the Series 2020 Bonds.

(b) The Underwriters shall pay (from the expense component of the Underwriters' discount), to the extent not included in item (vi) in paragraph (a) above, (i) the cost of qualifying the Series 2020 Bonds under state blue sky laws and determining their eligibility for investment under the laws of such jurisdictions as the Underwriters may designate, including filing fees and fees and disbursements of Underwriters' Counsel in connection with such qualification and determination and the review of such laws, (ii) the cost of preparing and publishing all advertisements relating to the Series 2020 Bonds upon commencement of the offering of the Series 2020 Bonds, (iii) the cost of the transportation and lodging for officials and representatives of the Representative to attend meetings and the Closing, (iv) all other expenses incurred by the Underwriters in connection with the public offering and distribution of the Series 2020 Bonds, including without limitation, the cost of preparing the Underwriters' documents, (v) any fees of the MSRB in connection with the issuance, offering or sale of the Series 2020 Bonds, and (vi) the cost of obtaining a CUSIP number assignment for the Series 2020 Bonds. Notwithstanding

anything in this Purchase Agreement to the contrary, the portion of the expense component of the Underwriters' discount representing the fees and expenses of Underwriters' Counsel shall be netted from the expense component of the Underwriters' discount at Closing and included in the costs paid by the City in connection with the issuance of the Series 2020 Bonds.

**Section 12. Successors and Assigns.** This Purchase Agreement shall inure to the benefit of and be binding upon the City and the Underwriters and their successors and assigns. Nothing in this Purchase Agreement is intended or shall be construed to give any person, firm or corporation, other than the parties hereto and their successors and assigns, any legal or equitable right, remedy or claim under or in respect of this Purchase Agreement or any provision herein contained. This Purchase Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the parties hereto and their successors and assigns, and not for the benefit of any other person, firm or corporation. No purchaser of the Series 2020 Bonds from the Underwriters or any other persons or entity shall be deemed to be a successor merely by reason of such purchase.

**Section 13. Notices.** All notices, demands and formal actions required or permitted to be given pursuant to the terms of this Purchase Agreement shall be in writing sent by United States certified mail, return receipt requested, by a nationally recognized overnight courier, or hand delivered, and shall be deemed to have been given upon receipt by the party notified. Information for the delivery of notice (until a change in such information is delivered as provided in this Section 13) shall be as follows:

If to the City:	City of Lake Worth Beach, Florida 7 North Dixie Highway Lake Worth Beach, Florida 33460 Attention: Director of Finance Telephone: (561) 586-1654
With a copy to:	City of Lake Worth Beach, Florida 7 North Dixie Highway Lake Worth Beach, Florida 33460 Attention: City Attorney Telephone: (561) 586-1659
If to the Underwriters:	Morgan Stanley & Co. LLC 2825 University Drive, Suite 400 Coral Springs, Florida 33065 Attention: J.W. Howard, Executive Director Telephone: (954) 509-3532

The City and the Underwriters may, by notice given under this Purchase Agreement, designate other addresses and telephone numbers to which notices or other communications shall be directed.



**Section 14. Representations and Warranties of the Underwriters.** The Representative, on behalf of itself and, based solely on representations of the other Underwriter, the other Underwriter, represents and warrants to the City that:

(a) the Underwriters are duly organized, validly existing and in good standing under the laws of the jurisdiction of their respective organization and are duly authorized to transact business in the State,

(b) the Underwriters are duly authorized to authorize the Representative to execute this Purchase Agreement,

(c) the Underwriters have the full power and authority to take all actions required or permitted to be taken by them hereunder, and to perform and observe the covenants and agreements on their part contained in this Purchase Agreement,

(d) this Purchase Agreement has been duly executed and delivered by the Representative,

(e) each of the Underwriters represents that it is registered with the Financial Industry Regulatory Authority, Inc. ("FINRA") as a broker dealer and the MSRB as a municipal securities dealer, or is otherwise registered with the necessary regulatory authorities required for it to serve as an Underwriter with respect to the Series 2020 Bonds, and that at all times during the offering and sale of the Series 2020 Bonds, the Underwriters will continue to be so registered, and

(f) to the best knowledge of the Representative, each of the Underwriters is in compliance with the rules and regulations of FINRA and the MSRB (to the extent it is regulated by FINRA and the MSRB) and any other body which regulates it which would adversely affect the transactions contemplated hereby or by the Official Statement or the validity and legality of this Purchase Agreement or the Official Statement.

**Section 15. Waiver.** Notwithstanding any provision herein to the contrary, the performance of any and all obligations of the Underwriters hereunder and the performance of any and all conditions contained herein for the benefit of the Underwriters may be waived by the Representative, in its sole discretion, and the approval of each of the Underwriters when required hereunder or the determination of its satisfaction as to any document referred to herein shall be in writing, signed by an authorized signatory of the Representative.

**Section 16. Entire Agreement; Miscellaneous.** This Purchase Agreement constitutes the entire agreement between the parties hereto with respect to the matters covered hereby and supersedes all prior agreements and understandings between the parties. This Purchase Agreement may not be amended, supplemented or modified without the written consent of the City and the Representative. None of the officers, directors, employees or agents of the parties to this Purchase Agreement shall be charged personally with any liability, or be held liable under any term or provision of this Purchase Agreement because of its execution or attempted execution, or because of any breach or attempted or alleged breach thereof. The validity, interpretation and performance

of this Purchase Agreement shall be governed by the internal laws of the State, without regard to conflict of law principles.

**Section 17. Survival of Warranties.** All the representations, warranties and agreements of the Underwriters and the City in this Purchase Agreement shall remain operative and in full force and effect and shall survive delivery of and payment for the Series 2020 Bonds, regardless of any investigation made by or on behalf of the City or the Underwriters.

**Section 18. Severability.** If any provision of this Purchase Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitutional or statutory provision or provisions or rule of law or public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained, or portion thereof, invalid, inoperative, or unenforceable. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Purchase Agreement, shall not affect the remaining portions of this Purchase Agreement, or any part thereof.

**Section 19. Headings.** The headings of the sections of this Purchase Agreement are inserted for convenience of reference only and shall not be deemed to be part of this Purchase Agreement nor affect the meaning, construction or effect hereof.

**Section 20. Counterparts.** This Purchase Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument.

**Section 21. Effective Date.** This Purchase Agreement shall become effective upon acceptance hereof by the City.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURES TO FOLLOW]

**SIGNATURE PAGE TO  
BOND PURCHASE AGREEMENT**

**§ \_\_\_\_\_  
CITY OF LAKE WORTH BEACH, FLORIDA  
CONSOLIDATED UTILITY REVENUE BONDS  
SERIES 2020**

Very truly yours,

**MORGAN STANLEY & CO. LLC,**  
as Representative on behalf of itself and  
the Underwriters

By: \_\_\_\_\_  
J.W. HOWARD, Executive Director

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

**SIGNATURE PAGE TO  
BOND PURCHASE AGREEMENT**

§ \_\_\_\_\_  
**CITY OF LAKE WORTH BEACH, FLORIDA  
CONSOLIDATED UTILITY REVENUE BONDS  
SERIES 2020**

Accepted and agreed to as of  
the date first above written.

**CITY OF LAKE WORTH BEACH,  
FLORIDA**

(SEAL)

By: \_\_\_\_\_  
PAM TRIOLO, Mayor

ATTEST:

\_\_\_\_\_  
DEBORAH M. ANDREA, CMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
NABORS, GIBLIN & NICKERSON, P.A.

**SCHEDULE I**

\$ \_\_\_\_\_  
**CITY OF LAKE WORTH BEACH, FLORIDA**  
**CONSOLIDATED UTILITY REVENUE BONDS**  
**SERIES 2020**

<u>Maturity</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>Price</u>
2021	\$	%	%	
2022				
2023				
2024				
2025				
2026				
2027				
2028				
2029				
2030				
2031				
2032				
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2048				
2049				
2050				

## REDEMPTION PROVISIONS

### Optional Redemption

General. The Series 2020 Bonds maturing on and prior to October 1, \_\_\_\_\_ are not subject to optional redemption prior to maturity. The Series 2020 Bonds maturing on and after October 1, \_\_\_\_\_ are subject to redemption at the option of the City on and after October 1, \_\_\_\_\_ in whole or in part at any time, in such manner as shall be determined by the City and within a maturity in such manner as determined by the City or at its direction the Paying Agent, at a redemption price (plus accrued interest to the date fixed for redemption) equal to the principal amount thereof and without premium.

### Mandatory Redemption

The Series 2020 Bonds maturing on October 1, \_\_\_\_\_ are subject to mandatory sinking fund redemption, prior to maturity in part by lot on October 1, \_\_\_\_\_ and each October 1 thereafter at a redemption price equal to the principal amount thereof being so redeemed and accrued interest thereon to the date fixed for redemption, without premium, from Sinking Fund Installments in the amounts set forth below:

<u>Year</u>	<u>Principal Amount</u>
*	\$

---

\* Final Maturity.

**SCHEDULE II**

**\$ \_\_\_\_\_**  
**CITY OF LAKE WORTH BEACH, FLORIDA**  
**CONSOLIDATED UTILITY REVENUE BONDS**  
**SERIES 2020**

**DISCLOSURE STATEMENT**

October \_\_\_\_, 2020

City of Lake Worth Beach, Florida  
7 North Dixie Highway  
Lake Worth Beach, Florida 33460

Ladies and Gentlemen:

In connection with the proposed issuance of the above-captioned bonds (the "Series 2020 Bonds"), Morgan Stanley & Co. LLC (the "Representative"), on behalf of itself and the other underwriter listed in paragraph (e) hereof (collectively, the "Underwriters"), has agreed to underwrite a public offering of the Series 2020 Bonds, subject to the terms and conditions set forth in the Bond Purchase Agreement, dated October \_\_\_\_, 2020, between the City and the Representative, on behalf of the Underwriters (the "Purchase Agreement"). All capitalized undefined terms used herein shall have the meaning ascribed to them in the Purchase Agreement.

The purpose of this letter is to furnish, pursuant to the provisions of Sections 218.385(2), (3) and (6), Florida Statutes, as amended, certain information in respect to the arrangement contemplated for the underwriting of the Series 2020 Bonds as follows:

(a) The nature and estimated amount of expenses to be incurred by the Underwriters in connection with the issuance of the Series 2020 Bonds are set forth on Exhibit A attached hereto.

(b) There are no "finders," as that term is defined in Section 218.386, Florida Statutes, connected with the issuance of the Series 2020 Bonds.

(c) The amount of underwriting spread, including the management fee, expected to be realized is as follows:

	<u>Per \$1,000</u>	<u>Dollar Amount</u>
Average Takedown	\$ _____	\$ _____
Underwriters' Expenses	_____	_____
Underwriting Spread*	\$ <u>_____</u>	\$ <u>_____</u>

\* Totals may not add due to rounding.

(d) No other fee, bonus or other compensation is estimated to be paid by the Underwriters in connection with the issuance of the Series 2020 Bonds to any person not regularly employed or retained by the Underwriters, except as described in Exhibit A attached hereto.

(e) The names and addresses of the Underwriters are set forth below:

Morgan Stanley & Co. LLC  
 2825 University Drive, Suite 400  
 Coral Springs, Florida 33065

Raymond James & Associates, Inc.  
 880 Carillon Parkway, Third Floor  
 St. Petersburg, Florida 33716

As set forth in the Official Statement, the City is proposing to issue \$ \_\_\_\_\_ of the Series 2020 Bonds to provide funds to (i) finance the acquisition, construction and equipping of certain improvements and additions to the consolidated electric, water and sewer utility system currently owned and operated by the City (the "System"), (ii) [together with other legally available funds,] repay certain existing indebtedness incurred for the benefit of the System, (iii) deposit [cash / a Reserve Account Letter of Credit / a Reserve Account Insurance Policy] to satisfy the Reserve Account Requirement for the Series 2020 Bonds; and (iv) pay the costs of issuance of the Series 2020 Bonds [(including the premium for the municipal bond insurance policy and the Reserve Account Letter of Credit / Reserve Account Insurance Policy to be obtained in connection with the issuance of the Series 2020 Bonds. As set forth in the Official Statement, the Series 2020 Bonds are expected to be repaid over a period of approximately \_\_\_\_\_ ( ) years. At a true interest cost rate of approximately \_\_\_\_\_ % total interest paid over the life of the Series 2020 Bonds will be \$ \_\_\_\_\_.

As set forth in the Official Statement, the Series 2020 Bonds are limited obligations of the City, payable solely from and secured equally and ratably by a lien on and pledge of the Net Revenues of the System and other amounts in the funds and accounts created under the Bond Resolution pursuant to which the Series 2020 Bonds are issued, to the extent such amounts constitute Pledged Funds under such Bond Resolution. Assuming the true interest cost rate provided above, authorizing the Series 2020 Bonds will result in approximately \$ \_\_\_\_\_ of Net Revenues of the System not being available to finance the other services of the City each year for approximately \_\_\_\_\_ ( ) years.



**SIGNATURE PAGE FOR DISCLOSURE STATEMENT TO  
BOND PURCHASE AGREEMENT**

§ \_\_\_\_\_  
**CITY OF LAKE WORTH BEACH, FLORIDA  
CONSOLIDATED UTILITY REVENUE BONDS  
SERIES 2020**

We understand that the City does not require any further disclosure from the Underwriters pursuant to Sections 218.385(2), (3) and (6), Florida Statutes, as amended.

Very truly yours,

**MORGAN STANLEY & CO. LLC,**  
as Representative on behalf of itself and  
the Underwriters

By: \_\_\_\_\_  
J.W. HOWARD, Executive Director

**EXHIBIT A**  
**to**  
**SCHEDULE II**

**ESTIMATED EXPENSES TO BE INCURRED BY THE UNDERWRITERS**

	<u>Per \$1,000</u>	<u>Dollar Amount</u>
Underwriters' Counsel	\$	\$
iPreo Bookrunning Expenses		
iPreo EOE (Gameday)		
iPreo Wire Charge		
CUSIP Fee		
DTC		
Day Loan		
Miscellaneous	_____	_____
TOTAL	\$ =====	\$ =====

## EXHIBIT A

### FORM OF ISSUE PRICE CERTIFICATE

\$ \_\_\_\_\_  
**CITY OF LAKE WORTH BEACH, FLORIDA  
CONSOLIDATED UTILITY REVENUE BONDS  
SERIES 2020**

The undersigned, on behalf of Morgan Stanley & Co. LLC (the “Representative”), on behalf of itself and Raymond James & Associates, Inc. (collectively, the “Underwriters”) hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Series 2020 Bonds”).

**1. Sale of the 10% Maturities.** As of the date of this Certificate, for each Maturity of the 10% Maturities, the first price at which a Substantial Amount of such Maturity of the 10% Maturities was sold to the Public is the respective price listed in Schedule A.

**2. Initial Offering Price of the Undersold Maturities.**

(a) The Underwriters offered the Undersold Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Series 2020 Bonds is attached to this Certificate as Schedule B.

(b) As set forth in the Bond Purchase Agreement dated October \_\_\_\_, 2020 between the Underwriters and the City of Lake Worth Beach, Florida (the “City”), the Underwriters have agreed in writing that, for each Maturity of the Undersold Maturities, they would neither offer nor sell any of the unsold Series 2020 Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Offering Period for such Maturity, nor would they permit a related party to do so. Pursuant to such agreement, none of the Underwriters have either offered or sold any unsold Series 2020 Bonds in a Maturity of the Undersold Maturities at a price that is higher than the Initial Offering Price for that Maturity of the Series 2020 Bonds during the Offering Period.

**3. Defined Terms.**

(a) “10% Maturities” means those Maturities of the Series 2020 Bonds shown in Schedule A hereto as the “10% Maturities.”

(b) “Maturity” means Series 2020 Bonds with the same credit and payment terms. Series 2020 Bonds with different maturity dates, or Series 2020 Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(c) “Offering Period” means, with respect to an Undersold Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth (5<sup>th</sup>) business day after the Sale Date (October \_\_\_\_, 2020), or (ii) the date on which the Underwriters have sold a Substantial Amount of such Undersold Maturity to the Public at a price that is no higher than the Initial Offering Price for such Undersold Maturity.

(d) “Public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than a Regulatory Underwriter or a related party to a Regulatory Underwriter. The term “related party” for purposes of this Certificate generally means any two (2) or more persons who have greater than fifty percent (50%) common ownership, directly or indirectly.

(e) “Regulatory Underwriter” means (i) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Series 2020 Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Series 2020 Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Series 2020 Bonds to the Public).

(f) “Sale Date” means the first day on which there is a binding contract in writing for the sale of a Maturity of the Series 2020 Bonds. The Sale Date of the Series 2020 Bonds is October \_\_\_\_, 2020.

(g) “Substantial Amount” means ten percent (10%).

(h) “Undersold Maturities” means those Maturities of the Series 2020 Bonds shown in Schedule A hereto as the “Undersold Maturities.”

We have performed these calculations with the express understanding and agreement of the City and Nabors, Giblin & Nickerson, P.A., as Bond Counsel to the City (“Bond Counsel”) that, notwithstanding the performance of these calculations and the delivery of this letter, (i) in doing so we are not acting as a Municipal Advisor (as defined in Section 15B of the Securities Exchange Act); (ii) we do not have a fiduciary duty to the City, and (iii) we are not to be construed as a “paid preparer” of any tax returns of the City, including specifically (but not limited to) Form 8038-G.

In performing the above calculations, we remind you that we are not accountants or actuaries, nor are we engaged in the practice of law. Accordingly, while we believe the calculations described above to be correct, we do not warrant them to be so, nor do we warrant their validity for purposes of the Internal Revenue Code of 1986, as amended, and the treasury regulations thereunder (collectively, the “Code”).

The representations set forth in this Certificate are limited to factual matters only. The certifications contained herein are not necessarily based on personal knowledge, but may instead

be based on either inquiry deemed adequate by the undersigned or institutional knowledge (or both) regarding the matters set forth herein. Nothing in this Certificate represents the Representative's interpretation of any laws, including specifically, without limitation, Sections 103 and 148 of the Code. The Representative understands that the City will rely on the foregoing certifications in its certificates as to tax matters, including arbitrage, under the Code, and Bond Counsel will rely on the foregoing certifications in rendering its opinion on the exclusion from gross income of interest on the Series 2020 Bonds for federal income tax purposes and other federal income tax advice it may give to the City relating to the Series 2020 Bonds. Except as expressly set forth above, the certifications set forth herein may not be relied upon or used by any third party or for any other purpose.

Dated: November \_\_\_\_, 2020.

**MORGAN STANLEY & CO. LLC,**  
as Representative on behalf of itself and  
the Underwriters

By: \_\_\_\_\_  
J.W. HOWARD, Executive Director

**SCHEDULE A TO ISSUE PRICE CERTIFICATE**

**SALE PRICES OF THE SERIES 2020 BONDS**

(Attached)

**SCHEDULE B TO ISSUE PRICE CERTIFICATE**  
**COPY OF THE PRICING WIRE FOR THE SERIES 2020 BONDS**

(Attached)

**EXHIBIT B**

**FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL**

[To Come]



**EXHIBIT C**

**FORM OF ISSUER'S COUNSEL OPINION**

[To Come]

**EXHIBIT D**

**FORM OF OPINION OF DISCLOSURE COUNSEL**

[To Come]

**EXHIBIT B**

**FORM OF PRELIMINARY OFFICIAL STATEMENT**

**PRELIMINARY OFFICIAL STATEMENT DATED OCTOBER 21, 2020**

**NEW ISSUE-BOOK-ENTRY ONLY**

**RATINGS:** See "RATINGS" herein

*In the opinion of Bond Counsel, assuming continuing compliance by the City with the Internal Revenue Code of 1986, as amended, interest on the 2020 Bonds is, under existing law, excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax. (See "TAX STATUS" herein).*

\$ \_\_\_\_\_\*

**CITY OF LAKE WORTH BEACH, FLORIDA  
CONSOLIDATED UTILITY REVENUE BONDS, SERIES 2020**

**Dated: Date of Delivery**

**Due: October 1, as shown below**

The Consolidated Utility Revenue Bonds, Series 2020 (the "2020 Bonds") are to be issued by the City of Lake Worth Beach, Florida (the "City"), as fully registered bonds, without coupons, in denominations of \$5,000 and integral multiples thereof. Interest on the 2020 Bonds will be payable April 1, 2021, and semiannually on each April 1 and October 1 thereafter by check or draft of U.S. Bank National Association, registrar and paying agent.

The 2020 Bonds will be issued in fully registered form, initially registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"). Individual purchases will be made in book-entry form only in denominations of \$5,000 and any integral multiple thereof. Actual purchasers of the 2020 Bonds (the "Beneficial Owners") will not receive physical delivery of the 2020 Bonds. Transfer of ownership in the 2020 Bonds will be effected by DTC's book-entry system as described herein. As long as Cede & Co. is the Bondholder as nominee of DTC, principal and interest payments will be made directly to such Bondholder, which will in turn remit such payments to the Participants (as defined herein) for subsequent disbursement to the Beneficial Owners. At the request and expense of any holder of \$500,000 or more in aggregate principal amount of 2020 Bonds, interest shall be paid by wire transfer on an interest payment date as described herein. The principal of and premium, if any, on the 2020 Bonds will be payable upon presentation and surrender thereof at the designated corporate trust office of the Paying Agent. See "DESCRIPTION OF THE 2020 BONDS," herein.

The 2020 Bonds are being issued pursuant to Resolution No. 45-2020 of the City Commission of the City, adopted October 6, 2020, as supplemented (the "Resolution") for the purpose of (i) financing the acquisition, construction and equipping of capital improvements to the City's consolidated electric, water and sewer utility system (the "System"), (ii) repaying certain existing indebtedness and (iii) paying costs of issuance.

The 2020 Bonds are payable solely from and secured by a lien upon and pledge of the "Pledged Funds", consisting of (1) the Net Revenues of the System, and (2) until applied in accordance with the provisions of the Resolution, all moneys, including investments thereof, in the funds and accounts established thereunder, except (A) the Rebate Fund, (B) to the extent moneys therein shall be required to pay the Operating Expenses of the System in accordance with the terms thereof, and (C) any moneys set aside in a particular subaccount of the Reserve Account if such moneys shall be pledged solely for the payment of a Series of Bonds for which it was established in accordance with the provisions of the Resolution. The 2020 Bonds shall not constitute a general indebtedness or a pledge of the faith or credit of the City, within the meaning of any constitutional or statutory provision, and the City shall never be required to exercise the ad valorem taxing power of the City for the payment of the principal of and interest on the 2020 Bonds. The 2020 Bonds will not constitute a lien upon the System or any other property of the City, except for the Pledged Funds.

**The City expects to receive a commitment from one or more national municipal bond insurers to guarantee the scheduled payment of principal of and interest on all or a portion of the 2020 Bonds when due under a financial guaranty insurance policy to be issued concurrently with the issuance of the 2020 Bonds. The decision as to which of the 2020 Bonds, if any, such policy shall apply to will be made by the City at the time of pricing the 2020 Bonds.**

This cover page contains certain information for quick reference only. It is not a summary of the transaction. Investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision.

*The 2020 Bonds are offered when, as and if issued and received by the Underwriters, subject to the unqualified opinion as to legality by Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Bond Counsel. Certain matters will also be passed on by Nabors, Giblin & Nickerson, P.A., Tampa, Florida as Disclosure Counsel to the City. Certain other matters will be passed on for the City by Torcivia, Donlon & Goddeau, P.A., West Palm Beach, Florida, City Attorney and for the Underwriters by the Law Offices of Steve E. Bullock, P.A., Miami, Florida. Davenport & Company LLC, Richmond Virginia, is serving as financial advisor to the City. It is expected that the 2020 Bonds in definitive form will be available for delivery through the Depository Trust Company in New York, New York on or about November \_\_, 2020.*

Dated: October \_\_, 2020

**MORGAN STANLEY**

**RAYMOND JAMES**

\$ \_\_\_\_\_ \*

**CITY OF LAKE WORTH BEACH, FLORIDA**  
**CONSOLIDATED UTILITY REVENUE BONDS, SERIES 2020**

**MATURITIES, AMOUNTS, INTEREST RATES, PRICES, YIELDS  
AND INITIAL CUSIP NUMBERS**

<u>Maturity</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u>	<u>Price</u>	<u>Yield</u>	<u>Initial CUSIP</u> <u>Numbers†</u>
---------------------------------------	------------------------------------	--------------------------------	--------------	--------------	---

\$ \_\_\_\_\_ \* \_\_\_\_\_ % Term Bonds Due October 1, 20\_\_\_\_ Price \_\_\_\_\_ % Yield \_\_\_\_\_ Initial CUSIP†: \_\_\_\_\_

\*Preliminary, subject to change.

†The City and the Underwriters are not responsible for the use of the CUSIP Numbers referenced herein nor is any representation made by the City or the Underwriters as to their correctness. The CUSIP Numbers provided herein are included solely for the convenience of the readers of this Official Statement.

**CITY OF LAKE WORTH BEACH, FLORIDA**

**City Offices**

7 North Dixie Highway  
Lake Worth Beach, Florida 33460

**City Commissioners**

Pam Triolo, Mayor  
Scott Maxwell  
Omari Hardy  
Andy Amoroso  
Herman Robinson

**City Clerk**

Deborah M. Andrea

**City Manager**

Michael Bornstein

**Counsel to the City**

Torcivia, Donlon & Goddeau, P.A.  
West Palm Beach, Florida

**Bond Counsel and Disclosure Counsel**

Nabors, Giblin & Nickerson, P.A.  
Tampa, Florida

**Financial Advisor**

Davenport & Company LLC  
Richmond, Virginia

No dealer, broker, salesman or other person has been authorized by the City of Lake Worth Beach, Florida (the "City") to make any representations in connection with the 2020 Bonds other than as contained in this Official Statement, and if given or made, such other information or representations must not be relied upon as having been authorized by the City. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the 2020 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information contained in this Official Statement has been obtained from the City, The Depository Trust Company and other sources considered to be reliable. The information and expressions of opinion stated herein are subject to change, and neither the delivery of this Official Statement nor any sale made hereunder shall create, under any circumstances, any implication that there has been no change in the matters described herein since the date hereof.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF SUCH 2020 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

All summaries herein of documents and agreements are qualified in their entirety by reference to such documents and agreements, and all summaries herein of the 2020 Bonds are qualified in their entirety by reference to the form thereof included in the aforesaid documents and agreements.

NO REGISTRATION STATEMENT RELATING TO THE 2020 BONDS HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION (THE "COMMISSION") OR WITH ANY STATE SECURITIES COMMISSION. IN MAKING ANY INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATIONS OF THE SECURITY AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THE 2020 BONDS HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE COMMISSION OR ANY STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. THE FOREGOING AUTHORITIES HAVE NOT PASSED UPON THE ACCURACY OR ADEQUACY OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

THE UNDERWRITERS MAY OFFER AND SELL THE 2020 BONDS TO CERTAIN DEALERS AND OTHERS AT PRICES LOWER THAN THE PUBLIC OFFERING PRICES STATED ON THE INSIDE COVER PAGE OF THIS OFFICIAL STATEMENT, AND SUCH PUBLIC OFFERING PRICES MAY BE CHANGED FROM TIME TO TIME, AFTER THE INITIAL OFFERING TO THE PUBLIC, BY THE UNDERWRITERS.



The order and placement of materials in this Official Statement, including the Appendices, are not to be deemed a determination of relevance, materiality or importance, and this Official Statement, including the Appendices, must be considered in its entirety. The captions and headings in this Official Statement are for convenience only and in no way define, limit or describe the scope or intent, or affect the meaning or construction, of any provisions or sections in this Official Statement. The offering of the 2020 Bonds is made only by means of this entire Official Statement.

References to website addresses presented in this Official Statement are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement.

Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements." Such statements generally are identifiable by the terminology used, such as "plan," "expect," "estimate," "project," "forecast," "budget" or other similar words. The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. The City does not plan to issue any updates or revisions to those forward-looking statements if or when its expectations or events, conditions or circumstances on which such statements are based occur.

THIS OFFICIAL STATEMENT IS BEING PROVIDED TO PROSPECTIVE PURCHASERS EITHER IN BOUND PRINTED FORM ("ORIGINAL BOUND FORMAT") OR IN ELECTRONIC FORMAT ON THE WEBSITES: [WWW.MUNIOS.COM](http://WWW.MUNIOS.COM) AND [WWW.EMMA.MSRB.ORG](http://WWW.EMMA.MSRB.ORG). THIS OFFICIAL STATEMENT MAY BE RELIED UPON ONLY IF IT IS IN ITS ORIGINAL BOUND FORMAT OR IF IT IS PRINTED IN FULL DIRECTLY FROM EITHER OF SUCH WEBSITES.

THIS OFFICIAL STATEMENT SHALL NOT CONSTITUTE A CONTRACT BETWEEN THE CITY OR THE UNDERWRITERS AND ANY ONE OR MORE HOLDERS OF THE 2020 BONDS.

THIS PRELIMINARY OFFICIAL STATEMENT IS IN A FORM DEEMED FINAL BY THE CITY FOR PURPOSES OF RULE 15C2-12 UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, EXCEPT FOR CERTAIN FINANCIAL INFORMATION PERMITTED TO BE OMITTED PURSUANT TO RULE 15c2-12(B)(1).

THIS OFFICIAL STATEMENT INCLUDES THE FRONT PAGE, THE PAGE IMMEDIATELY PRECEDING THIS PAGE AND ALL APPENDICES HERETO.

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**OFFICIAL STATEMENT**

**relating to**

§ \_\_\_\_\_\*  
**CITY OF LAKE WORTH BEACH, FLORIDA**  
**CONSOLIDATED UTILITY REVENUE BONDS, SERIES 2020**

**INTRODUCTION**

This introduction is subject in all respects to the more complete information and definitions contained or incorporated in this Official Statement and should not be considered to be a complete statement of the facts material to making an investment decision. The offering by the City of Lake Worth Beach, Florida (the "City") of its § \_\_\_\_\_\* City of Lake Worth Beach, Florida Consolidated Utility Revenue Bonds, Series 2020 (the "2020 Bonds") to potential investors is made only by means of the entire Official Statement, including all appendices attached hereto. The City changed its name from "Lake Worth" to "Lake Worth Beach" in 2019.

The 2020 Bonds are being issued for the purposes of (i) financing the acquisition, construction and equipping of certain improvements and additions (the "Project," as more fully described herein) to the consolidated electric, water and sewer utility system currently owned and operated by the City (the "System"), (ii) repaying certain existing indebtedness and (iii) paying the costs of issuance of the 2020 Bonds.

The 2020 Bonds are being issued pursuant to Chapter 166, Part II, Florida Statutes, the City Charter, the Constitution of the State of Florida, and Resolution No. 45-2020, adopted by the City Commission of the City on October 6, 2020, as amended and supplemented from time to time (the "Resolution"). All capitalized undefined terms used herein shall have the meaning ascribed thereto in the Resolution. See "APPENDIX B -- FORM OF THE RESOLUTION."

The 2020 Bonds and the interest thereon are payable solely from and secured by a lien upon and pledge of the "Pledged Funds", consisting of (1) the Net Revenues of the System and (2) until applied in accordance with the provisions of the Resolution, all moneys, including investments thereof, in the funds and accounts established thereunder, except (A) the Rebate Fund, (B) to the extent moneys therein shall be required to pay the Operating Expenses of the System in accordance with the terms thereof, and (C) any moneys set aside in a particular subaccount of the Reserve Account if such moneys shall be pledged solely for the payment of a Series of Bonds for which it was established in accordance with the provisions of the Resolution. The 2020 Bonds and any Additional Bonds hereafter issued pursuant to the Resolution are referred to herein collectively as the "Bonds." See "SECURITY FOR THE BONDS", herein. This Official Statement speaks only as of its date and the information contained herein is subject to change. All documents of the City referred to herein, including copies of the audited financial statements of the City, may be obtained from Deborah M. Andrea, City Clerk, 7 North Dixie Highway, Lake Worth Beach, Florida 33460.

\_\_\_\_\_  
\*Preliminary, subject to change.

## PLAN OF REFUNDING

A portion of the net proceeds of the 2020 Bonds will be applied, together with certain other available funds, to refund and redeem the City's Utility System Refunding Revenue Bond, Series 2013 (the "Refunded 2013 Bond") and the City's obligations under a Master Lease-Purchase Agreement dated September 27, 2015 (the "Refunded Lease-Purchase Obligation" and, collectively with the Refunded 2013 Bond, the "Refunded Indebtedness"). [Such funds will either be held uninvested or applied to the purchase of obligations of the United States of America (the "Federal Securities"), as more fully defined in the Resolution, the maturing principal of and interest on which when due, together with any amounts remaining uninvested, will provide moneys sufficient to pay when due the principal of and interest on the Refunded 2013 Bond and Refunded Lease-Purchase Obligation, respectively, upon the redemption thereof as described below.

The City will enter into separate irrevocable escrow deposit agreements (the "Escrow Agreements") with U.S. Bank National Association, as escrow agent (the "Escrow Agent") relating to the refunding of the Refunded 2013 Bond and the Refunded Lease-Purchase Obligation. Pursuant to the terms of the Escrow Agreements, the City will deposit with the Escrow Agent a portion of the proceeds of the 2020 Bonds, together with certain other available funds. Such funds, other than uninvested moneys, will be applied to purchase the Federal Securities. The Federal Securities and uninvested moneys will be deposited in separate escrow funds (the "Escrow Accounts") created under the Escrow Agreements. The Refunded 2013 Bond will be irrevocably called for redemption on \_\_\_\_\_, \_\_\_\_\_, on which date the proceeds of the Federal Securities and the uninvested moneys held under the Escrow Agreement with respect thereto will be applied to pay the principal of and interest due on the Refunded 2013 Bond to the date of redemption. The Refunded Lease-Purchase Obligation will be prepaid on [December 17, 2020].

In the opinion of Bond Counsel, in reliance on the covenants, agreements and other obligations of the City under the resolution authorizing the same, the Refunded 2013 Bond will be discharged and extinguished upon the issuance of the 2020 Bonds by the City, the deposit of sufficient proceeds of the 2020 Bonds with the Escrow Agent, and the deposit and purchase of United States Obligations under the Escrow Agreement with respect thereto for the payment of all of the principal of and interest on the Refunded 2013 Bond to the date of redemption.

Moneys held by the Escrow Agent will not be used to pay debt service on the 2020 Bonds.

The accuracy of (a) the arithmetical computations of the adequacy of the maturing principal and interest of the United States Obligations held pursuant to the Escrow Agreement related to the Refunded 2013 Bond, together with initial cash balances, to pay when due or upon earlier redemption, the principal of, redemption premium, if any, and interest on the Refunded 2013 Bond, and (b) the mathematical computations supporting the conclusion that the 2020 Bonds are not "arbitrage bonds" under the Code, will be verified by \_\_\_\_\_ as verification agent (the "Verification Agent"). Such verifications will be based upon certain public information supplied to the Verification Agent by or on behalf of the City.]

## DESCRIPTION OF THE 2020 BONDS

### General

The 2020 Bonds will be dated their date of delivery and will mature in the years, and in the amounts and bear interest at the rates and be payable on the dates set forth on the cover page hereof. The 2020 Bonds will be issued in fully registered form, initially registered in the name of Cede & Co., as nominee of DTC. Individual purchases will be made in book-entry form only in denominations of \$5,000 and any integral multiple thereof. Beneficial Owners will not receive physical delivery of the 2020 Bonds. Transfer of ownership in the 2020 Bonds will be effected by DTC's book-entry system, as described herein. As long as Cede & Co. is the Registered Holder as nominee of DTC, principal and interest payments will be made directly to such Registered Holder which will in turn remit such payments to the Participants (as hereinafter defined) for subsequent disbursement to the Beneficial Owners.

Interest on the 2020 Bonds will be payable commencing April 1, 2021 and semiannually on each April 1 and October 1 thereafter (each an "Interest Date") and will be payable by check or draft drawn on the Paying Agent mailed to the Registered Holder, as shown on the registration books of the City maintained by the Bond Registrar on the fifteenth day of the month prior to each Interest Date, whether or not such day is a Business Day, or, at the option of the Paying Agent, and at the request and expense of the Registered Holder, by bank wire transfer for the account of such Registered Holder. The principal of and premium, if any, on the 2020 Bonds is payable at maturity or redemption to the Registered Holder at the designated corporate trust office of the Paying Agent.

### Book-Entry Only System

*The information provided immediately below concerning DTC and the Book-Entry Only System has been obtained from DTC and is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Underwriters, the City or the Paying Agent.*

Unless the book-entry system described herein is terminated, DTC will act as securities depository for the 2020 Bonds. The 2020 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One or more fully-registered bond certificates will be issued for the 2020 Bonds, and will be deposited with the Paying Agent on behalf of DTC. Individual purchases of beneficial interests in the 2020 Bonds will be made in increments of \$5,000 or integral multiples thereof.

DTC and its Participants. DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also

facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others, such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's Rating of AA+. The DTC rules applicable to its Direct and Indirect Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com). The contents of such website do not constitute a part of this Official Statement.

Purchases. Purchases of the 2020 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2020 Bonds on DTC's records. The ownership interest of each actual purchaser of each 2020 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchases. Beneficial Owners are, however, expected to receive written confirmations providing details of the transactions, as well as periodic statements of their holdings, from the Direct or Indirect Participants through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2020 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the 2020 Bonds, except in the event that use of the book-entry system for the 2020 Bonds is discontinued.

Transfers. To facilitate subsequent transfers, all 2020 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the 2020 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2020 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such 2020 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Notices. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the 2020 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the 2020 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the bond documents. For example, Beneficial Owners of the 2020 Bonds may wish to ascertain that the nominee holding the 2020 Bonds for their benefit has agreed to obtain and transmit notices to

Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Paying Agent and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the 2020 Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the 2020 Bonds unless authorized by a Direct Participant in accordance with DTC's procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the 2020 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

NEITHER THE CITY NOR THE PAYING AGENT WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE PAYMENTS TO OR THE PROVIDING OF NOTICE FOR THE DTC PARTICIPANTS, THE INDIRECT PARTICIPANTS OR THE BENEFICIAL OWNERS OF THE 2020 BONDS. THE CITY CANNOT PROVIDE ANY ASSURANCE THAT DTC, DIRECT PARTICIPANTS OR OTHERS WILL DISTRIBUTE PAYMENTS OF PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE 2020 BONDS PAID TO DTC OR ITS NOMINEE, AS THE REGISTERED HOLDER, OR ANY NOTICES TO THE BENEFICIAL OWNERS OR THAT THEY WILL DO SO ON A TIMELY BASIS, OR THAT DTC WILL ACT IN THE MANNER DESCRIBED IN THIS OFFICIAL STATEMENT.

Payments. Payments on the 2020 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Paying Agent on the relevant payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Paying Agent or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

Discontinuance of Book-Entry-Only System. DTC may discontinue providing its services as depository with respect to the 2020 Bonds at any time by giving reasonable notice to the City or the Paying Agent. Under such circumstances, in the event that a successor depository is not obtained, certificated 2020 Bonds are required to be printed and delivered to the holders of record.

The City may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository) with respect to the 2020 Bonds. Under current industry practices, however, DTC would notify its Direct or Indirect Participants of the City's decision but



will only withdraw beneficial interests from a 2020 Bond at the request of any Direct or Indirect Participant. In that event, certificates for the 2020 Bonds will be printed and delivered.

### **No Assurance Regarding DTC Practices**

So long as Cede & Co. is the Registered Holder of the 2020 Bonds as nominee of DTC, references herein to the holders or Registered Holders of the 2020 Bonds will mean Cede & Co. and will not mean the Beneficial Owners of the 2020 Bonds.

None of the City, the Paying Agent or the Underwriters will have any responsibility or obligation to the Participants, DTC or the persons for whom they act with respect to (i) the accuracy of any records maintained by DTC or by any Direct or Indirect Participant of DTC, (ii) payments or the providing of notice to the Direct Participants, the Indirect Participants or the Beneficial Owners, (iii) the selection by DTC or by any Direct or Indirect Participant of any Beneficial Owner to receive payment in the event of a partial redemption of the 2020 Bonds or (iv) any other action taken by DTC or its partnership nominee as owner of the 2020 Bonds.

### **Exchange and Transfer**

*The following provisions shall only be applicable if DTC's book-entry system of registration is discontinued.*

Each 2020 Bond shall be transferable only upon the books of the City, at the office of the Registrar, under such reasonable regulations as the City may prescribe, by the Holder thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed and guaranteed by the Holder or his duly authorized attorney. Upon the transfer of any such Bond, the City shall issue, and cause to be authenticated, in the name of the transferee a new Bond or Bonds of the same aggregate principal amount and Series and maturity as the surrendered Bond.

For every such exchange or transfer of Bonds, the City or the Registrar may make a charge sufficient to reimburse it for any tax, fee, expense or other governmental charge required to be paid with respect to such exchange or transfer, but no other charge shall be made to any owner of Bonds for the privilege of exchanging or registering the transfer of Bonds under the provisions of the Resolution. The City and the Registrar shall not be obligated to make any such exchange or transfer of Bonds of any Series during the 15 days next preceding an Interest Date on the Bonds of such Series (other than Capital Appreciation Bonds and Variable Rate Bonds), or, in the case of any proposed redemption of Bonds of such Series, then, for the Bonds subject to redemption, during the 15 days next preceding the date of the first mailing of notice of such redemption and continuing until such redemption date.

## **Optional Redemption**

The 2020 Bonds maturing on and prior to October 1, \_\_\_\_\_ are not subject to optional redemption prior to their respective dates of maturity. The 2020 Bonds maturing on and after October 1, \_\_\_\_\_ are subject to redemption at the option of the City on and after October 1, \_\_\_\_\_ in whole or in part at any time, in such manner as shall be determined by the City and within a maturity as determined by the City or at its direction the Paying Agent, at a redemption price (plus accrued interest to the date fixed for redemption) equal to the principal amount thereof and without premium.

## **Mandatory Redemption**

The 2020 Bonds maturing on October 1, \_\_\_\_\_ are subject to mandatory sinking fund redemption prior to maturity, in part by lot on October 1, \_\_\_\_\_ and each October 1 thereafter at a redemption price equal to the principal amount thereof being so redeemed and accrued interest thereon to the date fixed for redemption, without premium, from Sinking Fund Installments in the amounts set forth below:

<u>Year</u>	<u>Sinking Fund Installment</u>
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\* Maturity

## **Notice and Effect of Redemption**

Notice of any redemption of Bonds, which shall specify the Bond or Bonds (or portions thereof) to be redeemed and the date and place for redemption, shall be given by the Registrar on behalf of the City, and (A) shall be filed with the Paying Agents of such Bonds, (B) shall be mailed first class, postage prepaid, not less than 30 days nor more than 45 days prior to the redemption date to all Holders of Bonds to be redeemed at their addresses as they appear on the registration books kept by the Registrar as of the date of mailing of such notice, and (C) shall be mailed, certified mail, postage prepaid, at least 35 days prior to the redemption date to the registered securities depositories and one or more nationally recognized municipal bond information services as hereinafter provided in the Resolution. Failure to mail such notice to such depositories or services or the Holders of the Bonds to be redeemed, or any defect therein, shall not affect the proceedings for redemption of Bonds as to which no such failure or defect has occurred. Failure of any Holder to receive any notice mailed as provided in the Resolution shall not affect the proceedings for redemption of such Holder's Bonds.

Each notice of redemption shall state: (1) the CUSIP numbers and any other distinguishing number or letter of all Bonds being redeemed, (2) the original issue date of such Bonds, (3) the maturity date and rate of interest borne by each Bond being redeemed, (4) the redemption date, (5) the Redemption Price, (6) the date on which such notice is mailed, (7) if less than all Outstanding Bonds are to be redeemed, the certificate number (and, in the case of a partial redemption of any Bond, the principal amount) of each Bond to be redeemed, (8) that on such redemption date there

shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued thereon to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable, (9) that the Bonds to be redeemed, whether as a whole or in part, are to be surrendered for payment of the Redemption Price at the designated office of the Registrar at an address specified, (10) the name and telephone number of a person designated by the Registrar to be responsible for such redemption, (11) unless sufficient funds have been set aside by the City for such purpose prior to the mailing of the notice of redemption, that such redemption is conditioned upon the deposit of sufficient funds for such purpose on or prior to the date set for redemption, and (12) any other conditions that must be satisfied prior to such redemption.

## **SECURITY FOR THE BONDS**

### **General**

The principal of and premium, if any, and interest on the 2020 Bonds will be payable solely from and secured by a first lien upon and a pledge of the "Pledged Funds", consisting of (1) the Net Revenues of the System, and (2) until applied in accordance with the provisions of the Resolution, all moneys, including investments thereof, in the funds and accounts established thereunder, except (A) the Rebate Fund, (B) to the extent moneys therein shall be required to pay the Operating Expenses of the System in accordance with the terms thereof, and (C) any moneys set aside in a particular subaccount of the Reserve Account if such moneys shall be pledged solely for the payment of a Series of Bonds for which it was established in accordance with the provisions of the Resolution (collectively, the "Pledged Funds").

"Gross Revenues" is defined in the Resolution to mean all income and moneys received by the City from the rates, fees, rentals, charges and other income to be made and collected by the City for the use of the products, services and facilities to be provided by the System, or otherwise received by the City or accruing to the City in the management and operation of the System, calculated in accordance with generally accepted accounting principles applicable to public utility systems similar to the System, including, without limiting the generality of the foregoing, (1) proceeds from use and occupancy insurance on the System, (2) Investment Earnings, and (3) Operating Government Grants. "Gross Revenues" shall not include (A) Capital Government Grants, (B) proceeds of Bonds or other City debt, (C) moneys deposited to the Rate Stabilization Fund from the Utility Reserve Fund, (D) Connection Fees, (E) proceeds of Special Assessments, and (F) any gain resulting from the valuation of investment securities or Hedge Agreements at market value and any other gain that does not require or result in the receipt of cash.

"Net Revenues" is defined in the Resolution to mean the Gross Revenues of the System less Operating Expenses.

"Operating Expenses" shall mean the City's expenses for operation, maintenance and repairs with respect to the System and shall include, without limiting the generality of the foregoing, administration and other indirect expenses of the City related and apportioned to the System, payments for the purchase of materials essential to or used in the operation of the System, including

bulk purchases of water, sewage or electric services, fees for the management of the System or any portion thereof, accounting, legal and engineering expenses, ordinary and current rentals of equipment or other property, refunds of moneys lawfully due to others, payments to others for disposal of sewage or other wastes, payments to pension, retirement, health and hospitalization funds, and any other expenses required to be paid for or with respect to proper operation or maintenance of the System, including appropriate reserves therefor, all to the extent properly attributable to the System in accordance with generally accepted accounting principles applicable to public utility systems similar to the System, and disbursements for the expenses, liabilities and compensation of any Paying Agent or Registrar under the Resolution, but does not include any costs or expenses in respect of original construction or improvement other than expenditures necessary to prevent an interruption or continuance of an interruption of service or of Gross Revenues or minor capital expenditures necessary for the proper and economical operation or maintenance of the System, or any payments in lieu of taxes or franchise fees made to the City's general fund, or any provision for interest, depreciation, amortization or similar charges, any non-cash charges, or any loss resulting from the valuation of investment securities or Hedge Agreements at market value and any other loss that does not require or result in the expenditure of cash.

The City is not obligated to pay the 2020 Bonds or the interest thereon except from the Pledged Funds, and neither the full faith and credit nor the taxing power of the City is pledged for the payment of the 2020 Bonds. The 2020 Bonds shall not constitute a lien upon the System, or any part thereof, or any other property of the City, nor shall they constitute a general indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations. No Registered Holder shall ever have the right to compel the exercise of the ad valorem taxing power of the City for the payment of the principal of, premium, if any, and interest on the 2020 Bonds, which shall be payable solely from the Pledged Funds.

### **Reserve Account**

The Resolution requires the City to maintain a Reserve Account equal to the Reserve Requirement, which is defined in the Resolution to mean, as of any date of calculation, the lesser of (i) Maximum Annual Debt Service for all Outstanding Bonds secured thereby, (ii) 125% of the average Annual Debt Service for all Outstanding Bonds secured thereby, or (iii) the maximum amount of Bond proceeds which may be deposited to the Reserve Account without subjecting the same to yield restriction under the Code, or causing interest on any of the Bonds secured thereby (other than Taxable Bonds) to be included in gross income for purposes of federal income taxation or otherwise violating applicable provisions of the Code; provided, however, the City may establish by Supplemental Resolution a different Reserve Account Requirement with respect to any particular Series of Bonds pursuant to the Resolution, which Reserve Account Requirement may be \$0.00. The City intends to fund the Reserve Requirement for a separate subaccount of the Reserve Account applicable to the 2020 Bonds either with 2020 Bond proceeds or a Reserve Account Insurance Policy, such determination to be made at the time of pricing.

### **Rate Covenant**

In the Resolution, the City has covenanted to at all times fix, establish, maintain and collect such rates, fees and charges for the product, services and facilities of the System, and revise the same

from time to time, whenever necessary, so as always to provide (A) Net Revenues in each Fiscal Year (excluding from the computation of Operating Expenses for any Fiscal Year any amount received from any source other than Gross Revenues and applied to the payment of Operating Expenses in such Fiscal Year) equal to at least (1) 120% of the Annual Debt Service becoming due in such Fiscal Year, plus (2) 105% of debt service in such Fiscal Year on all Subordinated Indebtedness, plus (3) 100% of (i) any amounts required by the terms of the Resolution to be deposited in the Reserve Account or with any issuer of a Reserve Account Letter of Credit or Reserve Account Insurance Policy in such Fiscal Year to pay Policy Costs, and (ii) all required deposits during such Fiscal Year to the Renewal and Replacement Fund.

Such rates, fees or other charges shall not be reduced so as to be insufficient to provide adequate Net Revenues for the purposes provided therefor by the Resolution.

If, in any Fiscal Year, the City shall fail to comply with the requirements described above, it shall promptly cause the Rate Consultant to review its rates, fees, charges, income, Gross Revenues, Operating Expenses, and methods of operation and to make written recommendations in a timely manner as to the methods by which the City may seek to comply with the requirements described above. The City is required to forthwith commence to implement such recommendations to the extent required so as to cause it to thereafter comply with said requirements. So long as the City implements such recommendations within 120 days of the receipt thereof, the City's failure to comply with the foregoing requirements shall not be considered an Event of Default under the Resolution, so long as the Gross Revenues, together with moneys in the Funds and Accounts created under the Resolution and available for the purposes described therein, are sufficient to pay in cash the Operating Expenses and Annual Debt Service for such Fiscal Year.

Anything in the Resolution to the contrary notwithstanding, if the City shall fail to comply with the recommendations of the Rate Consultant described in the Resolution, the registered owners of not less than ten percent (10%) in principal amount of all Bonds then Outstanding may institute and prosecute an action or proceeding in any court or before any board or commission having jurisdiction to compel the City to comply with the recommendations and the requirements of the Resolution. So long as the issuer of a Bond Insurance Policy or Credit Facility issued for the benefit of any Outstanding Bonds shall not be in default in its payments obligations under such Bond Insurance Policy or Credit Facility, the Insurer or Credit Bank, as applicable, shall be deemed to be the registered owner of all Bonds covered by the applicable Bond Insurance Policy or Credit Facility for purposes of this paragraph.

### **Rate Stabilization Fund**

The Resolution establishes a Rate Stabilization Fund, into which the City may transfer such moneys which are on deposit in the Utility Reserve Fund as it deems appropriate; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), moneys in the Rate Stabilization Fund shall be applied for the payment into the Interest Account, the Principal Account and the Term Bonds Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent moneys transferred from the Utility Reserve Fund and Renewal and Replacement Fund for such purposes pursuant to the

Resolution, together with moneys available in the Reserve Account for such purpose, shall be inadequate to fully provide for such insufficiency.

### **Issuance of Additional Bonds**

No Additional Bonds, payable on a parity with the Bonds then Outstanding pursuant to the Resolution, shall be issued except upon the conditions and in the manner provided in the Resolution. The City may issue one or more Series of Additional Bonds for any one or more of the following purposes: (i) financing or refinancing the Cost of a Project, or the completion thereof, or (ii) refunding any or all Outstanding Bonds, any Subordinated Indebtedness of the City, or any other indebtedness of the City that it may lawfully refund with proceeds of Bonds.

No such Additional Bonds shall be issued unless the following conditions are complied with:

(A) Except in the case of Additional Bonds issued for the purpose of refunding Outstanding Bonds, the City shall certify that it is current in all deposits into the various funds and accounts established by the Resolution and all payments theretofore required to have been deposited or made by it under the provisions of the Resolution, including a certification that all due and payable Policy Costs have been deposited or made, and the City is in compliance with the covenants and agreements of the Resolution, or if not in compliance, that the issuance of such Additional Bonds will create such compliance.

(B) An independent certified public accountant or the Rate Consultant shall certify to the City that the amount of the Net Revenues (excluding Investment Earnings with respect to the Construction Fund) received by the City during the immediately preceding Fiscal Year or any 12 consecutive months selected by the City of the 24 months immediately preceding the issuance of said Additional Bonds, adjusted as hereinafter provided, were equal to at least (1) 120% of the Maximum Annual Debt Service of the Outstanding Bonds and the Additional Bonds then proposed to be issued, plus (2) 105% of any debt service during such 12-month period on Subordinated Indebtedness, plus (3) 100% of (a) any amounts required by the terms of the Resolution to be deposited in the Reserve Account or with any issuer of a Reserve Account Letter of Credit or Reserve Account Insurance Policy to pay any Policy Costs, and (b) all required deposits to the Renewal and Replacement Fund during such 12-month period.

(C) The Net Revenues calculated pursuant to the foregoing may be adjusted upon the written advice of the Rate Consultant, at the option of the City, as follows:

(1) If the City, prior to the issuance of the proposed Additional Bonds, shall have increased the rates, fees or other charges for the product, services or facilities of the System, the Net Revenues for the 12 consecutive months shall be adjusted to show the Net Revenues which would have been derived from the System in such 12 consecutive months as if such increased rates, fees or other charges for the product, services or facilities of the System had been in effect during all of such 12 consecutive months.

(2) If the City shall have acquired or has contracted to acquire any privately or publicly owned existing utility system that will become part of the System, the cost of which shall be

paid from all or part of the proceeds of the issuance of the proposed Additional Bonds, then the Net Revenues derived from the System during the 12 consecutive months shall be increased by adding to the Net Revenues for said 12 consecutive months the Net Revenues which would have been derived from said existing utility system as if such existing utility system had been a part of the System during such 12 consecutive months. For the purposes of this paragraph, the Net Revenues derived from said existing utility system during such 12 consecutive months shall be adjusted to determine such Net Revenues by deducting the cost of operation and maintenance of said existing utility system from the gross revenues of said system. Such Net Revenues shall take into account any increase in rates imposed on customers of such utility system on or prior to the acquisition thereof by the City.

(3) If the City, in connection with the issuance of Additional Bonds, shall enter into a contract (with a duration not less than the final maturity of such Additional Bonds) with any public or private entity whereby the City agrees to furnish services in connection with any utility system, then the Net Revenues of the System during the 12 consecutive months shall be increased by the least amount which said public or private entity shall guarantee to pay in any one year for the furnishing of said services by the City, after deducting therefrom the proportion of operating expenses and repair, renewal and replacement cost attributable in such year to such services.

(4) In the event the City shall be constructing or acquiring additions, extensions or improvements to the System from the proceeds of such Additional Bonds and shall have established fees, rates or charges to be charged and collected from users of such facilities when service is rendered, such Net Revenues for the 12 consecutive months may be adjusted by adding thereto 100% of the Net Revenues estimated by the Rate Consultant to be derived during the first 12 months of operation after completion of the construction or acquisition of said additions, extensions and improvements from the customers of the facilities to be financed by Additional Bonds, together with other funds on hand or lawfully obtained for such purpose; provided, such customers must represent existing occupied structures that will be added to the System upon completion of the proposed additions, extensions or improvements.

(5) If the City shall add new customers subsequent to the commencement of the 12 consecutive months, the Rate Consultant may adjust the Net Revenues to reflect the Net Revenues that would have been received by the City if such customers had been in place for the entire 12 consecutive months.

(6) The Net Revenues shall be adjusted for any period the System or any portion thereof was not owned by the City to reflect government ownership of the System or such portion.

(D) In the event any Additional Bonds are issued for the purpose of refunding any Bonds then Outstanding, the conditions described above shall not apply, provided that the issuance of such Additional Bonds shall result in a reduction of Debt Service. The conditions described above shall apply to Additional Bonds issued to refund Subordinated Indebtedness and to Additional Bonds issued for refunding purposes which cannot meet the conditions of this paragraph.

(E) In connection with the issuance of any Series of Additional Bonds, the City shall receive an opinion of the City Attorney of the City or Bond Counsel that the issuance of such

Additional Bonds has been duly authorized and that all legal requirements constituting a condition precedent to the delivery of such Additional Bonds have been fulfilled.

The Resolution provides that the initial purchasers of Additional Bonds shall be deemed to have consented in writing to any amendments to the Resolution that are to become effective on or after the issuance of such Additional Bonds in accordance with the Resolution if the proposed amendments are reasonably disclosed in the offering documentation prepared and distributed in connection with the issuance of such Additional Bonds and the related Supplemental Resolution provides that such initial purchasers have so consented through their purchase.

As set forth in the Financial Feasibility Report attached hereto as APPENDIX G, the City anticipates issuing an estimated \$61 million in Additional Bonds to fund improvements to the System over the next five years.

### **Other Covenants of the City**

In addition to the covenants set forth above, the City has covenanted in the Resolution to operate and maintain the System in good condition and in an efficient and economical manner; to keep books and records of the System, separate and apart from all other books, records and accounts of the City; to at least once a year cause the books, records and accounts of the System to be properly audited by a recognized firm of certified public accountants; not to sell, lease or encumber or in any manner dispose of the System except within the parameters set forth in the Resolution; to make adequate provision for insurance with respect to the System; to not provide free or unmetered service; to provide for mandatory connection to the water and sewer portions of the System, to the extent permitted by law; to diligently enforce collections; to not permit any competing system; to retain a Consulting Engineer, and to have an inspection of the System at least once every two Fiscal Years. See "APPENDIX B -- FORM OF THE RESOLUTION," for a more complete description of the foregoing covenants.

### **Flow of Funds**

The City is required by the Resolution to deposit promptly, as received, all Gross Revenues into the Revenue Fund.

Moneys in the Revenue Fund shall first be used each month to deposit in the Operation and Maintenance Fund such sums as are necessary to pay Operating Expenses for the ensuing month; provided the City may transfer moneys from the Revenue Fund to the Operation and Maintenance Fund at any time to pay Operating Expenses to the extent there is a deficiency in the Operation and Maintenance Fund for such purpose. Amounts in the Operation and Maintenance Fund shall be paid out from time to time by the City for Operating Expenses, including any expenses relating to the purchase or redemption of Term Bonds as provided in the Resolution.

Any deposits remaining in the Revenue Fund after the aforementioned transfers to the Operation and Maintenance Fund shall be disposed of by the City on or before the 25th day of each month, commencing in the month immediately following the delivery of any of the Bonds to the purchasers thereof, or such later date as provided in the Resolution, in the following manner and in the following order of priority:



Interest Account. The City shall deposit or credit to the Interest Account the sum which, together with the balance in said Account, shall equal the interest on all Bonds Outstanding (except as to Capital Appreciation Bonds) accrued and unpaid and to accrue to the end of the then current calendar month.

Principal Account. Commencing in the month which is one year prior to the first principal payment date, the City shall next deposit into the Principal Account the sum which, together with the balance in said Account, shall equal the principal amounts on all Bonds Outstanding accrued and unpaid and that portion of the principal next due which would have accrued on such Bonds during the then current calendar month if such principal amounts were deemed to accrue monthly (assuming that a year consists of 12 equivalent calendar months having 30 days each) except for the Sinking Fund Installments to be deposited as described below, in equal amounts from the next preceding principal payment due date, or, if there be no such preceding payment due date, from a date no later than one year preceding the due date of such principal amount.

Term Bonds Redemption Account. Commencing in the month which is one year prior to the first Sinking Fund Installment due date, there shall be deposited to the Term Bonds Redemption Account the sum which, together with the balance in such Account, shall equal the Sinking Fund Installments on all Bonds Outstanding accrued and unpaid and that portion of the Sinking Fund Installments of all Bonds Outstanding next due which would have accrued on such Bonds during the then current calendar month if such Sinking Fund Installments were deemed to accrue monthly (assuming that a year consists of 12 equivalent calendar months having 30 days each) in equal amounts from the next preceding Sinking Fund Installment due date, or, if there is no such preceding Sinking Fund Installment due date, from a date not later than one year preceding the due date of such Sinking Fund Installment.

Reserve Account. There shall next be deposited to the Reserve Account an amount which would enable the City to restore the funds on deposit in the Reserve Account to an amount equal to the Reserve Account Requirement applicable thereto. Amounts on deposit in the Reserve Account shall be used to pay principal of and interest on the Bonds when amounts on deposit in the Interest Account, Principal Account and Term Bonds Redemption Account are insufficient thereof. The Resolution provides the ability of the City to establish separate subaccounts within the Reserve Account to secure a single series of Bonds, and the City has established a Series 2020 Account securing the 2020 Bonds. See "SECURITY FOR THE BONDS – Reserve Account," herein. The Resolution also permits the City to meet the Reserve Requirement by deposit therein of a Reserve Account Insurance Policy or Reservice Account Letter of Credit. See "APPENDIX B -- FORM OF THE RESOLUTION", herein.

Renewal and Replacement Fund. There shall be deposited to the Renewal and Replacement Fund monthly such sums as shall be sufficient to pay 1/12 of the Renewal and Replacement Fund Requirement until the amount accumulated in such Fund is equal to the Renewal and Replacement Fund Requirement, taking into account the market value of investments in such Fund; provided, however, that (a) such Renewal and Replacement Fund Requirement may be increased or decreased as the Consulting Engineers shall certify to the City is necessary for the purposes of the Renewal and Replacement Fund, and (b) in the event that the Consulting Engineers shall certify that the Renewal

and Replacement Fund Requirement is excessive for the purposes of the Renewal and Replacement Fund, such excess amount as may be on deposit therein may be transferred by the City from the Renewal and Replacement Fund for deposit into the Utility Reserve Fund. The moneys in the Renewal and Replacement Fund shall be applied by the City for the purpose of paying the cost of major extensions, improvements or additions to, or the replacement or renewal of capital assets of, the System, or extraordinary repairs of the System; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), moneys in the Renewal and Replacement Fund shall be applied for the payment into the Interest Account, the Principal Account, and the Term Bonds Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent moneys transferred from the Utility Reserve Fund for such purpose, together with moneys available in the Reserve Account for such purpose, shall be inadequate to fully provide for such insufficiency. The Resolution defines Renewal and Replacement Requirement as, on the date of calculation, an amount of money equal to (1) five percent of the Gross Revenues received by the City in the immediately preceding Fiscal Year, or (2) such greater or lesser amount as may be certified to the City by the Consulting Engineers as an amount appropriate for the purposes of the Resolution. The Renewal and Replacement Requirement is expected to be fully funded at the time of issuance of the 2020 Bonds.

Subordinated Indebtedness. Gross Revenues in the Revenue Fund shall next be applied by the City for the payment of any accrued debt service on Subordinated Indebtedness incurred by the City in connection with the System and in accordance with the proceedings authorizing such Subordinated Indebtedness.

Sinking Fund. There shall be deposited to the Interest Account, the Principal Account and the Term Bonds Redemption Account, in that order, sufficient moneys such that the amounts on deposit therein shall equal, respectively, the interest, principal and Sinking Fund Installment next coming due on the Bonds Outstanding; provided, however, no deposit need be made to the Principal Account or Term Bonds Redemption Account until a date one year preceding the due date of such principal amount or Sinking Fund Installment.

Utility Reserve Fund. The balance of any Gross Revenues remaining in said Revenue Fund shall be deposited in the Utility Reserve Fund and applied to the payment, on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), into the Interest Account, the Principal Account and the Term Bonds Redemption Account when the moneys therein shall be insufficient to pay the principal of and interest on the Bonds coming due. Moneys not required to meet such a deficiency shall be deposited to the Reserve Account to make up any deficiency therein, and thereafter to the Rebate Fund to the extent moneys are required to be deposited therein. Thereafter, moneys in the Utility Reserve Fund may be applied for (a) the purchase or redemption of Bonds, (b) payment of Subordinated Indebtedness, (c) payment of other obligations incurred with respect to the System, (d) deposit to the Rate Stabilization Fund, (e) improvements, renewals and replacements to the System or (f) any lawful purpose of the City, up to a maximum amount with respect to clause (f) of 10% of the Gross Revenues of the System for such Fiscal Year.

## **Existing Indebtedness**

The City's only existing indebtedness secured by Net Revenues of the System consists of the Refunded 2013 Bond described above and certain Subordinate Indebtedness consisting of State Department of Environmental Protection ("DEP") Revolving Fund loans secured by water and sewer utility revenues, in the aggregate principal amount of \$14,415,802 (and for which approval for another \$3,019,951 has been received from DEP). As described above, the City has also entered into the Refunded Lease-Purchase Obligation, pursuant to which the City leases certain equipment and is required to appropriate legally available non-ad valorem revenues to make lease payments. Since the majority of such equipment is System-related, such payments have historically been made from System Net Revenues, although Net Revenues are not pledged to secure such payment. Both the Refunded 2013 Bond and Refunded Lease-Purchase Obligation will be prepaid in full from amounts derived from proceeds of the 2020 Bonds. See "PLAN OF REFUNDING" herein.

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## ESTIMATED SOURCES AND USES OF FUNDS

The proceeds to be received from the sale of the 2020 Bonds shall be applied, together with certain other moneys, as follows:

### SOURCES OF FUNDS:

Principal Amount of 2020 Bonds	\$
Net Reoffering Discount/Premium	
Debt Service Fund Transfers <sup>(1)</sup>	
TOTAL SOURCES OF FUNDS	\$

### USES OF FUNDS:

Deposit to Construction Fund	\$
Deposit to Escrow Agreements	
Costs of Issuance <sup>(2)</sup>	
TOTAL USES OF FUNDS	\$

<sup>(1)</sup> Represents amounts held to pay debt service on the Refunded Indebtedness.

<sup>(2)</sup> Includes underwriting discount, legal and financial advisory fees and expenses, and various other costs of issuance.

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## DEBT SERVICE SCHEDULE

The following table sets forth the debt service schedule for the 2020 Bonds.

Date (October 1)	Principal	Interest	Total
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
2039			
2040			
2041			
<b>Total</b>			

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## **THE SYSTEM**

The City of Lake Worth Beach owns and operates the System, consisting of the City's electric production and distribution, water and wastewater enterprise operations. The following sections describe each component (subsystem) of the System.

### **Consulting Engineer's Report and Financial Feasibility Report**

Stantec, the City's Consulting Engineer, has prepared an engineer's report (the "Consulting Engineer's Report") in connection with the electric portion of the System (see "APPENDIX F -- CONSULTING ENGINEER'S REPORT WITH RESPECT TO THE ELECTRIC UTILITY", herein) and a financial feasibility report (the "Financial Feasibility Report") in connection with the issuance of the 2020 Bonds (see "APPENDIX G -- FINANCIAL FEASIBILITY REPORT", herein).

### **Administration**

Michael Bornstein, City Manager of the City, has been politically and professionally involved in local government in Palm Beach County for over 25 years, starting as a County Commission aide in the late 1980's and then part of the County public affairs staff working on the legislative agenda. He was hired to head up the redevelopment efforts in the Town of Lantana as the Development Services Director in 1998 and was later selected to replace the outgoing Town Manager in 1999, where he served 12 years. In 2012 he was selected as the City Manager for the City of Lake Worth Beach and views his efforts in terms of a significant 'turn around' corporation. He has served on numerous advisory committees and boards over the years, including the City of West Palm Beach Audit Committee, the Solid Waste Authority Citizens Advisory Committee, the Palm Beach County Fire Rescue Advisory Committee and most recently was one of the League of Cities representatives on the Ethics Commission and Inspector General Ordinance Drafting Committee. He is a past president of the Palm Beach City Manager's Association.

Ed Liberty has served as the Electric Utility Director for the City since August 2017. In this role he leads all aspects of the electric utility's operations and business activities, including energy procurement and resource planning, power generation operations, transmission and distribution operations, materials management, revenue protection, and management of the City's customer service operations. Mr. Liberty also serves on the boards of the Florida Municipal Power Agency, the Florida Municipal Electric Association and Florida Gas Utility as the City's representative. Prior to joining the City, he was employed by Public Service Electric & Gas ("PSE&G") of Newark, New Jersey as Director of Utility Operations Services for the period of 2012 to 2017. Mr. Liberty had previously worked for PSE&G in various roles for sixteen years in the utility and non-utility electric generation and energy services business. Experience included multiple rotational assignments at both the field and corporate level across varied business units. His experience included roles in power plant operations and maintenance, owner's representation on joint-owned power plant assets, engineering, business planning, industrial customer retention, marketing and sales. From 2005 to 2012 Mr. Liberty served as Vice President of Dome-Tech, Inc. and a member of the company's executive committee. Dome-Tech was an energy consulting company providing industrial, large commercial, healthcare, higher education and public entities nationwide with assistance in improving energy efficiency and managing energy cost. During his tenure at Dome-Tech, the

company was acquired by United Technologies Corporation, where he worked until returning to PSE&G in 2012. From 1997 to 2005 Mr. Liberty worked for NUI Corporation, a natural gas utility holding company with operations in various states in the eastern U.S., including Florida. In this role he led the company's efforts to grow industrial customer sales and margins, the delivery of energy services and the expansion of natural gas distribution/transmission/storage infrastructure to serve markets in New Jersey, Florida, Maryland, North Carolina, Pennsylvania and New York. He was the developer of natural gas pipeline infrastructure projects in support of the corporation's energy hub strategy; projects included pipeline and natural gas storage assets. Mr. Liberty holds a Bachelor of Science degree in Mechanical Engineering from Newark College of Engineering at New Jersey Institute of Technology.

Brian Shields oversees the day to day operations of the City's water and sewer utilities and its stormwater utility, and is responsible for ongoing capital improvements, including renewal and replacement of the City's water treatment plant and replacement of the City's water distribution system. Mr. Shields obtained his Bachelor of Science Degree in Water Resources Engineering from the Pennsylvania State University and his Masters Degree in Public Administration from Florida Atlantic University. The first decade of his career was spent as a consulting engineer in the New York City Metropolitan area involved in numerous civil/water utility projects, from study through design and construction administration. Upon relocation to south Florida, he was a senior project manager/client services manager for a large international consulting firm, where he oversaw a multitude of large water utility projects for clients on the southeast coast of Florida, from Vero Beach to Key West. In this role he was also contracted to be the Utility Director/City Engineer for the Cities of Weston and Lauderhill in Broward County. For the public sector, Mr. Shields became the Deputy Utility Director for Palm Beach County and spent a decade in charge of overall master planning/engineering/capital improvements.

Bruce Miller has been finance director of the City since 2018. Previously he has served as finance director of the Cities of Annapolis, Maryland, Providence, Rhode Island, and several other municipalities in the northeast. Mr. Miller has a Bachelor of Science Degree in Accounting from the University of Baltimore, and is responsible for all accounting, budgeting and capital planning functions of the City. He's a member of the Government Finance Officers Association and has held numerous leadership position in municipal finance organizations.

## **The Electric Utility**

Service Area. The City's electric service area encompasses approximately 12 square miles, with nearly equal areas inside and outside the City limits. Approximately 75% of customers are within the City limits, with the remainder in the Village of Palm Springs municipal area (in which the City has a non-exclusive franchise to provide service through 2033) and portions of the Palm Beach County unincorporated area. The only neighboring utility is Florida Power & Light Company ("FPL"), an investor-owned utility, and the City and FPL have entered into a Territorial Agreement and Contract for Interchange Service, dated as of March 6, 1972, which sets forth their respective service areas. See "APPENDIX F -- CONSULTING ENGINEER'S REPORT WITH RESPECT TO THE ELECTRIC UTILITY" for a visual depiction of the City's electric service area.

Transmission and Distribution. The electric utility has a single 138KV radial transmission interconnection to the FPL Quantum-Hypoluxo and Cedar-Hypoluxo circuits, both located at the City's Hypoluxo switching station. The City's transmission system is comprised of 6.25-circuit miles of overhead 138KV line beginning at the Hypoluxo switching station. The City's transmission system provides service to two City-owned transmission substations (Main and Canal) where voltage is further reduced to 26KV and 4KV for distribution purposes, as well as providing transmission system access for the City-owned power plant and associated generation assets. The City utilizes 26KV as both a sub-transmission and distribution voltage with a system that is largely radial in design, with further transformation to 4KV at various substations located throughout the electric utility's service territory. As described below under the subheadings "—Generation" and "—Capital Improvement Plan", in that the loss of the FPL transmission interconnection poses risk to City ratepayers since the City's St. Lucie and Stanton energy as well as other power supplies would be prevented from serving the load in the City, a portion of the Project to be financed with proceeds of the 2020 Bonds consists of the construction of a second 138KV interconnection to the FPL network transmission system to improve reliability. In addition, also as described below, large portions of the City's distribution system are dated, and a large part of the electric utility capital improvement plan is to harden and improve such facilities so as to greatly improve system resilience and reliability.

FPL, the owner-operator of the electric transmission system serving large portions of the state of Florida, has requested that the Federal Energy Regulatory Commission ("FERC") approve its request to increase its transmission rates in recognition of completed and planned system improvements. The City's electric utility, represented by the Florida Municipal Power Agency ("FMPA") and together with numerous other municipal and cooperative utilities statewide, are currently in settlement negotiations with FPL and FERC staff. Related matters also being discussed include the City's request for the second point of interconnection described above to the FPL transmission system at the City's Canal Road switching station. Discussions are proceeding with FPL on the second interconnection, which if funded in part by FPL instead of the City would result in additional current dollars being available for other electric utility capital projects. (See "—Capital Improvement Plan" below.) A conceptual settlement of the rate case satisfactory to all parties (subject to final FERC approval) is expected by year-end 2020, with definitive agreements to follow.

The electric system is monitored and controlled via a supervisory control and data acquisition ("SCADA") system connected through FCC licensed radio frequency, with sharing of critical data with FPL and the Orlando Utilities Commission ("OUC") via leased telephone lines. System operators certified by the North American Electric Reliability Corporation ("NERC") monitor, control and coordinate operations of the system at the City's Energy Control Center.

Generation. The Lake Worth Beach electric generation capacity consists of sole ownership of its on-site generation units as well as its ownership interests in the FMPA nuclear St. Lucie Project and coal-fired Stanton I Project, and the FMPA Stanton II Project (where the City's ownership interest has been assigned to the Kissimmee Utility Authority ("KUA")). The City also has solar energy generating capacity through its ownership of a solar photovoltaic power plant atop a closed City-owned landfill, and participation in the FMPA's Municipal Solar I and Solar II Projects described below. The City is also a holder of a small amount of seasonal firm transportation capacity on the Florida Gas Transmission ("FGT") pipeline and a party to a gas transportation contract with Florida Public Utilities for dedicated sole use of a high pressure pipeline connecting



the City power plant to FGT.

*St. Lucie Power Sales and Project Contracts.*

Entitlement and Facility Description. The St. Lucie Unit #2 power plant, located on Hutchinson Island in St. Lucie County, Florida, is partly owned by FMPA and is operated by FPL. As a participant in the FMPA St. Lucie Project, the City's entitlement totals 22.2 megawatts (MW). In addition to the ownership of FMPA in St. Lucie Unit #2, the other co-owners of undivided ownership interests are FPL (85.104%) and OUC (6.089%). St. Lucie Unit #2 is a 984 MW pressurized water nuclear generating unit that is part of the two-unit St. Lucie nuclear generating station of FPL located on Hutchinson Island. The City is one of 14 members of FMPA that currently participate in the FMPA St. Lucie Project.

Key Contract Terms. Unless terminated pursuant to its terms, the contracts related to the FMPA St. Lucie Project will continue until the later of (i) the date the principal of, premium and interest on all related bonds have been paid or funds set aside for payment thereof, (ii) the date Unit #2 is decommissioned or finally disposed of, or (iii) the date all obligations of FMPA under its participation agreement with FPL have been paid. The City's entitlement share is equal to 24.87% of FMPA's 8.806% entitlement in St. Lucie Unit #2, and its share of the transmission services referenced therein.

*Stanton I and II Power Sales and Project Support Contracts.*

Entitlement and Facility Description. The City is a participant in the FMPA projects related to the Stanton coal units I and II located in Orlando, Florida, owned and operated by OUC. The City's share of FMPA's Stanton I entitlement totals 11.2 MW. The City's share of FMPA's Stanton II entitlement was assigned on July 26, 1995 to KUA, with the City retaining rights of first refusal should KUA ever try to sell the former Lake Worth share.

Key Contract Terms. Unless terminated pursuant to its terms, the Stanton I and Stanton II contracts will continue until the later of (i) the date the principal of, premium and interest on all related bonds have been paid or funds set aside for payment thereof, or (ii) the date the respective unit is decommissioned or finally disposed of, or (iii) the date all obligations of FMPA under its participation agreement with OUC have been paid. The City has a 16.26% entitlement share of FMPA's 14.8193% entitlement in Stanton I and rights of first refusal on KUA's 8.2443% share of FMPA's 15.9962% share of Stanton II.

*FMPA Solar Projects Participation.*

The City is committed to a path to significantly lowering its carbon footprint through the use of high efficiency electric generation resources and renewable resources. To that end, the City installed a 1.71 MW-AC solar photovoltaic power plant on a closed City-owned landfill and connected to a City 26 KV electric distribution circuit, with power production having begun in late 2017.

The City has also entered into the power sales agreement referenced above that provides it with a 10 MW-AC share of the FMPA Solar Project I, beginning in 2023. The FMPA Solar Project I is anticipated to operate over a period of 20 years, and holds a power purchase agreement with Pointsett Solar, LLC, a unit of Florida Renewable Partners and NextEra Florida Renewables, LLC, which intends to construct a 74.5 MW-AC solar photovoltaic power plant at a site in Osceola County, Florida which is interconnected to the Duke Energy transmission system. Pricing for power from the project has been publicly disclosed to be under \$40 per MWh with zero escalation, delivered to the Duke transmission system. Exact pricing remains a NextEra trade secret. The City is also a party to an Energy Exchange Agreement with the FMPA ARP that enables the City to exchange its energy entitlements as a FMPA Solar Project(s) participant on the Duke transmission system with like amounts of electric energy delivered on the FPL transmission system, thereby allowing the City to avoid transmission charges on the Duke transmission system.

Additionally, the City has entered into a power sales contract with the FMPA Solar Project II. FMPA Solar Project II is anticipated to begin operation in 2023 and operate over a period of 20 years. The City has committed to participate in the FMPA Solar Project II at an amount 26.55 MW. The FMPA Solar Project II will hold a power purchase agreement with FL Solar, LLC, a unit of Origis Energy, who intends to construct two 74.5 MW-AC solar photovoltaic power plants at sites in north-central Florida. Pricing for power from the project has been publicly disclosed to be under \$28 per MWh. Exact pricing remains a FL Solar, LLC trade secret. As with the FMPA Solar I project described above, the City is also a party to an Energy Exchange Agreement with the FMPA ARP that enables the City to exchange its energy entitlements as a FMPA Solar Project(s) participant on the Duke transmission system with like amounts of electric energy delivered on the FPL transmission system, thereby allowing the City to avoid transmission charges on the Duke transmission system.

The City intends to continue to explore additional sources of electric generation entitlements as may be in its strategic interests. Efforts currently underway include the exploration of options discussed below in regard to the existing power plant, additional solar photovoltaic systems directly connected to the City electric distribution system, the utilization of battery energy storage, and the importation of electric energy from ocean current energy projects powered by the Gulf Stream current.

The City's electric utility anticipates that beginning in 2024, greater than 50% of its energy supply will come from carbon-free resources, comprised of nuclear and solar energy. Furthermore, the City electric utility anticipates that the efforts to maximize the use of carbon-free resources will allow it to reduce its carbon emissions by more than 50% compared to 2005 levels.

*Orlando Utilities Commission Contract.* The City and OUC have entered into an Agreement for Base, Intermediate and Peaking Purchase and Sale of Electric Energy and Capacity ("the OUC Agreement") expiring December 31, 2022 with extension rights to December 31, 2025. Under this agreement OUC schedules and dispatches energy to the City to supplement energy supplied from the City's generation entitlements and schedules and dispatches the City's units in the Florida Municipal Power Pool ("FMPP"). The OUC Agreement, which was entered into via a competitive process in which the City received several proposals, currently provides for approximately 52% of the City's electric capacity. The City expects, at the culmination of said agreement, to undertake another

competitive process, if necessary, to either extend or enter into new agreements for wholesale electric supply, and expects to have multiple options again to choose from.

*City Power Plant Facilities.* The City's power plant located at 117 College Street, Lake Worth Beach, Florida, is wholly owned by the City, and houses nine of the City's 10 generating units with a total capacity of 90.3 MWs on a 20-acre site. The names "College Street" and "T.G. Smith Power Plant" are used interchangeably and refer to the same City power plant located at 117 College Street. The City also wholly owns and operates a tenth unit, the 1.7 MW solar photovoltaic generation unit installed atop a closed City-owned landfill in 2017 and within the City limits.

The units installed at the College Street power plant range in size from 2.0 to 26.0 MW and offer load following capability. In addition to providing peaking capacity to the Florida electric system via the FMPP, these units are dispatched by the FMPP when economic circumstances dictate or when the FPL transmission system experiences congestion constraints.

The capacity of each unit is: GT-1: 26.0 MW, GT-2: 20.0 MW, S-3: 25.0 MW, S-5: 10.0 MW and M-1 through M-5: 2.0 MWs each. GT-2 is capable of simple cycle operation but typically run in combined cycle with S-5 and are collectively referred to as the Lake Worth CC unit. Waste heat from the GT-2 combustion turbine is directed to a heat recovery steam generator, where sufficient steam is produced to operate the S-5 steam turbine. The City's units (other than the "M" units) are dispatched using economic dispatch and reliability criteria by the FMPP.

The City's power plant's "M" units are designated as emergency units and provide black start capability on diesel fuel, enabling all of the City's units to be brought on line during periods of transmission grid or tie line outages to supply the City electric utility's needs. The City electric utility is capable of operating independent of the grid in "island mode" during low or medium load periods of the year for tie line maintenance. The City's power plant is operated by a workforce of City employees. Most of these employees are members of the International Brotherhood of Electrical Workers.

The unit heat rate, start up, minimum run times and allowable hours are shown in the table below.

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### Heat Rate, Start Up and Minimum Run Times

Unit	Heat Rate at Average Full Load Natural Gas Btu/kwh (HHV)	Start Up Times (Cold Start) Hours	Allowable Operating Hours
GT-1	15,092	1	NA
GT-2	14,441	2	NA
S-3	12,537	6	NA
GT-2/S-5	10,583	5	NA
M-1	10,500	1	*
M-2	10,500	1	*
M-3	10,500	1	*
M-4	10,500	1	*
M-5	10,500	1	*

\*100 hours per year for testing and maintenance. No limitation for emergency operations. Non-emergency situations are limited to 50 hours per year, however those 50 hours are counted towards the 100 hour limitation. Per Title 40 Code of Federal Regulations.

Source: City of Lake Worth Beach.

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All the generators are air cooled except S-3, which utilizes hydrogen as the cooling medium. GT-2 has dual fuel capability (in both simple cycle and combined cycle) which provides enhanced reliability for the electric utility system, the ability to arbitrage between natural gas and oil prices, and has provided economic benefits when the natural gas transportation system is at peak level through the avoidance of capacity overage penalties. The primary and backup fuel for each unit is listed below the table below.

**Power Plant Primary and Back Up Fuel Types**

<b>Unit</b>	<b>Primary Fuel Type</b>	<b>Back Up Fuel Type</b>
GT-1	Diesel	---
GT-2	Natural Gas	Diesel
S-3	Natural Gas	---
GT-2/S-5	Natural Gas	Diesel
LW S-1	Solar	---
M1-M5	Diesel	---

Source: City of Lake Worth Beach.

The boiler and generator manufacturers and age of plant are listed in the table below. GT-2 underwent a major overhaul in January of 2018. The unit received all new compressor blades (rotating and stationary) as well as a new set of 1<sup>st</sup> stage turbine buckets. Borescope reports from 2016 indicate GT-1 is in good condition. The S-3 generating unit continues to operate and is functioning well. The S-5 generating unit which runs in combined cycle with the GT-2 has been routinely maintained and inspected to meet industry standards. The M1 through M5 units are also in good operating condition and provide emergency generation when called upon. The City’s units are typically called upon to run by FMPP in the spring and fall, when generating units in the FMPP and/or FMPA projects in which the City is a participant are being maintained or experience unplanned outages, for grid support and/or spinning reserve.

The City’s College Street power plant site has a large concrete foundation that was originally built in the early 2000’s by a merchant electric wholesale power producer for a 165 MW combined cycle plant that was never completed. A dedicated natural gas pipeline owned by Florida Public Utilities (a unit of Chesapeake Utilities Corporation) transports natural gas from the FGT line to the City’s power plant and has the capability of transporting at least 4,070 Mcf per hour to the redelivery point at a minimum pressure of 450 p.s.i.g. This pipeline’s unused capacity could be utilized for service to a new generating unit at this site.

The City is a holder of 7,542 Dekatherms (Dth) per day of seasonal firm gas transportation service (also referred to as "capacity") on FGT’s natural gas pipeline system. This capacity was obtained by the City decades ago as a means of ensuring the ability to deliver natural gas fuel to the City’s power plant during periods of highest demand on the FGT system (May through October annually). The City’s need for this capacity to support the current power plant units has decreased substantially over the years since it was first contracted for, driven largely by the installation of far more efficient and lower priced sources of electricity in the Florida marketplace and to which the City has availed itself of via the competitive procurement process. Hence, the City does not

contemplate needing its firm gas transportation capacity to operate the current power plant but for extenuating circumstances, which in turn makes it possible to sell natural gas bundled with its firm gas capacity for a limited period. The recently effectuated energy supply agreement with OUC (effective January 1, 2019) enabled the City to take over the management of its own capacity on the FGT system to extract the maximum value from this asset.

The City utilizes the services of the Florida Gas Utility ("FGU") to manage its capacity on the FGT system. FGU is a public body corporate and politic joint action agency formed under the Florida Interlocal Cooperation Act, and has been under contract with the City since July 26, 1995 via a Gas Services Agreement approved by the City Commission. FGU currently has 23 members, consisting of a municipal joint action agency, one combination gas distribution and electric generation utilities, six electric generating utilities, and sixteen gas distribution systems.

Utilizing the services of FGU, the City executed a transaction to sell capacity and natural gas to Peninsula Energy Services Company ("PESCO"). PESCO has subsequently sold its natural gas marketing operations to Gas South, LLC. The terms of the agreement remain unchanged. Under the terms of the transaction, the City may terminate the sale no earlier than December 31, 2021 upon 365 days' written notice if the City proceeds with a capital project requiring delivery of natural gas to the City. This clause is intended to retain the City's ability to schedule deliveries of 7,542 Dth per day of natural gas on a firm basis during the months of May through October annually should it elect to build a new unit at the power plant.

**Generator Boiler and Turbine Manufacturers and Age of Plant**

<b>Unit</b>	<b>Boiler</b>	<b>Turbine</b>	<b>In-Service Date</b>	<b>Age</b>
GT-1	----	26 MW Westinghouse 251B Gas Turbine	1976	42
GT-2		20 MW GE MS5001P Steam Turbine	1978	40
S-3	Riley Stoker dual fuel	25 MW Westinghouse Steam Turbine	1967	51
S-5		10 MW GE Steam Turbine	1978	49
Solar 1	---	-----	2017	2
M1 - M5	---	General Motor EMD 567D reciprocating engines	1965	53

Source: City of Lake Worth Beach.

There are eight fuel tanks at the facility with a combined working capacity of 182,700 gallons of #2 fuel oil. Four tanks are protected by cathodes and four are horizontal.

As described above, the City has only one 138 KV tie line from the FPL Hypoluxo Substation to the City power plant. The loss of the FPL transmission interconnection poses risk to City ratepayers since the City's St. Lucie and Stanton energy as well as other power supplies would be prevented from serving the load the City load. Currently, the only back-up to the transmission tie

is the City's local generation at the College Street power plant and the Solar field. The capacity of the existing FPL transmission tie is approximately 230 MVA.

The City's electric utility staff continually maintains its owned generation assets in a state of readiness for operation, performs required operational and environmental emissions testing, trains and drills operators to maintain proficiency, and reports daily on unit availability.

Several new generating resources have been evaluated for the College Street power plant site. An analysis by an engineering consulting firm on behalf of the City has been conducted to determine least cost options for meeting the electric utility's load obligations. The analysis concluded that installing new generating units that would be owned by the City were not economic when compared to wholesale electric and capacity purchases under forecasted market conditions as of 2018. The City's electric utility leadership monitors market conditions on an on-going basis to identify changes that could signal a favorable climate for investing in new self-owned generation and/or battery energy storage devices, none of which appear economic for the City's portfolio at this time. It is likely that some of the steam generation facilities will be retired upon completion of the additional tie-line project financed in part with the 2020 Bonds.

*Customer-Owned Renewable Generation (Net Metering).* The City allows for customers to interconnect to the City's electric utility distribution system in conformance with Section 366.91, Florida Statutes. Customers who choose to participate in the program are required to execute an interconnection agreement with the City. Customer-owned systems are limited in size by three factors: a) the system shall not be greater than 10 KW-AC in size, b) the system size shall be no greater than the capacity of the service line connecting the customer's facility to the electric distribution system, and c) the system shall not produce more energy than the customer's prior annual use. Program participation in total is limited to no more than 1.5% of the electric utility's system peak demand.

Prior to October 1, 2019, all customers with such systems who were net exporters of electric energy to the City's electric distribution system cumulatively for their billing month were compensated for their net exports in the form of a monthly credit on their City utility bill for the subsequent month at a rate equal to their retail electric rate. For the purposes of this discussion a net exporting customer is considered to be a customer whose system produced more energy than they imported from the City's electric utility. Effective October 1, 2019, the City changed its policy on calculating payments to customers for net exported energy to be based on their annual net export balance multiplied by the City's electric utility's avoided wholesale energy rate. Additionally, effective October 1, 2019, all customers participating in the program were required to pay an electric bill of no less than the minimum monthly bill applicable to all City electric utility customers.

As of September 30, 2020, customer-owned renewable generation systems connected to the City's electric utility total 128 systems with an estimated total combined rating of 1,137.9 KW-AC. An additional 11 customer-owned renewable generation systems are in the permitting process with an estimated combined rating of 100.4 KW-AC. Total energy delivered from customer-owned renewable generation systems to the City's electric utility for calendar year 2019 (as of December 19, 2019) equaled 632,537 KWh. The annual net calculation for all net-metered customers has not yet been calculated.

To date all customer-owned renewable generation systems are comprised of solar photovoltaic systems.

*Load Obligations Overview.* Load obligations consist of all-requirements service for the approximately 27,000 customers of the City’s electric utility. The tables below provide a summary of energy consumption and monthly peak loads and of the City customers for the past eight Fiscal Years.

### Historical Energy and Peak Loads

#### Monthly Net Energy for Load (MWh)

FY	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Total
2013	37,770	26,728	30,194	30,049	27,263	28,396	34,923	36,973	42,394	42,491	46,953	40,539	424,673
2014	40,878	33,337	32,815	30,449	29,999	31,631	35,884	41,130	43,331	44,655	47,833	42,262	454,204
2015	39,399	30,502	30,740	30,011	26,548	35,724	39,288	42,259	45,612	46,745	47,879	44,248	458,955
2016	41,329	38,588	36,631	29,377	27,947	34,453	36,021	41,332	45,563	52,218	50,545	44,541	478,545
2017	40,195	32,417	35,209	31,245	20,728	32,485	37,014	44,162	44,341	50,408	49,908	41,579	468,691
2018	41,724	34,451	32,355	30,346	32,292	30,812	39,257	41,931	43,140	48,193	50,558	47,354	472,413
2019	44,405	35,813	31,380	29,535	30,830	33,186	37,983	43,190	45,465	49,737	46,492	45,563	473,580
2020	45,228	33,139	31,859	30,805	30,705	36,403	38,303	39,229	46,004	49,179	50,738	46,493	478,085

Source: City of Lake Worth Beach.

#### Monthly Non-Coincident Peak Demand (MW)

FY	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Peak Month
2013	81.2	59.4	69.0	65.1	66.2	65.7	76.7	78.0	85.5	85.3	87.4	86.4	87.4
2014	82.2	74.3	66.1	64.8	69.4	65.0	81.7	81.0	85.2	92.1	86.7	82.1	92.1
2015	77.2	73.3	64.3	67.3	64.4	71.7	88.7	87.0	90.3	89.0	91.1	92.6	92.6
2016	85.3	82.5	72.3	75.5	64.4	75.9	78.7	83.2	91.8	96.3	95.9	89.9	96.3
2017	86.8	69.7	75.7	69.0	71.4	72.4	83.5	92.0	93.3	95.4	96.4	93.4	96.4
2018	87.3	74.3	70.7	64.3	71.8	75.8	78.1	81.8	94.0	94.6	94.3	94.2	94.6
2019	89.2	78.3	75.9	66.5	74.1	75.6	81.4	86.3	97.2	95.3	90.5	94.1	97.2
2020	88.2	81.1	69.7	68.2	74.2	81.7	85.5	85.0	96.1	95.9	96.7	95.3	96.7

Source: City of Lake Worth Beach.

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As described above, slightly more than 50% of the City's energy is currently provided through the OUC Agreement, which became effective January 1, 2019. The actual amount received for calendar year 2019 is shown in the following table.

**Exhibit 1  
Sources of Energy (Calendar 2019)**

<b>Supplier</b>	<b>MWh</b>	<b>Percent of Total</b>
OUC	270,032	55.0%
Stanton	47,503	9.7%
St. Lucie	163,498	33.3%
LW Solar 1	3,049	0.6%
Tom Smith Power Plant	6,444	1.3%
<b>Total</b>	490,526	

Source: City of Lake Worth Beach.

On a monthly and certainly hourly basis, these numbers vary significantly based upon unit availability, and to a much lesser extent the economic dispatch of City-owned units. The following table shows the maximum and minimum monthly percentage of energy provided under the external energy sources over the calendar year 2019.

**Sources of Purchased Energy (Max/Min)**

<b>Supplier</b>	<b>Maximum Monthly Percent</b>	<b>Minimum Monthly Percent</b>
OUC	70.6	27.9
Stanton	15.9	0.0
St. Lucie	56.6	18.4

Source: City of Lake Worth Beach.

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The City expects its load to increase 0.75% per year through 2025. The tables below provide its current estimate for the peak and energy forecast, demand and non-coincident peak demand, and monthly forecasted net energy for load.

**Peak and Energy Summary Forecast**

<b>Fiscal Year</b>	<b>Maximum Peak MW</b>	<b>Total Energy MWH</b>
2021	98.2	522,122
2022	98.7	548,228
2023	99.2	575,639
2024	99.7	604,421
2025	100.2	634,642

Source: City of Lake Worth Beach.

Customers. The table set forth below sets forth the average number of retail meters and billed usage in the City over the last five Fiscal Years, as well as a projection for Fiscal Year 2020:

**Electric Utility Average Number of Retail Meters & Annual Billed Usage<sup>(1)</sup>**

<b>Fiscal Year Ending Sept 30</b>	<b>Meters</b>	<b>Annual Change</b>	<b>Billed Usage (kWh)</b>	<b>Annual Change</b>	<b>Monthly Usage per Meter (kWh)</b>	<b>Annual Change</b>
2015	26,646		430,345,000		1,345,863	
2016	26,879	0.87%	434,758,000	1.03%	1,347,907	0.15%
2017	27,192	1.17	428,747,000	(1.38)	1,313,962	(2.52)
2018	27,233	0.15	433,186,000	1.04	1,325,551	0.88
2019	27,361	0.47	436,202,715	0.70	1,328,542	0.23
2020 <sup>(2)</sup>	27,479	0.43	437,504,240	0.30	1,326,801	(0.13)
<b>Average Change (15-20)</b>		<b>0.62%</b>		<b>0.33%</b>		<b>(0.28)%</b>

Source: City of Lake Worth Beach – Utility Monthly Report.

<sup>(1)</sup> Reflects residential, commercial, and commercial demand meters.

<sup>(2)</sup> Projected customer billings based upon assumptions developed with staff.

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The following table lists the ten largest retail customers of the electric utility for Fiscal Year 2019, which in total represents approximately 6.78% of total retail sales revenues.

**Electric Utility's 10 Largest Retail Customers  
For Fiscal Year 2019**

Rank (kWh's)	Customer Name	Usage (kWh's)	Revenues
1	Palm Beach State College	7,425,600	\$647,315
2	Palm Beach County School (High School)	4,489,800	522,993
3	Palm Beach State College	4,478,400	455,648
4	Select Specialty Hospital	4,034,400	404,577
5	Wal-Mart	3,236,400	325,875
6	Lake Worth Utilities (RO Water Treatment Plant)	3,256,800	332,190
7	Lake Worth Community Middle School	2,944,500	344,762
8	El Bodegon #4 (4481 Lake Worth Rd)	2,490,000	253,570
9	Publix Supermarket	2,290,800	233,845
10	Lake Worth Towers	2,059,200	217,017

Source: Consulting Engineer's Report.

Rates. The City's current electric rates are shown in the following table:

**Fiscal Year 2020 Electric Schedule of Rates**

<b>Electric Rates by Customer Class:</b>	<b>Residential</b>	<b>Commercial</b>	<b>Commercial Demand</b>
<b>Fixed Monthly Charges:</b>			
Customer Charge (Fixed Charge)	\$10.53	\$16.66	\$120.00
<b>Energy Charges (Usage Rate):</b>			
Base Energy Charge (Fist 1,000 kWh's)	\$0.05148	0.07040	0.03550
Base Energy Charge ( $\geq$ 1,000 kWh's)	0.07880	0.07040	0.03550
Fuel Surcharge (Fist 1,000 kWh's)	0.03578	0.03900	0.02890
Fuel Surcharge ( $\geq$ 1,000 kWh's)	0.39000	0.03900	0.02890
Capacity Charge	0.01020	0.01020	0.01020
Demand Charge			\$14.48000

Source: City of Lake Worth Beach – Utility Monthly Report.

Unlike the water and sewer utilities, the electric utility does not currently charge a surcharge on customers residing outside the city limits. The Financial Feasibility Report prepared by Stantec Consulting Services, Inc. (see "APPENDIX G -- FINANCIAL FEASIBILITY REPORT" attached hereto) recommends annual electric rate increases of 2.25% beginning in Fiscal Year 2024.

The following table shows a comparison of typical monthly electric utility bills:

**Comparison of Approximate Typical Monthly Bills of Selected Florida Utilities<sup>(1)</sup>**

	Residential Electric Service <u>1,000 kWh</u>
Lake Worth Beach (City of)	\$107.99
Duke Energy Florida with Franchise Fee <sup>(2)</sup>	128.64
Florida Power & Light Company with Franchise Fee <sup>(2)</sup>	94.02
Fort Pierce (City of)	103.84
Gainesville (City of)	123.13
Jacksonville Electric Authority	108.50
Lakeland (City of)	92.77
Orlando Utilities Commission	109.50
Tampa Electric Company with Franchise Fee <sup>(2)</sup>	126.84

Source: City of Lake Worth Beach and FMEA Florida Electric Bill Comparisons.

- (1) Bills include fuel adjustments but do not include franchise fees or utility taxes unless otherwise noted, based on 1,000KWH. Bills are based on rates in effect as of August 2020.
- (2) Amounts shown include a 6% typical franchise fee. Due to fuel adjustment and other one-time credits, differences between bills may be exaggerated from what would otherwise be a normal differential. For example, FPL's monthly bills decreased due in part to a lump-sum credit in the summer of 2020.

Rate Regulation. The PSC has jurisdiction over municipal electric utilities to prescribe uniform systems and classification of accounts, to prescribe and enforce safety standards for transmission and distribution facilities, to require electric power conservation and reliability, to regulate electric impact fees, to establish rules and regulations regarding cogeneration, to approve territorial agreements, to settle territorial disputes, to prescribe rate structures, and to prescribe and require the periodic filing of reports and other data. Pursuant to the rules of the PSC, rate structure is defined as ". . . the classification system used in justifying different rates and, more specifically, . . . the rate relationship between various customer classes, as well as the rate relationship between members of a customer class." However, the PSC and the Florida Supreme Court have determined that the PSC, other than its rate structure jurisdiction, does not have jurisdiction over municipal electric utility rates.

Capital Improvement Plan. The City has developed an electric utility capital investment plan ("CIP") comprised largely of a series of reliability improvement projects and activities of significantly improving system reliability, hardening its electric transmission and distribution systems to withstand storm force winds, providing for adequate electric delivery infrastructure to support increased residential and commercial development, decreased operating costs, and supporting future demand for new uses of electricity such as vehicle charging stations. The projects are primarily comprised of a transmission project (a second 138 kV tie line to the FPL transmission system), and multiple distribution projects (replacement of substations and upgrades of circuits) as well as the construction of a new electric utility operations center. Approximately 22% of the funds

being raised are intended to be invested in transmission projects, with the remaining 78% dedicated largely to distribution system projects.

With much of the City's electric distribution system at or above 50 years of age, the system has experienced declined reliability and pockets of diminished ability to reliably support customer growth, as would be normally expected of aging infrastructure. In addition to the benefits of improved reliability to hardening of the electric system, particularly the installation of a second tie line to the FPL transmission system serving the region, the electric CIP will allow the City to begin the process of retiring aged electric generation units and lead to a net reduction in operating costs. As described above, the City's electric supply needs are now met largely by electric imports sourced statewide from a combination of City-owned generation entitlements in FMPA projects and purchases from OUC. For the most recent calendar year, upwards of 97.5% of the City's electric supply needs were met with imports, with the remaining 2.5% coming from the City's solar (installed in 2017) and fossil fueled units on-site. The City's on-site fossil fueled units were installed in the 1960s and 1970s and serve largely in a capacity role and as reliability devices in the event of a failure of the single City-owned transmission tie line to the FPL transmission system serving the region. The fixed costs associated with maintaining operational readiness of these units, as well as their variable operating costs, are significantly above market costs for like amounts of capacity and energy.

The table below setting forth the 5-year electric utility CIP includes the following:

<b>Service</b>	<b>Project Name</b>	<b>Amount</b>
Electric	Palm Beach 10 <sup>th</sup> Ave	\$365,000
Electric	Electric Sys Ops Center (Cat 5 Level)	420,000
Electric	FDOT & PBC 6 <sup>th</sup> Ave S. Improvements	460,000
Electric	Oracle – Cloud Based Software Solution	690,000
Electric	System Hardening & Reliability Improvement (SHRIP)	42,609,000
	<b>Total Electric</b>	<b>\$44,544,000</b>

Source: Financial Feasibility Report.

Transfers to the General Fund. The City annually transfers to its General Fund amounts from its electric enterprise fund. A portion of such amounts are equivalent to what the City deems it would otherwise charge as a franchise fee if the provider of such service was a private provider rather than the City, and these amounts are listed as "Transfers In" to the General Fund in the City's financial statements; a separate amount related to direct and indirect costs of the City attributable to such enterprise operations is treated as part of "Charges for Services". The City does not have a set formula for such transfers, and each year's amount is part of the budget process of the City; however, City management has expressed a desire to reduce the transfer portion not attributable to direct and indirect costs closer to 8% of revenues from its current level of approximately 10.8% of revenues. As described above, the Resolution limits the amount of excess System Net Revenues that may be transferred to the General Fund for any lawful purpose (including such franchise fee amounts, but not Charges for Services) to a maximum of 10% of Gross Revenues per Fiscal Year. There is no legal obligation of the City to transfer any amount from the enterprise funds to the General Fund.

The table set forth below shows historical electric utility transfers (including the "franchise fee" and transfers in connection with the City's Park of Commerce that are not expected to continue in Fiscal Years 2020 onward due to capital improvements made thereto, but not including Charges for Services that are treated as an Operating Expense) for the past five Fiscal Years:

Fiscal Year	Electric Transfer
2016	\$4,240,980
2017	4,375,453
2018	5,163,700
2019	5,699,741
2020 (unaudited)	4,536,491

Projections of future transfers are included as part of the Financial Feasibility Report attached hereto as APPENDIX G.

Factors Affecting the Electric Utility Industry.

*General.* The electric utility industry in Florida has been, or in the future may be, affected by a number of factors that could have an impact on the financial condition of a utility such as the City's electric utility. These factors likely would affect individual utilities in different ways. Such factors include, among others: (i) effects of compliance with rapidly changing environmental, licensing and regulatory requirements, including but not limited to climate change, (ii) regulatory changes and changes that result from the development and enforcement of a national or state energy policy, (iii) the uncertainty of access to low cost capital for replacement of aging fixed assets, (iv) mandatory reliability standards, (v) increases in operating costs, and (vi) availability and cost of fuel supply. These factors and others are discussed in more detail below in relation to how they affect the City.

Electric utility operations are subject to federal, state, regional and local environmental standards and procedures that change from time to time. Compliance with the new requirements may result in increased costs to the electric utility. The City cannot predict at this time whether any additional laws or regulations will be enacted which will affect the operation of the electric utility, and if such laws or regulations are enacted, what impacts on the electric utility might result from such actions.

*FERC Transmission Initiatives.* In February 2007, FERC issued Order No. 890 reforming portions of Order No. 888 and Order No. 889. Order No. 890 reforms include: (i) greater consistency and transparency in available transmission capacity calculations; (ii) open, coordinated and transparent planning; (iii) reforms of energy imbalance penalties; (iv) reform of rollover rights policy; (v) clarification of tariff ambiguities; and (vi) increased transparency and customer access to information. FERC reaffirmed several of the core elements of the Order No. 888 in Order No. 890, including: (i) the comparability requirement wherein third party users of the transmission system must receive service in a manner comparable to the transmission owner's use of the system; (ii) the continuance of protections for native load customers' transmission service rights; and (iii) FERC's approach to reciprocity for non-jurisdictional transmission owners, which includes the City. A public utility may refuse to provide open access transmission service to a non-public utility if the non-public utility refuses to reciprocate.

*Mandatory Reliability Standards.* NERC, acting in its role as the FERC-certified Electric Reliability Organization ("ERO"), has adopted reliability and cyber security standards that the City is subject to with its electric utility operations. These standards became effective starting in June 2007 and continue to evolve over time. FERC has approved NERC's compliance and monitoring programs that identify the seven regional entities that monitor, assess and enforce the compliance standards. As of July 1, 2019, the City falls under the Southeastern Reliability Corporation ("SERC") region. Prior to July 1, 2019, the City fell under the Florida Reliability Coordinating Council ("FRCC"). The ERO has delegated certain authority to SERC to propose and enforce reliability standards within the FRCC region, which includes the City. The issuance of these orders enables the FERC-approved reliability standards to be enforceable, and SERC is authorized under federal law to order corrective measures and to levy financial penalties of up to \$1,000,000 per day per violation.

The City has continued its quality assurance program to comply with all mandatory reliability standards for the bulk-power system. The City is subject to on-site compliance audits every three years, since it is a registered "Generator Owner", "Generator Operator", and "Transmission Owner". The FRCC completed a compliance audit of the City in February 2017 that included fourteen (14) applicable NERC reliability standards with twenty-five (25) individual requirements. This scope was greatly reduced over previous audits due to the introduction of the Inherent Risk Assessment process. During the audit, the audit team notified the City of zero (0) Areas of Concern, zero (0) Recommendations, and six (6) potential noncompliance issues ("PNC"). The City corrected and closed out all open mitigation plans associated with the PNCs. The City agreed to enter into a Settlement Agreement with FRCC to avoid extended litigation and to pursue a complete and final resolution of the six (6) requirement violations. The City agreed that this Settlement Agreement is in the best interest of the parties and in the best interest of bulk-power system reliability. Between August 30, 2019 and November 14, 2019, SERC conducted a spot-check of NEC Standard PER-005-2 which resulted in zero (0) areas of concern, zero (0) recommendations, and zero (0) potential non-compliances.

NERC also maintains a host of reliability standards associated with Critical Infrastructure Protection. The first set of requirements became mandatory and enforceable for the City on July 1, 2016, with successive sets of requirements following in subsequent years. A new slate of such standards became effective July 1, 2016, and additional requirements applicable to low impact assets became effective on January 1, 2020. The City was determined to have only Low Impact BES Cyber Systems. The City has not yet been audited on the most recent set of Critical Infrastructure Protection requirements but has worked closely with the FRCC, SERC, and consultants to prepare its demonstration of compliance. The City maintains standards of cyber security as a matter of internal procedure, and has prepared for future applicability of the Critical Infrastructure Protection standards.

*Environmental.* The City's electric utility is subject to several environmental laws, regulations, and permitting requirements by a variety of entities at the federal, state, and local levels. Generally, environmental regulations have the potential to substantially increase the City's system costs, by requiring alterations in the operation of any forthcoming new facilities. Due to the constantly changing nature of these regulations, there is no assurance that the City's facilities will remain subject to the regulations currently in effect, will always be in compliance with future

regulations or that the City will always be able to obtain or maintain all required permits. An inability to comply with environmental standards or deadlines could result in fines and/or legal action as well as reduced operating levels or complete shutdown of individual electric generating units or facilities out of compliance. Furthermore, clean air laws and compliance with environmental standards or deadlines may substantially increase capital and operating costs. The electric utility's substations date back to the late 1960s and are presumed to have utilized oil-filled equipment throughout their life as a City of Lake Worth Beach or former Lake Worth Utility Authority-owned asset. The City's electric utility will perform environmental surveys as early as possible and prior to any construction at the plant site. Remediation requirements and activities as may be identified during the survey process will be undertaken as required, as will any remediation requirements that may be discovered during construction activities.

The City believes itself to have been, and currently is, in compliance with all of its standing environmental permits.

*Florida Legislative Acts.* During the 2020 legislative session, a number of bills were filed that would have potentially impacted the electric industry in Florida, several of which are described below.

- A bill was filed in the House (HB653) that would have eliminated the ability for municipal electric utilities to transfer funds to the general government for use in general government operations. No companion bill was filed in the Senate and the House bill died in committee.
- While not a legislative action, a citizen petition initiative seeking to have a constitutional amendment before the voters in 2020 that would have amended the Florida Constitution to make it a right to select one's own electric provider was conducted in 2019. See "—Constitutional Amendments", below.

*Constitutional Amendments.* In Florida, changes to the State Constitution may be proposed by a citizen initiative, and, if a requisite number of signatures supporting the same are received in a timely fashion, placed on the general election ballot. If at least 60% of those voting on said proposal approve it, the same shall become a part of Florida's Constitution and enforceable as law. In the past several years, a number of measures have been proposed, and in some cases approved, that have changed Florida's Constitution. Two recent proposals relating to the electric utility industry are referenced below.

In August 2016, Amendment 4, a pro-solar tax abatement measure was approved by 73% of Florida voters. The amendment was implemented by the State Legislature through section 193.624, Florida Statutes. Once enacted, renewable energy equipment such as solar panels and windmills became exempt from state tangible property taxes. Further, property appraisers cannot consider equipment when calculating a property's assessed value. Tax exemptions begin in 2018 and last 20 years. The amendment extends these exemptions, which homeowners have enjoyed since 2013, to businesses.



A separate solar amendment initiative, proposing that energy customers would have the right to choose from multiple providers, or by producing electricity themselves, received the required number of signatures to appear on the 2020 ballot, but the ballot language was rejected by the Florida Supreme Court.

No assurance can be given that such constitutional amendment or future amendments will not be proposed and passed which could adversely affect the electric utility industry.

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Historical Revenues and Expenses of the Electric Utility. The following table sets forth the gross revenues and costs of operation and maintenance of the electric utility for Fiscal Years 2016 through 2019, with projections for Fiscal Year 2020.

**Historical Electric Utility Revenues and Expenses (in 000s)\***

Fiscal Year Ended September 30 <sup>(1)</sup>	2016	2017	2018	2019	2020 (Unaudited)
<b>Operating Revenues</b>					
Charges for Services <sup>(2)</sup>	\$57,011,403	\$55,850,044	\$54,280,835	\$55,128,532	\$60,881,153
Total Operating Revenues	\$57,011,403	\$55,850,044	\$54,280,835	\$55,128,532	\$60,881,153
<b>Operating Expenses</b>					
Cost of Services	\$41,908,125	\$47,491,790	\$50,222,213	\$45,179,726	\$46,124,298
General and Administrative	2,915,792	3,112,061	3,535,360	3,438,205	3,246,529
Depreciation	1,783,107	1,819,728	1,706,914	1,923,968	1,923,968
Total Operating Expenses	\$46,607,024	\$52,423,579	\$55,464,487	\$50,541,899	\$51,294,795
<b>Total Operating Income (Loss)</b>	\$10,404,379	\$3,426,465	\$(1,183,652)	\$4,586,633	\$9,586,358
<b>Nonoperating Revenues (Expenses)</b>					
Investment Income	\$150,334	\$141,414	\$258,287	\$413,374	\$171,866
Interest and Fiscal Charges	(668,511)	(1,498,448)	(1,027,599)	(925,612)	(873,714)
Other	716,124	597,405	601,955	540,035	476,144
Total Nonoperating Revenues (Expenses)	\$197,947	\$(759,629)	\$(167,357)	\$27,797	\$(225,704)
<b>Income (Loss) Before Contributions and Transfers</b>	\$10,602,326	\$2,666,836	\$(1,351,009) <sup>(3)</sup>	\$4,614,430	\$9,360,654
<b>Transfers and Contributions</b>					
Connection Fees	\$(4,240,980)	\$(4,375,453)	\$(5,163,700)	\$(5,699,741)	\$(4,536,491)
Transfers Out	\$6,361,346	\$(1,708,617)	\$6,514,709	\$(1,085,311)	\$4,824,163
<b>Change in Net Position</b>					
Net Position, Beginning of Year	\$20,589,778	\$26,951,124	\$25,517,933	\$19,902,797	\$18,817,486
Net Position, End of Year	\$26,951,124	\$25,242,507	\$19,003,224	\$18,817,486	\$23,641,649

Source: Financial Feasibility Report.

<sup>(1)</sup> Note that historical operating results through September 30, 2019, including the net position at beginning of year and end of year, are based upon audited information from the City's Comprehensive Annual Financial Reports ("CAFR") for Fiscal Years 2016 through 2019. Fiscal Year 2020 figures were derived based upon City staff's adopted budget and staff's projections as of July 2020 and are unaudited. See also "RISK FACTORS – Impact of COVID-19" for additional information on Fiscal Year 2020.

<sup>(2)</sup> Charges for services includes items such as electric sales, capacity charges, fuel surcharges, service charges, penalties/late fees, etc.

<sup>(3)</sup> Revenues were down in Fiscal Year 2018 due to rate decreases designed to maintain relative rate parity with FPL, while expenses were up due to repair costs related to the City's GT2 gas turbine unit compressors that were classified as operating costs.

## The Water Utility

Description. The City's water utility provides potable drinking water throughout the City's service area.

Service Area. The City's water service area includes all residents within the City limits, as well as the Town of Lake Clarke Shores and a portion of the unincorporated area of Palm Beach County generally between Congress Avenue and Interstate 95, from 10<sup>th</sup> Avenue south to Hypoluxo Road, where the City provides water through a 168-mile watermain piping system to customers, including the maintenance of 1,100 fire hydrants. Automated metering is used for meter reading and billing.

Water Supply and Treatment. The City maintains two water treatment facilities at the same plant site: (1) a lime softening plant built in 1957 designed to treat a maximum capacity of 12.9 million gallons per day ("MGD") and supplied by 11 production wells 100-300 feet deep tapping the East Coast Surficial Aquifer and Biscayne Aquifer, which wells are located within an approximately half-mile radius of the plant, and (2) a reverse osmosis plant built in 2011 designed to treat an average of 4.5MGD and expandable to 10.35MGD. The brackish (high salinity) raw water for the reverse osmosis plant is supplied from three production wells approximately 1,000 feet deep tapping the Florida Aquifer within a half-mile radius of the plant.

The conventional lime softening plant provides a little over half the treated water produced. The process includes rapid mix with flocculation and sedimentation basins, filtration, chemical addition and disinfection. The reverse osmosis plant converts high-salt ground water to high-quality drinking water, and is currently composed of three membrane trains each rated at 1.15MGD, with the possibility of adding another three trains. In addition, each train is expandable by 15% capacity by the addition of six pressure vessels on top of the membrane train frame.

Water Storage; Transmission/Distribution System. The City maintains two booster stations in the north and south ends of the distribution system, plus 4.6 million gallons ("MG") of storage at the water treatment plant site, consisting of a 1.8MG clearwell used for disinfection contact time, a 1.0MG clearwell, a 1.5MG ground storage tank and a 0.3MG elevated storage tank. The City has approximately 168 miles of potable distribution mains, from 30-inches to 2 inches in diameter.

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Historic Water Demands. Set forth below is historic water usage for the past five Fiscal Years:

**Water Utility Usage**

Fiscal Year	Per Capita Demand (GPCD)	Annual Average Demand (MGD)	Unaccounted for Water (MGD)	Total Demand (MGD)
2015	86.1	4.2	0.4	4.6
2016	92.3	4.5	0.8	5.3
2017	93.2	4.6	0.5	5.1
2018	99.2	4.9	0.3	5.2
2019	90.8	4.5	0.8	5.3

Customers. Set forth below are the top ten customers of the water utility for Fiscal Year 2019:

**Top Ten Water Customers**

Customer	Customer Type	Consumption (100 Gal)	Revenue <sup>(1)</sup>
Palm Beach State College	College	15,903.24	\$229,928.98
City of Lake Worth Beach Cemetary	Government	10,884.00	154,311.17
Town of Lake Clarke Shores	Bulk	26,559.25	131,990.63
Lantana Silver Springs LLC	Commercial	4,714,792	110,519.52
Meridian Pk Village Partnership	Government	8,617,333	72,374.45
Palm Beach County	Government	5,281,083	59,872.33
Avante at Lake Worth Inc.	Multi-Family	3,622.50	54,250.83
Riverstone Communities, LLC	Multi-Family	5,732,417.00	52,219.26
Hillhaven/Meridian/7135	Multi-Family	6,384,667.00	51,036.42
Lake Worth Towers LLC	Multi-Family	3,986,083.00	39,831.98

Source: City of Lake Worth Beach.

<sup>(1)</sup> Represents approximately 6.3% of total Fiscal Year 2019 water utility revenues.

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User Rates and Charges.

Set forth below are the City's existing water rates. For customers outside the City's municipal limits, a 25% surcharge is added to each bill.

**Existing Water Rates  
Monthly Readiness-To-Serve Charge**

<u>Meter Size</u>	<u>Water (All Customers)</u>
5/8 x 3/4"	\$15.83
1"	39.61
1 1/2"	79.19
2"	126.73
3"	253.47
4"	396.02
6"	792.06
8"	1,230.06

**Usage Charge**

The table below shows the block usage rates (in hundreds of gallons) for general service or non-residential.

	Block 1 \$0.341		Block 2 \$0.525		Block 3 \$0.711		Block 4 \$1.244		Block 5 \$1.561	
Meter Size	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
5/8" x 3/4"	1	40	1	80	1	120	1	200	1	-
1"	1	100	1	200	1	300	1	500	1	-
1-1/2"	1	200	1	400	1	600	1	1,000	1	-
2"	1	320	1	640	1	960	1	1,600	1	-
3"	1	640	1	1,280	1	1,920	1	3,200	1	-
4"	1	1,000	1	2,000	1	3,000	1	5,000	1	-
6"	1	2,000	1	4,000	1	6,000	1	10,000	1	-
8"	1	4,000	1	6,000	1	8,000	1	12,000	1	-

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The table below shows the block usage rates (in hundreds of gallons) for residential service.

Water Use Per Meter Per Month Blocks	Single-Unit Accounts		Multi-Unit Accounts	
	Minimum	Maximum	Minimum	Maximum
Block 1 \$0.341	1	40	1	20
Block 2 \$0.525	41	80	21	40
Block 3 \$0.711	81	120	41	60
Block 4 \$1.244	121	200	61	100
Block 5 \$1.561	201	-	-	-

Source: City of Lake Worth Beach.

The Financial Feasibility Report for the System (see "APPENDIX G -- FINANCIAL FEASIBILITY REPORT" attached hereto) recommends annual water rate increases of 3.75% commencing in Fiscal Year 2022.

The table below provides a comparison of water rates of other area providers:

**Comparison of Water Rates  
(based on usage of 4,000 gallons per month)**

Provider	Rate
Lake Worth Beach	\$33.54
Golf	39.09
Highland Beach	25.80
Jupiter	27.45
Lantana	25.68
Manalapan	52.21
Tequesta	34.03
West Palm Beach	32.92

Source: South Florida Water Management District 2019 Annual Utility Rate Survey.

Capital Improvement Program.

The City is approaching the last year of a six-year, \$14.8 million program to replace over 17 miles of 2-inch corroded galvanized watermain piping with larger 4-inch and 6-inch pipe designed for long-term use. The City's water utility has obtained State Revolving Loans from DEP to finance this project, which is expected to be complete by 2022 and to provide better water quality to approximately 12,000 customers.

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The table below set forth the City's 5-year water capital improvement program, which includes the following:

Service	Project Name	FY 2020	FY 2021	2020 Bond
				Total
Water	Well #17 New Construction – Design	\$662,000	-	\$662,000
Water	Raw WM Well 16-17-18 & Connect to Repump Generator	170,000	\$170,000	340,000
Water	Flash Miser Structural Modification	500,000	-	500,000
Water	Neighborhood Roads: District 1	974,400	324,800	1,299,200
Water	Neighborhood Roads: District 2	-	190,251	190,251
Water	1601 N Dixie Incentive Project	250,000	-	250,000
Water	10 <sup>th</sup> Ave N West of Boutwell WM Upsizing	100,000	-	100,000
Water	Park of Commerce – Phase 1B	190,000	-	190,000
Water	Fuel Management System	100,000	-	100,000
Water	Watermain Replacement NRP Projects	-	167,370	167,370
Water	Clearwell Structural Improvements, Transf Pump	925,000	200,000	1,125,000
Water	S Booster Repairs – N booster	1,156,419	-	1,156,419
	<b>Total Water</b>	<b>\$5,027,819</b>	<b>\$1,052,421</b>	<b>\$6,080,240</b>

Transfers to the General Fund. The City annually transfers to its General Fund amounts from its water enterprise fund. A portion of such amounts are equivalent to what the City deems it would otherwise charge as a franchise fee if the provider of such service was a private provider rather than the City, and these amounts are listed as "Transfers In" to the General Fund in the City's financial statements; a separate amount related to direct and indirect costs of the City attributable to such enterprise operations is treated as part of "Charges for Services". The City does not have a set formula for such transfers, and each year's amount is part of the budget process of the City; however, City management has expressed a desire to reduce the transfer portion not attributable to direct and indirect costs closer to 8% of revenues from its current level of approximately 10.8% of revenues. As described above, the Resolution limits the amount of excess System Net Revenues that may transferred to the General Fund for any lawful purpose (including such franchise fee amounts but excluding Charges for Services) to a maximum of 10% of Gross Revenues per Fiscal Year. There is no legal obligation of the City to transfer any amount from the enterprise funds to the General Fund. The table set forth below shows historical water utility transfers (including such "franchise fees" and transfers in connection with the City's Park of Commerce that are not expected to continue in Fiscal Years 2020 onward due to capital improvements made thereto, but excluding Charges for Services, which are treated as an Operating Expense) for the past five Fiscal Years:

Fiscal Year	Water Transfers
2016	\$1,104,859
2017	1,350,899
2018	1,812,509
2019	2,309,728
2020 (unaudited)	1,489,728

Projections of future transfers are included as part of the Financial Feasibility Report attached hereto as APPENDIX G.

Government Regulation.

1. Federal. All water supply systems in the United States which provide water to at least 15 service connections or 25 individuals are subject to the provisions of, and to regulation by the federal Environmental Protection Agency ("EPA") under the Safe Drinking Water Act (the "SDWA"). The EPA has promulgated nationwide drinking water regulations which specify the maximum level of harmful contaminants allowed in drinking water and which govern the construction, operation and maintenance of water supply systems as required by SDWA.

2. State. Under the terms of the SDWA, a state has primary enforcement responsibility for public water systems if the EPA determines that the state's drinking water regulations are at least as stringent as the federal drinking water regulations. Florida has adopted all of the primary and secondary regulations promulgated by the EPA pursuant to the SDWA as part of its drinking water program. Consequently, regulation of the water utility is primarily under the jurisdiction of the State of Florida. The City's water supply permit from the South Florida Water Management District expires in 2032, and allows withdrawal of up to 11.25MGD from the surficial and Florida aquifer systems. The City's water utility has consistently met all DEP requirements, and the City is not under any administrative discipline and has not entered into any consent order.

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Historical Revenues and Expenses of the Water Utility. The following table sets forth the gross revenues and costs of operation and maintenance of the water utility for Fiscal Years 2016 through 2019, with projections for Fiscal Year 2020.

**Historical Water Utility Revenues and Expenses (in 000s)\***

Fiscal Year Ended September 30 <sup>(1)</sup>	2016	2017	2018	2019	2020 (unaudited)
<b>Operating Revenues</b>					
Charges for Services	\$13,960,788	\$14,652,277	\$13,990,442	\$15,121,045	\$15,687,025
Total Operating Revenues	<u>\$13,960,788</u>	<u>\$14,652,277</u>	<u>\$13,990,442</u>	<u>\$15,121,045</u>	<u>\$15,687,025</u>
<b>Operating Expenses</b>					
Cost of Services	\$5,888,867	\$6,608,563	\$6,592,717	\$7,110,873	\$8,632,968
General and Administrative	859,841	859,841	1,208,080	1,241,160	1,357,920
Depreciation	2,473,149	2,577,418	2,687,464	2,989,142	3,093,821
Total Operating Expenses	<u>\$9,221,857</u>	<u>\$10,045,822</u>	<u>\$10,488,261</u>	<u>\$11,341,175</u>	<u>\$13,084,709</u>
<b>Total Operating Income (Loss)</b>	<u>\$4,738,931</u>	<u>\$4,606,455</u>	<u>\$3,502,181</u>	<u>\$3,779,870</u>	<u>\$2,602,316</u>
<b>Nonoperating Revenues (Expenses)</b>					
Investment Income	\$179,716	\$116,373	\$142,044	\$252,449	\$95,094
Interest and Fiscal Charges	(833,101)	(1,218,930)	(954,155)	(889,905)	(853,100)
Other	(10,160)	(21,096)	150,202	46,428	27,220
Total Nonoperating Revenues (Expenses)	<u>\$(663,545)</u>	<u>\$(1,123,653)</u>	<u>\$(661,909)</u>	<u>\$(591,028)</u>	<u>\$(730,787)</u>
<b>Income (Loss) Before Contributions and Transfers</b>	<u>\$4,075,386</u>	<u>\$3,482,802</u>	<u>\$2,840,272</u>	<u>\$3,188,842</u>	<u>\$1,871,529</u>
<b>Transfers and Contributions</b>					
Connection Fees	\$216,003	\$392,160	\$291,037	\$705,944	\$137,578
Transfers Out	(1,104,889)	(1,350,899)	(1,812,509)	(2,309,728)	(1,489,728)
<b>Change in Net Position</b>	<u>\$3,186,500</u>	<u>\$2,525,063</u>	<u>\$1,318,800</u>	<u>\$1,585,058</u>	<u>\$519,379</u>
Net Position, Beginning of Year	<u>\$47,157,815</u>	<u>\$50,344,315</u>	<u>\$52,760,505</u>	<u>\$54,079,305</u>	<u>\$55,664,363</u>
Net Position, End of Year	<u>\$50,344,315</u>	<u>\$52,869,378</u>	<u>\$54,079,305</u>	<u>\$55,664,363</u>	<u>\$56,183,742</u>

Source: Financial Feasibility Report.

<sup>(1)</sup> Note that historical operating results through September 30, 2019, including the net position at beginning of year and end of year, are based upon audited information from the City's CAFRs for Fiscal Years 2016 through 2019. Fiscal Year 2020 figures were derived based upon City staff's adopted budget and staff's projections as of July 2020 and are unaudited. See also "RISK FACTORS – Impact of COVID-19" for additional information on Fiscal Year 2020.

## The Sewer Utility

Description. The City's wastewater utility provides wastewater treatment services throughout the City's service area, which encompasses generally the same service area as the City water utility, although with small variations outside the City limits, by means of a 125-mile gravity and pressure pipe system and 125 miles of sewer lines, with 33 City-owned and maintained wastewater pump stations and several private pump stations. The City also owns and maintains a regional master pump station that collects wastewater from the City and surrounding areas and sends it to the ECR facility described below for treatment, which master pump station has an average daily flow rate of approximately 6.5MGD but pumping capacity of 20.3MGD.

Wastewater Treatment Facilities. In 1992, the City entered into an interlocal agreement (as amended, the "ECR Interlocal Agreement"), with Palm Beach County and the Cities of Riviera Beach and West Palm Beach and the Town of Palm Beach, for the operation and maintenance of the East Central Regional Wastewater Facility (the "ECR"). The ECR was created to receive, treat and dispose of sewage generated for 30 years, with a renewable term of 30 additional years. The ECR Interlocal Agreement provides for a governing board (the "ECR Board") comprised of one representative for each member, including the City, to administer the ECR. The ECR Interlocal Agreement may not be amended except by written agreement of members holding a cumulative capacity allocation of 100%. The City of West Palm Beach manages the ECR on behalf of the ECR Board.

As described above, a regional master pump station collects wastewater from the City and the Cities of Manalapan, Atlantis, South Palm Beach, and Lantana, where it is pumped via a 14.1 mile force main owned by the City and Palm Beach County to the ECR. The ECR Board establishes a series of wastewater flow charges each year to pass on to member entities so that the ECR is self-sustaining. The ECR Board also calculates an annual renewal and replacement fund contribution. The ECR has entered into a series of loans to fund various capital projects. As of fiscal year 2019, the balance due on such loans totaled approximately \$163 million, of which the City's share was approximately \$26 million. ECR reclaimed water is pumped to the FPL West County Energy Center for cooling water. Payments to ECR by the City are considered Operating Expenses of the System.

Historical Flows. Set forth below are historical average wastewater flows for the sewer utility for Fiscal Years 2015 through 2019:

### Historical Average Wastewater Flows

<u>Fiscal Year</u>				
<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
3,203,789	3,249,118	3,048,238	3,236,826	3,129,929

Source: City of Lake Worth Beach.

Customers. Set forth below are the top ten customers of the System for Fiscal Year 2019:

**Top Ten Wastewater Customers**

<u>Customer Name and Ranking</u>	<u>Gallons Per Year (1,000 gals)</u>	<u>Total Revenues<sup>(1)</sup></u>
Lantana Silver Springs LLC	113,155	\$77,659.92
Meridian Pk Village Prtsh	103,408	61,153.12
Riverstone Communities, LLC	68,789	49,353.16
Hillhaven/Meridian/7135	76,616	43,027.54
Cap Utilities LLC	56,680	37,997.09
Lake Worth Towers	47,833	34,110.91
Palm Beach County	63,373	29,225.63
Meridian Pk Village Prtsh	57,386	27,016.39
Holiday II Mobile Home	66,515	25,924.92
Avante at Lake Worth Inc	43,470	19,076.25

Source: City of Lake Worth Beach.

<sup>(1)</sup> Represents approximately 5.2% of the Fiscal Year 2019 wastewater utility revenues.

User Rates and Charges.

Set forth below are the City's existing sewer rates:

**Existing Sewer Rates  
Monthly Readiness-To-Serve Charge**

<u>Meter Size</u>	<u>(Commercial/Industrial)</u>	<u>(Residential<sup>(1)</sup>)</u>
5/8 x 3/4"	\$15.66	\$16.66
1"	31.54	
1 1/2"	58.02	
2"	89.79	
3"	174.50	
4"	269.79	
6"	534.53	
8"	793.51	

## Usage Charge

A volume charge of \$0.474 per hundred gallons is charged for usage.

Source: City of Lake Worth Beach.

<sup>(1)</sup> Each single-family residential unit is charged \$10.59 per ERU. Each residential unit in a multifamily complex or mobile home park is charged an equivalent to 66% of one (1) ERU.

The Financial Feasibility Report for the System (see "APPENDIX G -- FINANCIAL FEASIBILITY REPORT" attached hereto) recommends a rate increase of 7.5% in Fiscal Year 2021 and annual wastewater rate increases of 3.25% commencing in Fiscal Year 2022. The City has adopted the recommended increase for Fiscal Year 2021.

The table below provides a comparison of sewer rates of other area providers:

### Comparison of Sewer Rates (based on usage of 4,000 gallons per month)

Provider	Rate
Lake Worth Beach	\$30.10
Golf	31.02
Delray Beach	31.61
Palm Springs	39.85
Lantana	32.51
Manalapan	78.34
Seacoast Utility Authority	30.79
West Palm Beach	28.84

Source: South Florida Water Management District 2019 Annual Utility Rate Survey.

### Capital Improvement Program.

The City's 5-year capital improvement program includes the following:

Service	Project Name	FY 2020	FY 2021	Total
Sewer	Lift Station 14 Improvement	-	\$336,000	\$336,000
Sewer	Lift Station #13 electrical	\$350,000	186,000	536,000
Sewer	Lift Station #19 rehab/replace	150,000	-	150,000
Sewer	Global Manhole Lining	-	150,000	150,000
Sewer	Park of Commerce Phase 2	22,000	91,000	113,000
Sewer	Lake Bass Canal Aerial Forcemain Relocation	50,000	-	50,000
	<b>Total Sewer</b>	<b>\$572,000</b>	<b>\$763,000</b>	<b>\$1,335,000</b>

Transfers to the General Fund. The City annually transfers to its General Fund amounts from its wastewater enterprise fund. A portion of such amounts are equivalent to what the City deems it would otherwise charge as a franchise fee if the provider of such service was a private provider rather than the City, and these amounts are listed as "Transfers In" to the General Fund in the City's financial statements; a separate amount related to direct and indirect costs of the City attributable to such enterprise operations is treated as part of "Charges for Services". The City does not have a set formula for such transfers, and each year's amount is part of the budget process of the City; however, City management has expressed a desire to reduce the transfer portion not attributable to direct and indirect costs closer to 8% of revenues from its current level of approximately 10.8% of revenues. As described above, the Resolution limits the amount of excess System Net Revenues that may transferred to the General Fund for any lawful purpose (including such franchise fee amounts but excluding Charges for Services) to a maximum of 10% of Gross Revenues per Fiscal Year. There is no legal obligation of the City to transfer any amount from the enterprise funds to the General Fund. The table set forth below shows historical wastewater utility transfers (including such "franchise fees" and transfers in connection with the City's Park of Commerce that are not expected to continue in Fiscal Years 2020 onward due to capital improvements made thereto, but excluding Charges for Services, which are treated as an Operating Expense) for the past five Fiscal Years:

Fiscal Year	Wastewater Transfer
2016	\$613,767
2017	613,767
2018	1,305,810
2019	704,870
2020 (unaudited)	608,870

Projections of future transfers are included as part of the Financial Feasibility Report attached hereto as APPENDIX G.

Government Regulation.

*Federal.* The provisions of the Federal Water Pollution Control Act, the Clean Water Act of 1977 (the "Clean Water Act"), the Marine Protection, Research and Sanctuaries Act of 1972 ("MPRSA") and related regulations affect the wastewater system. Federal enforcement of these statutes is entrusted to EPA.

Under the Clean Water Act, EPA administers an extensive program of federal capital construction grants (the "Construction Grants Program") and oversees compliance with regulations and guidelines it has promulgated concerning (i) wastewater treatment plant construction, operation, maintenance, upgrading and rehabilitation, (ii) introduction of toxins and other pollutants into wastewater treatment facilities and (iii) pollutant discharges from all point sources.

The Clean Water Act also directs the EPA to address the problem of discharges of toxins and other substances that must be met by specific industries ("Categorical Standards") and has directed that publicly-owned treatment facilities establish and enforce industrial pretreatment programs.

The EPA pursuant to the Clean Water Act has indicated its intent to establish numeric criteria for certain nutrients (specifically, phosphorous and nitrogen) for both flowing waters and marine waters in Florida. The City is uncertain at this time of whether the proposed limits will be lower than that currently achieved by advanced wastewater treatment processes in places in Florida, which could necessitate mandatory upgrades to meet the new criteria. The City is likewise unable to predict at this time whether and when new, more stringent criteria will be imposed and what impact, financial and otherwise, the same might have on the City and the sewer utility.

*State.* State regulations establish various standards with which the sewer utility must comply in operating the sewer utility. The regulations set forth (i) criteria and standards for the DEP in granting permits to construct or modify domestic wastewater facilities, including specific guidelines for the design and construction of gravity wastewater systems and collection and transmission systems; (ii) criteria for the discharge of domestic wastewater effluent to certain wetlands; and (iii) standards for treating wastewater before discharge into disposal systems, surface waters, spray irrigation, ocean outfalls or underground geological formations.

In addition to the water effluent limitations set forth above, all activities of the sewer utility and all discharges from the sewer utility and the City's stormwater utility must also meet certain water quality-based effluent limitations. The regulations prohibit the DEP from issuing a permit for a discharge to the waters of the State unless the DEP has established an effluent limit for those pollutants in the discharge that are present in quantities or concentrations that can reasonably be expected to cause or contribute to a violation of the water quality standards for the State's public water supply.

In addition, the regulations require owners of wastewater treatment plants to provide monthly reports concerning the composition, concentration and treatment of the wastewater from the treatment plants. The regulations set forth a schedule of required sampling of effluent discharge for the following: flow, ph-chlorine residual, biochemical oxygen demand, suspended solids and fecal coliform. Failure to maintain records of such sampling and to correct such failure shall subject the wastewater treatment plant to revocation of its permit.

Through the City's legislative tracking, it is cognizant of upcoming changes to the regulations regarding lead and copper, in that the City practices corrosion control, is fully compliant with existing regulations and to its knowledge have few, if any, lead service lines in its service territory.

The ECR plant operates under a permit issued by FDEP which expires in 2021. Renewal of the permit is in process, and is expected to be received.

The City's sewer collection and treatment utility has consistently met EPA and DEP requirements, and the City is not operating under any administrative or consent decree.

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Historical Revenues and Expenses of the Sewer Utility. The following table sets forth the gross revenues and costs of operation and maintenance of the sewer utility for Fiscal Years 2016 through 2019, with projections for Fiscal Year 2020 as described below.

**Historical Sewer Utility Revenues and Expenses (in 000s)\***

Fiscal Year Ended September 30 <sup>(1)</sup>	2016	2017	2018	2019	2020 (unaudited)
<b>Operating Revenues</b>					
Charges for Services	\$7,694,524	\$7,183,903	\$7,083,494	\$7,770,255	\$8,920,097
Total Operating Revenues	\$7,694,524	\$7,183,903	\$7,083,494	\$7,770,255	\$8,920,097
<b>Operating Expenses</b>					
Cost of Services	\$5,494,063	\$5,904,731	\$6,977,569	\$7,029,771	\$7,964,252
General and Administrative	599,772	599,772	981,075	899,780	952,723
Depreciation	695,330	750,525	873,844	846,904	932,981
Total Operating Expenses	\$6,789,165	\$7,255,028	\$8,832,488	\$8,776,455	\$9,849,956
<b>Total Operating Income (Loss)</b>	\$905,360	\$(71,125)	\$(1,748,994)	\$(1,006,200)	\$(929,859)
<b>Nonoperating Revenues (Expenses)</b>					
Investment Income	\$89,754	\$30,876	\$38,749	\$72,441	\$17,854
Interest and Fiscal Charges	-	-	-	-	-
Other	-	7,116	102,133	198,434	6,728
Total Nonoperating Revenues (Expenses)	\$89,754	\$37,992	\$140,882	\$270,875	\$24,582
<b>Income (Loss) Before Contributions and Transfers</b>	\$995,114	\$(33,133)	\$(1,608,112)	\$(735,325)	\$(905,277)
<b>Transfers and Contributions</b>					
Connection Fees	\$153,488	\$246,226	\$180,134	\$201,549	\$49,660
Transfers Out	(613,767)	(613,767)	(1,305,810)	(704,870)	(608,870)
<b>Change in Net Position</b>	\$534,835	\$(400,674)	\$(2,733,788)	\$(1,238,646)	\$(1,464,487)
Net Position, Beginning of Year	\$19,523,991	\$20,058,826	\$19,629,705	\$16,895,917	\$15,657,271
Net Position, End of Year	\$20,058,826	\$19,658,152	\$16,895,917	\$15,657,271	\$14,192,784

Source: Financial Feasibility Report.

<sup>(1)</sup> Note that historical operating results through September 30, 2019, including the net position at beginning of year and end of year, are based upon audited information from the City's CAFRs for Fiscal Years 2016 through 2019. Fiscal Year 2020 figures were derived based upon City staff's adopted budget and staff's projections as of July 2020, and are unaudited. See also "RISK FACTORS – Impact of COVID-19" for additional information on Fiscal Year 2020.

## **The Project**

Proceeds of the 2020 Bonds will be used to finance approximately \$52 million of water, sewer, and electric system projects, including projects appropriated in prior years, which are currently under construction, and are expected to be completed over the next one to three years. As described above, these improvements include the construction of the additional transmission line tie-in and system hardening described above for the electric utility, transmission line, storage and transfer pump improvements for the water utility, and lift station and other improvements for the sewer utility. See "APPENDIX G -- FINANCIAL FEASIBILITY REPORT" for a more detailed description of the Project. Consistent with prior funding practices, it is likely that even though funds for these projects will be identified and appropriated in subsequent budget years, actual expenditures and project construction will be spread out over a longer time period.

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## System Historic Operating Results

The historical revenues and expenses of the System for Fiscal Years 2016 through 2019, with projections for Fiscal Year 2020, are summarized below. The debt service requirements and coverage tests are based on the rate covenant contained in the Resolution.

### Historical System Revenues and Expenses<sup>(1)</sup>

Fiscal Year Ending September 30 <sup>(1)</sup>	2016	2017	2018	2019	2020 (unaudited)
<b>Operating Revenues</b>					
Charges for Services	\$78,666,716	\$77,686,224	\$75,354,771	\$78,019,832	\$85,488,275
Total Operating Revenues	\$78,666,716	\$77,686,224	\$75,354,771	\$78,019,832	\$85,488,275
<b>Operating Expenses</b>					
Cost of Services	\$53,291,055	\$60,005,084	\$63,792,499	\$59,320,370	\$62,721,300
General and Administrative	4,375,405	4,571,674	5,724,515	5,579,145	5,557,390
Depreciation	4,951,586	5,147,671	5,268,222	5,760,014	5,950,770
Total Operating Expenses	\$62,618,046	\$69,724,429	\$74,785,236 <sup>(2)</sup>	\$70,659,529	\$74,229,460
Total Operating Income (Loss)	\$16,048,670	\$7,961,795	\$569,535	\$7,360,303	\$11,258,815
<b>Non-Operating Revenues (Expenses)</b>					
Investment Income	\$419,804	\$288,663	\$439,080	\$738,624	\$284,814
Interest and Fiscal Charges	(1,501,612)	(2,717,378)	(1,981,754)	(1,815,517)	(1,726,815)
Other	705,964	583,425	854,290	784,897	510,093
Total Non-Operating Revenues (Expenses)	\$(375,844)	\$(1,845,290)	\$(688,384)	\$(292,356)	\$(931,908)
<b>Income (Loss) Before Contributions and Transfers</b>	\$15,672,826	\$6,116,505	\$(118,849)	\$7,067,947	\$10,326,906
<b>Transfers and Contributions</b>					
Connection Fees	\$369,491	\$639,386	\$471,171	\$907,493	\$187,238
Transfers Out	(5,959,636)	(6,340,119)	(8,282,019)	(8,714,339)	(6,635,089)
<b>Change in Net Position</b>	\$10,082,681	\$415,772	\$(7,929,697)	\$(738,899)	\$3,879,056
Net Position, Beginning of Year	\$87,650,507	\$97,733,188	\$98,148,960	\$90,219,263	\$89,480,364
Net Position, End of Year	\$97,733,188	\$98,148,960	\$90,219,263	\$89,480,364	\$93,359,420
<b>Determination of Income Available for Debt Service</b>					
<u>Adjustments:</u>					
Depreciation	\$4,951,586	\$5,147,671	\$5,268,222	\$5,760,014	\$5,950,770
Interest and Fiscal Charges	1,501,612	2,717,378	1,981,754	1,815,517	1,726,815
Transfers Out	5,959,636	6,340,119	8,282,019	8,714,339	6,635,089
Connection Fees	(369,491)	(639,386)	(471,171)	(907,493)	(187,238)
<b>Net Revenues Available for Debt Service</b>	\$22,126,024	\$13,981,554	\$7,131,127	\$14,643,478	\$18,004,491

Source: Financial Feasibility Report.

<sup>(1)</sup> Historical operating results through September 30, 2019 are as reported in each of the City's CAFRs for each respective Fiscal Year. Fiscal Year 2020 figures were derived based upon the City staff's adopted budget and staff's projections as of July 2020 and are unaudited. See

also "RISK FACTORS – Impact of COVID-19" for additional information on Fiscal Year 2020.

- (2) As described under the heading "--Historical Revenues and Expenses of the Electric Utility" above, the City attributes the decrease in Net Revenues in Fiscal year 2018 to a reduction in electric rates and increased costs due to repairs at its GT2 gas turbine unit.

Projections of revenues and expenses for the ensuing five Fiscal Years are included as part of the Financial Feasibility Report attached hereto as APPENDIX G.

## **RISK FACTORS**

The future financial condition of the System could be affected adversely by, among other things, legislation, environmental and other regulatory actions as set forth above, changes in demand for services, economic conditions, demographic changes, acts of God (such as hurricanes, as the System lies in a hurricane-prone area) and litigation. In addition to those items listed above, some of the possible changes in the future may include, but not be limited to, the fact that the City's consolidated utility facilities are subject to regulation and control by numerous federal, state and local governmental agencies. Neither the City nor its consultants can predict future policies such agencies may adopt. Future changes could result in the City having to discontinue operations at certain facilities or to make unanticipated and significant capital expenditures, and could generate substantial litigation.

### **Enforceability of Remedies**

The remedies available to the owners of the 2020 Bonds upon an event of default under the Resolution are in many respects dependent upon judicial actions which are often subject to discretion and delay. Under existing constitutional and statutory law and judicial decisions, including specifically the federal bankruptcy code, the remedies specified by the Resolution and the 2020 Bonds may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the 2020 Bonds (including Bond Counsel's approving opinion) will be qualified, as to the enforceability of the remedies provided in the various legal instruments, by limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors enacted before or after such delivery. See "APPENDIX B -- FORM OF THE RESOLUTION" attached hereto for a description of events of default and remedies.

### **Climate Change Issues**

Numerous scientific studies on climate change show that, among other effects on the global ecosystem, sea levels will rise, extreme temperatures will become more common, and extreme weather events will become more frequent as a result of increasing global temperatures. Sea levels are expected to continue to rise in the future due to the increasing temperature of the oceans causing thermal expansion and growing ocean volume from glaciers and ice caps melting into the ocean. Most of Florida is at risk of substantial flood damage over time, affecting private development and public infrastructure, including roads, utilities, emergency services, schools, and parks. Likewise, Florida is hurricane-prone, and the City has suffered damage from past hurricanes. As a result, the City could lose considerable tax revenues and many residents, businesses, and governmental

operations could be displaced, and the City could be required to mitigate these effects at a potentially material cost. The City is unable to predict whether sea level rise or other impacts of climate change or flooding from a major storm will occur, when they may occur, and if any such events occur, whether they will have a material adverse effect on the business operations or financial condition of the City or the System. Additionally, climate change concerns have led, and may continue to lead, to new laws and regulations at the federal and state levels (including but not limited to air, water, hazardous substances and waste regulations) that could have a material adverse effect on the operations of the City and the System. In response to these concerns, the City is a member of the "Coastal Resiliency Partnership", which consists of Palm Beach County and ten of its coastal municipalities. The "CRP" was formed pursuant to a state program to provide assistance and funding to coastal communities dealing with flooding, erosion and other climate change-related issues. Over thirty local representatives from the member communities meet regularly to discuss sustainability planning and preparedness and to craft principles for use within the CRP.

## **Cybersecurity**

Computer networks and systems used for data transmission and collection are vital to the efficient operations of the City. City systems provide support to departmental operations and constituent services by collecting and storing sensitive data, including intellectual property, security information, proprietary business process information, information applying to suppliers and business partners, and personally identifiable information of customers, constituents and employees. The secure processing, maintenance and transmission of this information is critical to department operations and the provision of citizen services. Increasingly, governmental entities are being targeted by cyberattacks (including, but not limited to, hacking, viruses, malware and other attacks on computers and other sensitive digital networks and systems) seeking to obtain confidential data or disrupt critical services. A rapidly changing cyber risk landscape may introduce new vulnerabilities and avenues that attackers/hackers can exploit in attempts to cause breaches or service disruptions. Employee error and/or malfeasance may also contribute to data loss or other system disruptions. Additionally, the City's computer networks and systems routinely interface and rely on third party systems that are also subject to the risks previously described. Any such breach could compromise networks and the confidentiality, integrity and availability of systems and the information stored there. In 2019, a vendor-maintained utility billing platform of the City was compromised via internal application vulnerability, whereupon the City immediately took the servers offline and rebuilt the same from scratch with the appropriate patches released from the vendor, with no signs of data exfiltration. The potential disruptions, access, modification, disclosure or destruction in general of data could result in interruption of the efficiency of City commerce, initiation of legal claims or proceedings, liability under laws that protect the privacy of personal information, regulatory penalties, disruptions in operations and the services provided, and the loss of confidence in City operations.

The City's Information Technology Department has made significant network upgrades, and will continue to do so, to combat cyber security threats and to provide the City with an utmost secured network. The City's IT network has multiple layers of protection in place which include next generation firewalls, software defined network access, application whitelisting software, end point protection software, network traffic monitoring services, alerts and notifications, multifactor authentication, automated policy enforcement, advanced security analytics, patch management for

servers and end points, state of the art backup system on premises and in the cloud, and restricted physical access to the City's critical IT infrastructure to IT authorized personnel only. In addition, the City has partnered with U.S. Department of Homeland Security MS-ISAC to provide network monitoring and external vulnerability scan services. Lastly, the Information Technology Department provides internal cybersecurity training to City users in an effort to create awareness and reduce security vulnerabilities.

However, no assurances can be given that any cyberattacks, if successful, will not have a material adverse effect on the operations of the City.

### **Impact of COVID-19**

The COVID-19 pandemic, along with various governmental measures taken to protect public health in light of the pandemic, has had an adverse impact on global financial markets and economies, including financial markets and economic conditions in the United States. The impact of the COVID-19 pandemic on the U.S. economy is expected to be broad-based and to negatively affect national, state and local economies.

In response to such expectations, President Trump on March 13, 2020, declared a "national emergency," which, among other effects, allows the executive branch to disburse disaster relief funds to address the COVID-19 pandemic and related economic dislocation. On March 25, 2020, President Trump declared the State of Florida a disaster area because of the spread of COVID-19. In addition, Governor DeSantis signed various executive orders that, among other effects, (i) closed all public and private schools serving pre-kindergarten through 12th grade students through the remainder of the spring semester, (ii) closed all bars and restaurants to dine-in customers through May 2020, and (iii) instructed residents to stay at home except for essential travel. The restrictions in (ii) and (iii) above were lifted in June 2020, although the limitation on bars selling alcohol for indoor consumption was reinstated effective June 25, 2020 and lifted again in September 2020. The finances of City and Palm Beach County residents are likely to be adversely affected by the continued spread of COVID-19, the various governmental actions in response thereto and changes in the behavior of businesses and people, which all could affect the ability to pay their taxes and utility bills.

The City and other governmental entities have taken a number of steps locally with respect to COVID-19. The City closed all of its recreational facilities, and City Commission meetings have been held digitally. Similar to all local governments, the City's finances are being impacted by the pandemic. Due to COVID-19's impacts beginning in mid-March and the unknown length of the public health crisis, as well as the duration of measures to mitigate the pandemic, the City is unable to accurately project the total economic impact of the COVID-19 pandemic upon the City's operations. These measures are expected to adversely impact the City's revenues for Fiscal Year 2020, with unknown impacts for Fiscal Year 2021. The City's unaudited numbers for Fiscal Year 2020 show an estimated 4.6% decline in its General Fund revenues, as state sales tax revenues (which fund the local government sales tax and a portion of state revenue sharing distributed to Florida local governments and form a part of the City's non-ad valorem revenues) were diminished significantly in Fiscal Year 2020.

The City instituted a moratorium on utility shutoffs commencing in March 2020 and ended this in September 2020. During that period, approximately 750 customers were eligible to be disconnected but were not, with a total of approximately \$1.3 million in arrears. Such amounts continue to be owed and are not waived or forgiven, although the City has offered payment plans to delinquent customers. The City's unaudited total electric utility net revenues through August 2020 are an estimated 5% above budget, as electric utility operating expenses during the period have declined by approximately 8% (due in part to lower fuel costs and a delay in financing capital projects) while gross revenues have decreased approximately 2%. The City's water utility net revenues through August 2020 are an estimated 7% above budget, partly due to the shutdown and to a drier than usual spring, and due to water operating expenses being down approximately 12% due to a delay in financing capital projects. Sewer utility net revenues through August 2020 are approximately 10% below budget, reflecting declines in both gross revenues and operating expenses.

A new wave of the virus could produce more negative impacts, and could adversely impact ratings on the Series 2020 Bonds. Please refer to "RATINGS," herein.

### **HURRICANE IRMA IMPACTS**

On September 10-11, 2017, Hurricane Irma swept through Florida and caused a significant amount of damage within the State, with the center of the storm making landfall twice, once as a Category 4 storm with 130 mph sustained winds in the Florida Keys and once as a Category 3 storm with 115 mph sustained winds near the City of Marco Island. While the center of the storm did not pass near the City, it suffered approximately \$4 million in damages from the storm, which was paid by the City's self-insurance fund. The City expects to be reimbursed for a portion of this amount by FEMA.

### **LEGAL MATTERS**

Certain legal matters in connection with the issuance of the 2020 Bonds are subject to an approving legal opinion of Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Bond Counsel, whose approving opinion (a form of which is attached hereto as "APPENDIX C -- FORM OF BOND COUNSEL OPINION") will be available at the time of delivery of the 2020 Bonds. The actual legal opinion to be delivered may vary from that text if necessary to reflect facts and law on the date of delivery. The opinion will speak only as of its date, and subsequent distribution of it by recirculation of the Official Statement or otherwise shall create no implication that, subsequent to the date of the opinion, Bond Counsel has reviewed or expresses any opinion concerning any of the matters referenced in the opinion. Certain legal matters will be passed on for the City by Torcivia, Donlon & Goddeau, P.A., West Palm Beach, Florida, City Attorney and for the Underwriters by the Law Offices of Steve E. Bullock, P.A., Miami, Florida. Nabors, Giblin & Nickerson, P.A., Tampa, Florida, has also acted as disclosure counsel to the City in connection with the issuance of the 2020 Bonds.

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## TAX MATTERS

### **Opinion of Bond Counsel**

In the opinion of the Bond Counsel (see APPENDIX C), the interest on the 2020 Bonds is excludable from gross income and is not a specific item of tax preference for federal income tax purposes under existing statutes, regulations, rulings and court decisions and the Internal Revenue Code of 1986, as amended (the "Code"). Failure by the City to comply subsequent to the issuance of the 2020 Bonds with certain requirements of the Code regarding the use, expenditure and investment of bond proceeds and the timely payment of certain investment earnings to the Treasury of the United States may cause interest on the 2020 Bonds to become includable in gross income for federal income tax purposes retroactive to their date of issue. The City has covenanted in the Resolution to comply with all provisions of the Code necessary to, among other things, maintain the exclusion from gross income of interest on the 2020 Bonds for purposes of federal income taxation. In rendering its opinion, Bond Counsel has assumed continuing compliance with such covenants.

### **Internal Revenue Code of 1986**

The Code contains a number of provisions that apply to the 2020 Bonds, including, among other things, restrictions relating to the use or investment of the proceeds of the 2020 Bonds and the payments of certain arbitrage earnings in excess of the "yield" on the 2020 Bonds to the Treasury of the United States. Noncompliance with such provisions may result in interest on the 2020 Bonds being included in gross income for federal income tax purposes retroactive to their date of issue.

### **[Premium Bonds]**

The difference between the principal amount of the 2020 Bonds maturing \_ (the "Premium Bonds") and the initial offering price to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriter or wholesalers) at which price a substantial amount of such Premium Bonds of the same maturity was sold constitutes to an initial purchaser amortizable bond premium which is not deductible from gross income for federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest rate basis over the term of each Premium Bond. For purposes of determining gain or loss on the sale or other disposition of a Premium Bond, an initial purchaser who acquires such obligation in the initial offering to the public at the initial offering price is required to decrease such purchaser's adjusted basis in such Premium Bond annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning such Premium Bonds. Owners of the Premium Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning such Premium Bonds.]

### **[Discount Bonds]**

Under the Code, the difference between the principal amount of the 2020 Bonds which are not Premium Bonds (the "Discount Bonds"), and the initial offering price to the public, excluding

bond houses and brokers, at which price a substantial amount of the Discount Bonds of the same maturity was sold, constitutes "original issue discount". Original issue discount on the Discount Bonds represents interest which is not includable in gross income. A portion of such interest that accrues to the owner of such Bonds in a year, as described below, is, however, included in the calculation of a corporate taxpayer's alternative minimum tax and environmental tax and may result in other collateral federal tax consequences although the owner may not have received cash in such year. Original issue discount on such Discount Bonds will accrue actuarially over the term of a Discount Bond at a constant interest rate. A purchaser who acquires Discount Bonds at an issue price equal to the initial offering price thereof as set forth on the cover page of this Official Statement will be treated as receiving an amount of interest excluded from gross income for federal income tax purposes equal to the original issue discount accruing during the period such purchaser holds such Discount Bonds and will increase its adjusted basis in such Discount Bonds by the amount of such accruing discount for purposes of determining taxable gain or loss on the sale or the disposition of such Discount Bonds. The federal income tax consequences of the purchase, ownership and redemption, sale or price may be determined according to rules which differ from those described above. Holders of Discount Bonds should consult their own tax advisors with respect to the consequences of owning Discount Bonds, including the effect of such ownership under applicable state and local laws.]

### **Collateral Tax Consequences**

Except as described above, Bond Counsel will express no opinion regarding the federal income tax consequences resulting from the ownership of, receipt or accrual of interest on, or disposition of, the 2020 Bonds. Prospective purchasers of the 2020 Bonds should be aware that the ownership of the 2020 Bonds may result in other collateral federal tax consequences. For example, ownership of the 2020 Bonds may result in collateral tax consequences to various types of corporations relating to (1) denial of interest deduction to purchase or carry such 2020 Bonds, (2) the branch profits tax, and (3) the inclusion of interest on the 2020 Bonds in passive income for certain Subchapter S corporations. In addition, the interest on the 2020 Bonds may be included in gross income by recipients of certain Social Security and Railroad Retirement benefits.

PURCHASE, OWNERSHIP, SALE OR DISPOSITION OF THE 2020 BONDS AND THE RECEIPT OR ACCRUAL OF THE INTEREST THEREON MAY HAVE ADVERSE FEDERAL TAX CONSEQUENCES FOR CERTAIN INDIVIDUAL AND CORPORATE BONDHOLDERS, INCLUDING, BUT NOT LIMITED TO, THE CONSEQUENCES REFERRED TO ABOVE. PROSPECTIVE BONDHOLDERS SHOULD CONSULT WITH THEIR TAX SPECIALISTS FOR INFORMATION IN THAT REGARD.

Other Tax Matters. Interest on the 2020 Bonds may be subject to state or local income taxation under applicable state or local laws in other jurisdictions. Purchasers of the 2020 Bonds should consult their tax advisors as to the income tax status of interest on the 2020 Bonds in their particular state or local jurisdictions.

During recent years, legislative proposals have been introduced in Congress, and in some cases enacted, that altered certain federal tax consequences resulting from the ownership of obligations that are similar to the 2020 Bonds. In some cases these proposals have contained

provisions that altered these consequences on a retroactive basis. Such alteration of federal tax consequences may have affected the market value of obligations similar to the 2020 Bonds. From time to time, legislative proposals are pending which could have an effect on both the federal tax consequences resulting from ownership of the 2020 Bonds and their market value. No assurance can be given that additional legislative proposals will not be introduced or enacted that would or might apply to, or have an adverse effect upon, the 2020 Bonds. For example, proposals have been discussed in connection with deficit spending reduction, job creation and other tax reform efforts that could significantly reduce the benefit of, or otherwise affect the exclusion from gross income of, interest on obligations such as the 2020 Bonds. The further introduction or enactment of one or more of such proposals could affect the market price or marketability of the 2020 Bonds.

## **LITIGATION**

There is no suit, action or proceeding of any nature now pending or threatened to restrain or to enjoin the issuance, sale, execution or delivery of the 2020 Bonds, or in any way contesting or affecting the validity of the 2020 Bonds or any proceedings of the City Commission of the City taken with respect to the issuance or sale thereof or the pledge or application of any moneys, revenues or security provided for the payment of the 2020 Bonds, or the existence or powers of the City with respect to the 2020 Bonds, the security therefor, or the System.

The City is engaged from time to time in litigation typical to Florida municipalities, for which it retains insurance and to which it has defenses, including claims for which it is a nominal party. In addition, the City is appealing a determination by and has filed litigation against the Federal Emergency Management Agency ("FEMA") in connection with FEMA's decision to deobligate approximately \$4 million in disaster assistance funding stemming from hurricanes occurring in 2004 and 2005. City staff filed administrative appeals with FEMA Region IV to reverse the deobligation decision, which appeals were denied. The City then filed second appeals with FEMA Headquarters in Washington, D.C. and is awaiting a decision. The State of Florida Division of Emergency Management supports the City's positions in the appeals, although there is a likelihood that a portion of the deobligated monies will need to be repaid.

## **DISCLOSURE REQUIRED BY FLORIDA BLUE SKY REGULATIONS**

Pursuant to Section 517.051, Florida Statutes, as amended by Chapter 87-316, Laws of Florida, no person may directly or indirectly offer or sell securities of the City except by an offering circular containing full and fair disclosure of all defaults as to principal or interest on its obligations since December 31, 1975, as provided by rule of the Florida Department of Banking and Finance (the "Department"). Pursuant to Rule 3E-400.003, Florida Administrative Code, the Department has required the disclosure of the amounts and types of defaults, any legal proceedings resulting from such defaults, whether a trustee or receiver has been appointed over the assets of the City, and certain additional financial information, unless the City believes in good faith that such information would not be considered material by a reasonable investor. The City is not and has not been in default on any bond issued since December 31, 1975 which would be considered material by a reasonable investor. Although the City is not aware of any other defaults, it is not undertaking an independent review of bonds or other debt obligations for which it served only as a conduit issuer. Because the source of payment of any such defaulted bonds would be separate and distinct from the



source of payment for the 2020 Bonds and would not be an obligation of the City other than to the extent the City receives funds from the party borrowing the proceeds of such bonds, any default on such bonds is not considered a material fact with respect to the 2020 Bonds.

## **FINANCIAL STATEMENTS**

The annual financial statements of the City, for the fiscal year ending September 30, 2019, and report thereon of Keefe McCullough, CPAs are included in APPENDIX D attached hereto. The 2020 Bonds are payable solely from and secured by a lien upon and pledge of the Pledged Funds. The financial statements attached hereto as APPENDIX D are presented for general informational purposes only.

## **RATINGS**

[S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC ("S&P") is expected to assign its municipal bond rating of "\_\_\_" to the 2020 Bonds, based upon the delivery of the standard municipal bond insurance policy of \_\_\_ insuring the same.] In addition, S&P and Moody's Investors Service have assigned their underlying municipal bond ratings of "\_\_\_" (\_\_\_ outlook) and "\_\_\_" (\_\_\_ outlook) respectively, to the 2020 Bonds. The ratings reflect only the views of said rating agencies, and an explanation of the ratings may be obtained only from said rating agencies. There is no assurance that such ratings will continue for any given period of time or that they will not be lowered or withdrawn entirely by the rating agencies, or any of them, if in their judgment, circumstances so warrant. A downward change in or withdrawal of any of such ratings may have an adverse effect on the market price of the 2020 Bonds.

## **FINANCIAL ADVISOR**

The City has retained Davenport & Company LLC, Richmond, Virginia (the "Financial Advisor"), in connection with the preparation and issuance of the 2020 Bonds. The Financial Advisor is not obligated to, and has not undertaken to, make an independent verification or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement.

## **UNDERWRITING**

The 2020 Bonds are being purchased by Morgan Stanley & Co. LLC and Raymond James & Associates, Inc. (collectively, the "Underwriters") at an aggregate purchase price of \$ \_\_\_\_\_ (which includes net original issue [discount] [premium] of \$ \_\_\_\_\_ and Underwriters' discount of \$ \_\_\_\_\_). The Underwriters' obligations are subject to certain conditions precedent, and they will be obligated to purchase all of the 2020 Bonds if any 2020 Bonds are purchased. The 2020 Bonds may be offered and sold to certain dealers (including dealers depositing such 2020 Bonds into investment trusts) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriters.

The Underwriters have reviewed the information in this Official Statement in accordance with and, as part of their responsibilities to investors under the federal securities laws as applied to

the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

The Underwriters have provided the following information for inclusion in this Official Statement: The Underwriters and their respective affiliates are full service financial institutions engaged in various activities, that may include securities trading, commercial and investment banking, municipal advisory, brokerage and asset management. In the ordinary course of business, the Underwriters and their respective affiliates may actively trade debt and if applicable equity securities (or related derivative securities) and provide financial instruments (which may include bank loans, credit support or interest rate swaps) and the Underwriters and their affiliates may engage in transactions for their own accounts involving the securities and instruments made the subject of this securities offer or other offer of the City. The Underwriters and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas and publish independent research views in respect of this securities offer or other offers of the City. The Underwriters do not make a market in credit default swaps with respect to municipal securities at this time but may do so in the future.

Morgan Stanley, a parent company of Morgan Stanley & Co. LLC, an underwriter of the 2020 Bonds, has entered into a retail distribution arrangement with its affiliate Morgan Stanley Smith Barney LLC. As part of the distribution arrangement, Morgan Stanley & Co. LLC may distribute municipal securities to retail investors through the financial advisor network of Morgan Stanley Smith Barney LLC. As part of this arrangement, Morgan Stanley & Co. LLC may compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the 2020 Bonds.

### **CONTINGENT FEES**

The City has retained Bond Counsel, Disclosure Counsel and the Financial Advisor with respect to the authorization, sale, execution and delivery of the 2020 Bonds. Payment of all or a portion of the fees of such professionals relating to the issuance of the 2020 Bonds and compensation to the Underwriters in the form of a purchase price discount are each contingent upon the issuance of the 2020 Bonds.

### **CONTINUING DISCLOSURE**

The City has covenanted for the benefit of the 2020 Bondholders to provide certain financial information and operating data relating to the City and the 2020 Bonds in each year (the "Annual Report"), and to provide notices of the occurrence of certain enumerated material events. Such covenant shall only apply so long as the 2020 Bonds remain outstanding under the Resolution. The covenant shall also cease upon the termination of the continuing disclosure requirements of S.E.C. Rule 15c2-12(b)(5) (the "Rule") by legislative, judicial or administrative action. The Annual Report will be filed by the City with the Municipal Securities Rulemaking Board ("MSRB") through its "EMMA" system, as well as any state information depository that is subsequently established in the State of Florida ("SID"). The notices of material events will be filed by the City with the MSRB and with any SID. The specific nature of the information to be contained in the Annual Report and the notices of material events are described in "APPENDIX E -- FORM OF CONTINUING

DISCLOSURE CERTIFICATE," which shall be executed by the City at the time of issuance of the 2020 Bonds. These covenants have been made in order to assist the Underwriters in complying with the Rule.

With respect to the 2020 Bonds, no party other than the City is obligated to provide, nor is expected to provide, any continuing disclosure information with respect to the aforementioned Rule. The City has complied with its existing continuing disclosure obligations over the past five years and fully anticipates satisfying all future obligations in connection therewith.

#### **ACCURACY AND COMPLETENESS OF OFFICIAL STATEMENT**

The references, excerpts, and summaries of all documents, statutes, and information concerning the City and certain reports and statistical data referred to herein do not purport to be complete, comprehensive and definitive, and each such summary and reference is qualified in its entirety by reference to each such document for full and complete statements of all matters of fact relating to the 2020 Bonds, the security for the payment of the 2020 Bonds and the rights and obligations of the owners thereof and to each such statute, report or instrument.

Any statements made in this Official Statement involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized. Neither this Official Statement nor any statement that may have been made verbally or in writing is to be construed as a contract with the owners of the 2020 Bonds.

The appendices attached hereto are integral parts of this Official Statement and must be read in their entirety together with all foregoing statements.

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**AUTHORIZATION OF OFFICIAL STATEMENT**

This Official Statement, and its execution and delivery, has been duly authorized and approved by the City Commission of the City. Concurrently with the delivery of the 2020 Bonds, the undersigned will furnish their certificate to the effect that, to the best of their knowledge, this Official Statement did not as of its date, and does not as of the date of delivery of the 2020 Bonds, contain any untrue statement of a material fact or omit to state a material fact that should be included herein for the purposes for which this Official Statement is to be used, or which is necessary in order to make the statements contained herein, in the light of the circumstances in which they were made, not misleading.

**CITY OF LAKE WORTH BEACH,  
FLORIDA**

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Nabors, Giblin & Nickerson, P.A.

## APPENDIX A

### GENERAL INFORMATION CONCERNING THE CITY OF LAKE WORTH BEACH

THE FOLLOWING INFORMATION CONCERNING THE CITY IS INCLUDED ONLY FOR THE PURPOSE OF PROVIDING GENERAL BACKGROUND INFORMATION. THE INFORMATION HAS BEEN COMPILED ON BEHALF OF THE CITY, AND SUCH COMPILATION INVOLVED ORAL AND WRITTEN COMMUNICATION WITH VARIOUS SOURCES. THE INFORMATION INDICATED IS SUBJECT TO CHANGE, ALTHOUGH EFFORTS HAVE BEEN MADE TO UPDATE INFORMATION WHERE PRACTICABLE.

#### General Information and Location

The City of Lake Worth Beach, Florida (the "City"), was incorporated as a municipality under the laws of the State of Florida in 1913. The City is part of the Gold Coast of South Florida and is located in Palm Beach County. The City borders West Palm Beach on its northern boundary and the City of Lantana to its south. The Intracoastal Waterway and Atlantic Ocean are to the east and various municipalities and unincorporated county areas are to the west. The City is primarily a residential community of approximately 7 square miles with a population of approximately 38,000. The median age has declined over the past two decades from 50 years to 40 years. Tourism, retail and construction are the main industries supporting the local economy. The quarter-mile, municipally-owned beach complex, which has an ocean fishing pier, an Olympic-sized swimming pool and ocean front shops and restaurants, makes this area a popular attraction for residents and tourists alike.

#### Government

The City Commission is comprised of five members who serve overlapping three-year terms and are elected on a nonpartisan basis by residents of the City. The Mayor is elected at-large to serve a three-year term as the presiding officer at City Commission meetings and as the official head of the City for legislative and ceremonial purposes. The City Commission is responsible for passing ordinances and other policy directives for the operation of the City.

The current Mayor and Commission and the years in which their terms expire are listed below:

<u>Official</u>	<u>Beginning Term</u>	<u>Term Expires</u>
Pam Triolo, Mayor	March 2018	March 2021
Andy Amoroso, Vice Mayor	March 2018	March 2021
Scott Maxwell, Vice Mayor Pro Tem	March 2018	March 2021
Omari Hardy, Commissioner	March 2019	November 2020
Herman Robinson, Commissioner	March 2019	March 2022

## Administration

The administration of the City is conducted by the City Manager, who serves as the Chief Executive Officer. The City Manager, who is appointed by the Commission, provides leadership in administration of policies and objectives formulated by the Commission.

## City Employees

The City currently has approximately 308 full-time employees in nine operating departments.

## Population

The population of the City, according to the 2010 Census, was 34,910. The resident population of the City for the last five (5) years is estimated as follows:

<u>Year</u>	<u>Population</u>
2014	37,145
2015	37,674
2016	37,803
2017	37,946
2018	38,267
2019	38,484

Source: City of Lake Worth Beach.

## Economic Data

### Unemployment Rate (as of October 2019)

	Civilian Labor Force	Employment	Unemployment	Unemployment Rate (%)
Palm Beach County	745,652	723,165	22,487	3.0%
Florida	10,465,200	10,134,600	330,600	3.2
U.S.	164,364,000	158,510,000	5,855,000	3.6

Source: Florida Agency for Workforce Innovation, Labor Market Statistics, Local Area Unemployment Statistics Program, as reported at [www.labormarketinfo.com](http://www.labormarketinfo.com).

## PENSION AND OTHER POST-EMPLOYMENT BENEFITS

The City contributes to three single-employer retirement systems covering substantially all full-time employees other than police officers and firefighters. As described below, the General Employees' Retirement System, the Police Officers' Relief and Retirement System and the Firefighters' Pension Trust Fund (collectively, the "Pension Trust Funds") are defined benefit pension plans. Each plan issues a publicly available financial report that includes the applicable financial statements and required supplementary information for the plan.

See "APPENDIX B -- AUDITED GENERAL PURPOSE FINANCIAL STATEMENTS OF THE CITY FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2019," for additional information regarding the Pension Trust Funds and the City's compliance with other post employment benefits ("OPEB") requirements.

**Net Pension Liability of the City**

The City transferred its police functions to the Palm Beach County Sheriff's Office and its fire operations to Palm Beach County effective October 1, 2009. At that time, the pension plan with respect to police officers and firefighters became closed to new members. All City employees other than police officers and firefighters continue to participate in the City's pension plan. The City's net pension liability was determined based on a measurement date of September 30, 2018.

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The components of the net pension liability of the City at September 30, 2019, were as follows:

	General Employees' Retirement System	Police Officers' Relief and Retirement System	Firefighters' Pension Trust Fund
Total pension liability	\$108,063,294	\$52,206,957	\$66,114,854
Plan fiduciary net position	(72,091,129)	(32,328,488)	(47,122,406)
Net pension liability	<u>\$35,972,165</u>	<u>\$19,878,469</u>	<u>\$18,992,448</u>
Plan fiduciary net position as a percentage of the total pension liability	66.71%	61.92%	71.27%

**Changes in Net Pension Liability:  
General Employees'  
Retirement System:**

	Increase (Decrease)		
	Total Pension Liability (a)	Plan Fiduciary Net Position (b)	Net Pension Liability (a)-(b)
Balance, as of September 30, 2017, Measurement Date	<u>\$105,045,230</u>	<u>\$70,340,708</u>	<u>\$34,704,522</u>
Changes for the year:			
Service cost	1,276,370	-	1,276,370
Interest	7,622,289	-	7,622,289
Benefit Changes	2,327,011	-	2,327,011
Differences between expected and actual experience	217,106	-	217,106
Contributions – Employer	-	3,987,293	(3,987,293)
Contributions – Employee	-	1,124,419	(1,124,419)
Net investment income	-	6,162,213	(6,162,213)
Changes of assumptions	957,440	-	957,440
Benefit payments	(9,382,152)	(9,382,152)	-
Administrative expenses	-	(141,352)	141,352
Net changes	<u>3,018,064</u>	<u>1,750,421</u>	<u>1,267,733</u>
Balances, as of September 30, 2018, Measurement Date	<u>\$108,063,294</u>	<u>\$72,091,129</u>	<u>\$35,972,165</u>



**Police Officers' Relief and Retirement System:**

	Increase (Decrease)		
	Total Pension Liability (a)	Plan Fiduciary Net Position (b)	Net Pension Liability (a)-(b)
Balance, as of September 30, 2017, Measurement Date	\$50,643,890	\$30,722,155	\$19,921,735
Changes for the year:			
Service cost	193,882	-	193,882
Interest	3,661,397	-	3,661,397
Differences between expected and actual experience	434,141	-	434,141
Changes of assumptions	656,642	-	656,642
Contributions – Employer and State	-	3,119,402	(3,119,402)
Contributions – Employee	-	68,521	(68,521)
Net investment income	-	2,189,338	(2,189,338)
Benefit payments	(3,678,987)	(3,678,987)	-
Other (additions to share plan accounts)	295,992	-	295,992
Administrative expenses	-	(91,941)	91,941
Net changes	1,563,067	1,606,333	(43,266)
Balances, as of September 30, 2018, Measurement Date	\$52,206,957	\$32,328,488	\$19,878,469

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**Firefighters' Pension Trust Fund:**

	Increase (Decrease)		
	Total Pension Liability (a)	Plan Fiduciary Net Position (b)	Net Pension Liability (a)-(b)
Balance, as of September 30, 2017, Measurement Date	\$65,953,233	\$44,263,693	\$21,689,540
Changes for the year:			
Service cost	260,076	-	285,547
Interest	4,749,735	-	4,762,802
Differences between expected and actual experience	(544,886)	-	(322,397)
Contributions – Employer and State	-	2,794,091	(2,811,277)
Contributions – Employee	-	84,971	(105,985)
Net investment income	-	4,981,565	(2,748,904)
Changes of assumptions	613,640	-	185,206
Benefit payments	(5,341,813)	(5,341,813)	-
Rollover	424,869	424,869	-
Administrative expenses	-	(84,970)	84,970
Net changes	161,621	2,858,713	(2,697,092)
Balances, as of September 30, 2018, Measurement Date	\$66,114,854	\$47,122,406	\$18,992,448

**Other Post-Employment Benefits (OPEB)**

Plan Description and Funding Policy. Employees who retire from the City and their dependents are eligible to continue to participate ("single employer plan") in the City's health insurance plan currently offered through the City at the "blended" employee group rate, which is determined annually by the City. The benefits of the Plan conform to Florida law, which are the legal authority for the Plan.

The following table provides a summary of the number of participants in the plan as of the measurement date:

Inactive plan members or beneficiaries currently receiving benefits	436
Inactive plan members entitled to but not yet receiving benefits	-
Active plan members	326
Total plan members	762

Currently, the City's OPEB benefits are unfunded. This plan is not accounted for in a trust fund. To date, the City has followed a pay as you go funding policy; therefore, only those amounts necessary to provide for the City's reporting of current year benefit costs and expenses have been contributed from the General Fund. Contribution rates are determined by the City. The Plan does not issue a stand-alone financial report and it is not included in the report of a public employee retirement system or a report of another entity.

Funded Status and Funding Progress. The funded status of the plan as of October 1, 2018, the most recent actuarial valuation date, was as follows:

Actuarial accrued liability	\$1,916,498
Actuarial value of assets	-
Unfunded actuarial accrued liability (UAAL)	<u>\$1,916,498</u>
Funded ratio	0.0%
Covered payroll	\$19,192,059
UAAL as a percentage of covered payroll	10.97%

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**PRINCIPAL EMPLOYERS  
CITY OF LAKE WORTH BEACH, FLORIDA  
FISCAL YEAR 2019**

Employer	Number of Employees
Palm Beach State College	1,148
City of Lake Worth Beach	307
Lake Worth High School	270
American Medical Response	213
Highland Elementary School	168
Publix (214 N. Dixie Hwy.)	148
Barton Elementary School	131
Publix (1910 Lake Worth Rd.)	122
North Grade Elementary School	91
Lake Worth Middle School	74

Source: City of Lake Worth Beach, Florida.

**Principal Taxpayers**

The following table lists the ten principal taxpayers within the City, the 2019 taxable valuation and the percent of total assessed valuation for such taxpayers.

**PRINCIPAL TAXPAYERS**

Top Ten Principal Taxpayers	Taxable Value	Percentage of Assessed Valuation
SL Boutwell Business Center II LLC	\$24,873,640	1.2%
Lake Worth Village, LLC	21,836,215	1.1
Oakwood Apartments 160 Units, LLC	20,851,057	1.0
Village at Lake Osborne, LLC	12,380,165	0.6
GSG Investments	11,278,768	0.6
Palm Beach Mobile Home Park, LLC	10,892,991	0.5
Cubsmart LP	10,553,880	0.5
Akers Robert L SR Trust	9,422,267	0.5
1910 10 <sup>th</sup> Avenue, LLC	9,100,000	0.5
Cubsmart LP	9,086,232	<u>0.5</u>
		7.0%

Source: City of Lake Worth Beach, Florida.

**PROPERTY TAX LEVIES AND COLLECTIONS  
LAST TEN FISCAL YEARS  
CITY OF LAKE WORTH BEACH, FLORIDA**

Fiscal Year	Total Tax Levy	Current Tax Collections	Percent of Levy	Collections in Subsequent Years	Total Taxes Collected	Percent of Levy
2010	\$7,965,615	\$7,434,810	93.34%	\$194,286	\$7,629,096	95.78%
2011	6,096,193	5,841,442	95.82	178,523	6,019,965	98.75
2012	5,752,832	5,728,138	99.57	13,946	5,742,084	99.81
2013	6,028,316	5,429,614	90.07	67,717	5,497,331	91.19
2014	6,584,941	5,694,788	86.48	38,369	5,733,157	87.06
2015	6,668,511	6,277,985	94.14	5,404	6,277,985	94.14
2016	7,225,095	6,951,573	96.21	-	6,951,573	96.21
2017	8,101,969	7,796,543	96.23	-	7,796,543	96.23
2018	9,006,434	8,660,007	96.15	-	8,660,077	96.15
2019	12,033,164	11,616,102	96.53	-	11,616,102	96.53

Source: City of Lake Worth Beach, Finance Department and Palm Beach County Tax Collector's Office.

**ASSESSED VALUE TAXABLE PROPERTY  
LAST TEN FISCAL YEARS  
CITY OF LAKE WORTH BEACH, FLORIDA  
(000's)**

Fiscal Year	Residential Property	Commercial Property	Railroad Property	Total Net Assessed Value	Total Direct Tax Rate
2010	\$1,436,762	\$57,667	\$4,224	\$1,498,653	8.76
2011	1,053,076	53,324	3,735	1,110,135	8.49
2012	990,200	52,992	3,825	1,047,017	8.95
2013	1,041,527	51,276	4,350	1,097,153	8.95
2014	1,143,415	49,839	4,763	1,198,017	8.95
2015	1,260,658	51,353	5,148	1,317,159	8.95
2016	1,415,323	51,077	5,596	1,471,996	8.95
2017	1,584,396	43,122	5,781	1,633,299	9.70
2018	1,758,006	49,116	5,924	1,813,046	9.70
2019	1,933,683	57,977	7,795	1,999,455	10.06

Source: City of Lake Worth Beach, Florida, Finance Department.

**COMPUTATION OF DIRECT  
AND OVERLAPPING DEBT  
PAID WITH PROPERTY TAXES  
CITY OF LAKE WORTH BEACH, FLORIDA**

<b>Governmental Unit:</b>	<b>Debt Outstanding</b>	<b>Percentage</b>	<b>Applicable to City of Lake Worth Beach Amount</b>
<b>Overlapping:</b>			
Palm Beach County	\$61,115,000	1.05%	\$641,708
Palm Beach School Board	<u>9,381,000</u>	1.05%	<u>98,501</u>
<b>Subtotal</b>	\$70,496,000		\$740,208
<b>Direct Debt:</b>			
City of Lake Worth Beach	<u>\$38,839,704</u>	100%	<u>\$38,839,704</u>
<b>Total Direct and Overlapping Debt</b>	<u>\$109,335,704</u>		<u>\$39,579,912</u>

Source: Palm Beach County Finance Department and the Palm Beach County Property Appraiser's Office.

**APPENDIX B**  
**FORM OF THE RESOLUTION**

**APPENDIX C**  
**FORM OF BOND COUNSEL OPINION**



**APPENDIX D**

**AUDITED GENERAL FINANCIAL STATEMENTS OF THE CITY FOR THE  
FISCAL YEAR ENDED SEPTEMBER 30, 2019**

## APPENDIX E

### FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the City of Lake Worth Beach, Florida (the "Issuer") in connection with the issuance of its \$ \_\_\_\_\_ Consolidated Utility Revenue Bonds, Series 2020 (the "Bonds"). The Bonds are being issued pursuant to Resolution No. 45-2020, adopted by the City Commission of the City of Lake Worth Beach, Florida on October 6, 2020, as amended and supplemented from time to time, particularly as supplemented by Resolution No. \_\_\_\_\_, adopted by the City Commission of the City of Lake Worth Beach, Florida on October 20, 2020 (collectively, the "Resolution"), and other applicable provisions of law.

SECTION 1. PURPOSE OF THE DISCLOSURE CERTIFICATE. This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the holder and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with the continuing disclosure requirements of Securities and Exchange Commission Rule 15c2-12.

SECTION 2. DEFINITIONS. In addition to the definitions set forth in the Resolution which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"Dissemination Agent" shall mean the Issuer, or any Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

"Event of Bankruptcy" shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"Obligated Person" shall mean any person, including the Issuer, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities).

"Participating Underwriter" shall mean, collectively, the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"Repository" shall mean each entity authorized and approved by the Securities and Exchange Commission from time to time to act as a repository for purposes of complying with the Rule. The Repositories currently approved by the Securities and Exchange Commission may be found by visiting the Securities and Exchange Commission's website at <http://www.sec.gov/info/municipal/nrmsir.htm>. As of the date hereof, the Repository recognized by the Securities and Exchange Commission for such purpose is the Municipal Securities Rulemaking Board, which currently accepts continuing disclosure submissions through its Electronic Municipal Market Access ("EMMA") web portal at "<http://emma.msrb.org>."

"Rule" shall mean the continuing disclosure requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"State" shall mean the State of Florida.

### SECTION 3. PROVISION OF ANNUAL REPORTS.

(a) The Issuer shall, or shall cause the Dissemination Agent to, by not later than June 30th following the end of the prior fiscal year, beginning with the fiscal year ending September 30, 2020 with respect to the report for the 2019-2020 fiscal year, provide to any Repository in electronic format as prescribed by such Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Issuer may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date; provided, further, in such event unaudited financial statements are required to be delivered as part of the Annual Report in accordance with Section 4(a) below. If the Issuer's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(a).

(b) Not later than fifteen (15) Business Days prior to the date set forth in (a) above, the Issuer shall provide the Annual Report to the Dissemination Agent (if other than the Issuer). If the Issuer is unable to provide to any Repository an Annual Report as required in subsection (a), the

Issuer shall send a notice to and Repository, in electronic format as prescribed by such Repository, in substantially the form attached as Exhibit A.

- (c) The Dissemination Agent shall:
  - (i) determine each year prior to the date for providing the Annual Report the name and address of any Repository;
  - (ii) if the Dissemination Agent is other than the Issuer, file a report with the Issuer certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided and listing any Repository to which it was provided; and
  - (iii) if the Dissemination Agent is other than the Issuer, the Dissemination Agent shall send a notice to any Repository, in electronic format as prescribed by such Repository, in substantially the form attached as Exhibit A if the Issuer is unable to provide an Annual Report to any Repository as required in subsection (a).

SECTION 4. CONTENT OF ANNUAL REPORTS. The Issuer's Annual Report shall contain or include by reference the following:

(a) the audited financial statements of the Issuer for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the Issuer's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement dated November \_\_\_, 2020 (the "Official Statement"), and the audited financial statements shall be filed in the same manner as the Annual Report when they become available; and

(b) updates of the historical financial and operating data set forth in the Official Statement under the captions:

- (i) Historical Energy and Peak Loads
- (ii) Monthly Non-Coincident Peak Demand
- (iii) Sources of Energy
- (iv) Monthly Net Energy Load
- (v) Electric Utility Average Number of Retail Meters & Annual Billed Usage
- (vi) Electric Utility's 10 Largest Retail Customers
- (vii) Electric Utility – Transfers to the General Fund
- (viii) Historical Electric Utility Revenues and Expenses
- (ix) Water Utility Usage
- (x) Top Ten Water Customers
- (xi) Water Utility – Transfers to the General Fund
- (xii) Historical Water Utility Revenues and Expenses
- (xiii) Historical Average Wastewater Flows
- (xiv) Top Ten Wastewater Customers

- (xv) Sewer Utility – Transfers to the General Fund
- (xvi) Historical Sewer Utility Revenues and Expenses
- (xvii) Historical System Revenues and Expenses

The information provided under Section 4(b) may be included by specific reference to documents, including official statements of debt issues of the Issuer or related public entities, which are available to the public on the Repository's Internet Web site or filed with the Securities and Exchange Commission.

The Issuer reserves the right to modify from time to time the specific types of information provided in its Annual Report or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the Issuer; provided that the Issuer agrees that any such modification will be done in a manner consistent with the Rule.

#### SECTION 5. REPORTING OF SIGNIFICANT EVENTS.

(a) Pursuant to the provisions of this Section 5, the Issuer shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds. Such notice shall be given in a timely manner not in excess of ten (10) business days after the occurrence of the event, with the exception of the event described in number 17 below, which notice shall be given in a timely manner:

1. principal and interest payment delinquencies;
2. non-payment related defaults, if material;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;
6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. modifications to rights of the holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. defeasances;
10. release, substitution, or sale of property securing repayment of the Bonds, if material;
11. ratings changes;

12. an Event of Bankruptcy or similar event of an Obligated Person;

13. the consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

14. appointment of a successor or additional Paying Agent or the change of name of a Paying Agent, if material;

15. incurrence of a financial obligation of an Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Obligated Person, any of which affect holders of the Bonds, if material (for purposes of the foregoing and paragraph (xvi) below, "financial obligation" means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) a guarantee of (a) or (b));

16. default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Obligated Person, any of which reflect financial difficulties; and

17. notice of any failure on the part of the Issuer to meet the requirements of Section 3 hereof.

(b) The notice required to be given in paragraph 5(a) above shall be filed with any Repository, in electronic format as prescribed by such Repository.

SECTION 6. IDENTIFYING INFORMATION. In accordance with the Rule, all disclosure filings submitted pursuant to this Disclosure Certificate to any Repository must be accompanied by identifying information as prescribed by the Repository. Such information may include, but not be limited to:

(a) the category of information being provided;

(b) the period covered by any annual financial information, financial statement or other financial information or operation data;

(c) the issues or specific securities to which such documents are related (including CUSIPs, issuer name, state, issue description/securities name, dated date, maturity date, and/or coupon rate);

(d) the name of any Obligated Person other than the Issuer;

(e) the name and date of the document being submitted; and

- (f) contact information for the submitter.

SECTION 7. TERMINATION OF REPORTING OBLIGATION. The Issuer's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds or if the Rule is repealed or no longer in effect. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for a Listed Event under Section 5.

SECTION 8. DISSEMINATION AGENT. The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Disclosure Certificate. The initial Dissemination Agent shall be Digital Assurance Certificate.

SECTION 9. AMENDMENT; WAIVER. Notwithstanding any other provision of this Disclosure Certificate, the Issuer may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Issuer, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the holders or Beneficial Owners of the Bonds in the same manner as provided in the Resolution for amendments to the Resolution with the consent of holders or Beneficial Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or Beneficial Owners of the Bonds.

Notwithstanding the foregoing, the Issuer shall have the right to adopt amendments to this Disclosure Certificate necessary to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time.

In the event of any amendment or waiver of a provision of this Disclosure Certificate, the Issuer shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(a), and (ii) the Annual Report for the year in which the

change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 10. ADDITIONAL INFORMATION. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Issuer chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Issuer shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 11. DEFAULT. The continuing disclosure obligations of the Issuer set forth herein constitute a contract with the holders of the Bonds. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate; provided, however, the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with the provisions of this Disclosure Certificate shall be an action to compel performance. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Resolution.

SECTION 12. DUTIES, IMMUNITIES AND LIABILITIES OF DISSEMINATION AGENT. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the Issuer agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

[Remainder of page intentionally left blank]



SECTION 13. BENEFICIARIES. This Disclosure Certificate shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Dated as November \_\_\_\_, 2020

(SEAL)

CITY OF LAKE WORTH BEACH,  
FLORIDA

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nabors, Giblin & Nickerson, P.A.

**EXHIBIT A**

**NOTICE OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: City of Lake Worth Beach, Florida  
Name of Bond Issue: Consolidated Utility Revenue Bonds, Series 2020  
Date of Issuance: November \_\_\_\_, 2020

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 and 4(b) of the Continuing Disclosure Certificate dated as of November \_\_\_\_, 2020. The Issuer anticipates that the Annual Report will be filed by \_\_\_\_\_, \_\_\_\_\_.

Dated:

CITY OF LAKE WORTH BEACH, FLORIDA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPENDIX F**

**CONSULTING ENGINEER'S REPORT WITH RESPECT  
TO THE ELECTRIC UTILITY**

**APPENDIX G**  
**FINANCIAL FEASIBILITY REPORT**

**EXHIBIT C**

**FORM OF CONTINUING DISCLOSURE CERTIFICATE**

## CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the City of Lake Worth Beach, Florida (the "Issuer") in connection with the issuance of its \$ \_\_\_\_\_ Consolidated Utility Revenue Bonds, Series 2020 (the "Bonds"). The Bonds are being issued pursuant to Resolution No. 45-2020, adopted by the City Commission of the City of Lake Worth Beach, Florida on October 6, 2020, as amended and supplemented from time to time, particularly as supplemented by Resolution No. \_\_\_\_\_, adopted by the City Commission of the City of Lake Worth Beach, Florida on October 20, 2020 (collectively, the "Resolution"), and other applicable provisions of law.

**SECTION 1. PURPOSE OF THE DISCLOSURE CERTIFICATE.** This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the holder and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with the continuing disclosure requirements of Securities and Exchange Commission Rule 15c2-12.

**SECTION 2. DEFINITIONS.** In addition to the definitions set forth in the Resolution which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"Dissemination Agent" shall mean the Issuer, or any Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

"Event of Bankruptcy" shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"Obligated Person" shall mean any person, including the Issuer, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities).

"Participating Underwriter" shall mean, collectively, the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"Repository" shall mean each entity authorized and approved by the Securities and Exchange Commission from time to time to act as a repository for purposes of complying with the Rule. The Repositories currently approved by the Securities and Exchange Commission may be found by visiting the Securities and Exchange Commission's website at <http://fwww.sec.gov/info/municipal/nrmsir.htm>. As of the date hereof, the Repository recognized by the Securities and Exchange Commission for such purpose is the Municipal Securities Rulemaking Board, which currently accepts continuing disclosure submissions through its Electronic Municipal Market Access ("EMMA") web portal at "<http://emma.msrb.org>."

"Rule" shall mean the continuing disclosure requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"State" shall mean the State of Florida.

### SECTION 3. PROVISION OF ANNUAL REPORTS.

(a) The Issuer shall, or shall cause the Dissemination Agent to, by not later than June 30th following the end of the prior fiscal year, beginning with the fiscal year ending September 30, 2020 with respect to the report for the 2019-2020 fiscal year, provide to any Repository in electronic format as prescribed by such Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Issuer may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date; provided, further, in such event unaudited financial statements are required to be delivered as part of the Annual Report in accordance with Section 4(a) below. If the Issuer's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(a).

(b) Not later than fifteen (15) Business Days prior to the date set forth in (a) above, the Issuer shall provide the Annual Report to the Dissemination Agent (if other than the Issuer). If the Issuer is unable to provide to any Repository an Annual Report as required in subsection (a), the Issuer shall send a notice to and Repository, in electronic format as prescribed by such Repository, in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the name and address of any Repository;

(ii) if the Dissemination Agent is other than the Issuer, file a report with the Issuer certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided and listing any Repository to which it was provided; and

(iii) if the Dissemination Agent is other than the Issuer, the Dissemination Agent shall send a notice to any Repository, in electronic format as prescribed by such Repository, in substantially the form attached as Exhibit A if the Issuer is unable to provide an Annual Report to any Repository as required in subsection (a).

SECTION 4. CONTENT OF ANNUAL REPORTS. The Issuer's Annual Report shall contain or include by reference the following:

(a) the audited financial statements of the Issuer for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the Issuer's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement dated November \_\_\_, 2020 (the "Official Statement"), and the audited financial statements shall be filed in the same manner as the Annual Report when they become available; and

(b) updates of the historical financial and operating data set forth in the Official Statement under the captions:

- (i) Historical Energy and Peak Loads
- (ii) Monthly Non-Coincident Peak Demand
- (iii) Sources of Energy
- (iv) Monthly Net Energy Load
- (v) Electric Utility Average Number of Retail Meters & Annual Billed Usage
- (vi) Electric Utility's 10 Largest Retail Customers
- (vii) Electric Utility – Transfers to the General Fund
- (viii) Historical Electric Utility Revenues and Expenses
- (ix) Water Utility Usage
- (x) Top Ten Water Customers
- (xi) Water Utility – Transfers to the General Fund
- (xii) Historical Water Utility Revenues and Expenses
- (xiii) Historical Average Wastewater Flows
- (xiv) Top Ten Wastewater Customers
- (xv) Sewer Utility – Transfers to the General Fund
- (xvi) Historical Sewer Utility Revenues and Expenses
- (xvii) Historical System Revenues and Expenses

The information provided under Section 4(b) may be included by specific reference to documents, including official statements of debt issues of the Issuer or related public entities, which are available to the public on the Repository's Internet Web site or filed with the Securities and Exchange Commission.



The Issuer reserves the right to modify from time to time the specific types of information provided in its Annual Report or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the Issuer; provided that the Issuer agrees that any such modification will be done in a manner consistent with the Rule.

#### SECTION 5. REPORTING OF SIGNIFICANT EVENTS.

(a) Pursuant to the provisions of this Section 5, the Issuer shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds. Such notice shall be given in a timely manner not in excess of ten (10) business days after the occurrence of the event, with the exception of the event described in number 17 below, which notice shall be given in a timely manner:

1. principal and interest payment delinquencies;
2. non-payment related defaults, if material;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;
6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. modifications to rights of the holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. defeasances;
10. release, substitution, or sale of property securing repayment of the Bonds, if material;
11. ratings changes;
12. an Event of Bankruptcy or similar event of an Obligated Person;
13. the consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

14. appointment of a successor or additional Paying Agent or the change of name of a Paying Agent, if material;

15. incurrence of a financial obligation of an Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Obligated Person, any of which affect holders of the Bonds, if material (for purposes of the foregoing and paragraph (xvi) below, "financial obligation" means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) a guarantee of (a) or (b));

16. default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Obligated Person, any of which reflect financial difficulties; and

17. notice of any failure on the part of the Issuer to meet the requirements of Section 3 hereof.

(b) The notice required to be given in paragraph 5(a) above shall be filed with any Repository, in electronic format as prescribed by such Repository.

SECTION 6. IDENTIFYING INFORMATION. In accordance with the Rule, all disclosure filings submitted pursuant to this Disclosure Certificate to any Repository must be accompanied by identifying information as prescribed by the Repository. Such information may include, but not be limited to:

(a) the category of information being provided;

(b) the period covered by any annual financial information, financial statement or other financial information or operation data;

(c) the issues or specific securities to which such documents are related (including CUSIPs, issuer name, state, issue description/securities name, dated date, maturity date, and/or coupon rate);

(d) the name of any Obligated Person other than the Issuer;

(e) the name and date of the document being submitted; and

(f) contact information for the submitter.

SECTION 7. TERMINATION OF REPORTING OBLIGATION. The Issuer's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds or if the Rule is repealed or no longer in effect. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for a Listed Event under Section 5.

SECTION 8. DISSEMINATION AGENT. The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Disclosure Certificate. The initial Dissemination Agent shall be Digital Assurance Certificate.

SECTION 9. AMENDMENT; WAIVER. Notwithstanding any other provision of this Disclosure Certificate, the Issuer may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Issuer, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the holders or Beneficial Owners of the Bonds in the same manner as provided in the Resolution for amendments to the Resolution with the consent of holders or Beneficial Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or Beneficial Owners of the Bonds.

Notwithstanding the foregoing, the Issuer shall have the right to adopt amendments to this Disclosure Certificate necessary to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time.

In the event of any amendment or waiver of a provision of this Disclosure Certificate, the Issuer shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(a), and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 10. ADDITIONAL INFORMATION. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Issuer chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Issuer shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 11. DEFAULT. The continuing disclosure obligations of the Issuer set forth herein constitute a contract with the holders of the Bonds. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate; provided, however, the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with the provisions of this Disclosure Certificate shall be an action to compel performance. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Resolution.

SECTION 12. DUTIES, IMMUNITIES AND LIABILITIES OF DISSEMINATION AGENT. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the Issuer agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

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SECTION 13. BENEFICIARIES. This Disclosure Certificate shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Dated as November \_\_\_\_, 2020

(SEAL)

CITY OF LAKE WORTH BEACH,  
FLORIDA

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nabors, Giblin & Nickerson, P.A.

**EXHIBIT A**

**NOTICE OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: City of Lake Worth Beach, Florida

Name of Bond Issue: Consolidated Utility Revenue Bonds, Series 2020

Date of Issuance: November \_\_, 2020

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 and 4(b) of the Continuing Disclosure Certificate dated as of November \_\_, 2020. The Issuer anticipates that the Annual Report will be filed by \_\_\_\_\_, \_\_\_\_\_.

Dated:

CITY OF LAKE WORTH BEACH, FLORIDA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT D**

**FORM OF INSURANCE AGREEMENT**

## INSURANCE AGREEMENT

**THIS INSURANCE AGREEMENT**, dated November \_\_, 2020 (the "Agreement"), by and between the CITY OF LAKE WORTH BEACH, FLORIDA (the "Issuer") and \_\_\_\_\_ (the "Bond Insurer" or "\_\_\_\_\_").

In consideration of the issuance by the Bond Insurer of its Municipal Bond Insurance Policy Nos. \_\_\_\_\_ and \_\_\_\_\_ (collectively, the "Policy") with respect to the Issuer's Consolidated Utility Revenue Bonds, Series 2020 (the "Bonds") issued under the Issuer's Resolution No. 45-2020, adopted October 6, 2020 (the "Original Resolution"), as amended and supplemented by its Resolution No. \_\_\_-2020, adopted October 20, 2020 (collectively with the Original Resolution, the "Resolution") and the Issuer's payment to the Bond Insurer of the insurance premium for the Policy, the Bond Insurer and the Issuer hereby covenant and agree as follows:

1. Notice and Other Information to be given to \_\_\_\_\_. The Issuer will provide \_\_\_\_\_ with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Certificate and (ii) to the holders of the Bonds or the Paying Agent under the Resolution.

The notice address of \_\_\_\_\_ is: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Attention: Surveillance, Re: Policy Nos. \_\_\_\_\_ and \_\_\_\_\_, Telephone: (\_\_\_\_) \_\_\_\_\_, Telecopier: (\_\_\_\_) \_\_\_\_\_, Email: \_\_\_\_\_ . In each case in which notice or other communication refers to an event of default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel at the same address and at \_\_\_\_\_ or at Telecopier: (\_\_\_\_) \_\_\_\_\_ and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

2. Amendments, Supplements and Consents.

a. *Amendments.* Wherever any Security Document requires the consent or approval of holders of the Bonds, \_\_\_\_\_'s consent shall also be required. In addition, any amendment, supplement or modification to the Security Documents that adversely affect the rights or interests of \_\_\_\_\_ shall be subject to the prior written consent of \_\_\_\_\_.

b. *Consent of \_\_\_\_\_ Upon Default.* Anything in any Security Document to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, \_\_\_\_\_ shall be deemed to be the sole holder of the Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Bonds, the Paying Agent or any trustee (a "Trustee") for the benefit of such holders under any Security Document. The Trustee may not waive any default or event of default or accelerate the Bonds



without \_\_\_\_'s written consent.

- c. *Trustee.* No removal, resignation or termination of any Trustee shall take effect until a successor, acceptable to \_\_\_\_, shall be qualified and appointed.

3. \_\_\_\_ as Third Party Beneficiary. \_\_\_\_ is explicitly recognized as and shall be deemed to be a third party beneficiary of the Security Documents and may enforce any right, remedy or claim conferred, given or granted thereunder.

4. Policy Payments.

a. In the event that principal and/or interest due on the Bonds shall be paid by \_\_\_\_ pursuant to the Policy, the Bonds shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer, all covenants, agreements and other obligations of the Issuer to the registered owners shall continue to exist and shall run to the benefit of \_\_\_\_, and \_\_\_\_ shall be subrogated to the rights of such registered owners, including, without limitation, any rights that such owners may have in respect of securities law violations arising from the offer and sale of the Bonds.

b. Irrespective of whether any such assignment is executed and delivered, the Issuer and the Paying Agent agree for the benefit of \_\_\_\_ that:

i. They recognize that to the extent \_\_\_\_ makes payments directly or indirectly (e.g., by paying through the Paying Agent), on account of principal of or interest on the Bonds, \_\_\_\_ will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Issuer, with interest thereon, as provided and solely from the sources stated in the Security Documents and the Bonds; and

ii. They will accordingly pay to \_\_\_\_ the amount of such principal and interest, with interest thereon, but only from the sources and in the manner provided in the Security Documents and the Bonds for the payment of principal of and interest on the Bonds to holders, and will otherwise treat \_\_\_\_ as the owner of such rights to the amount of such principal and interest.

c. Notwithstanding anything herein to the contrary, the Issuer agrees to pay to \_\_\_\_, solely from Pledged Funds (as defined in the Resolution) (i) a sum equal to the total of all amounts paid by \_\_\_\_ under the Policy ("\_\_\_\_ Policy Payment"); and (ii) interest on such \_\_\_\_ Policy Payments from the date paid by \_\_\_\_ until payment thereof in full by the Issuer, payable to \_\_\_\_ at the Late Payment Rate per annum (collectively, "\_\_\_\_ Reimbursement Amounts") compounded semi-annually. Notwithstanding anything to the contrary, \_\_\_\_ Reimbursement Amounts shall be, and the

Issuer hereby covenants and agrees that the \_\_\_\_\_ Reimbursements Amounts are, payable from and secured by the Issuer's Pledged Funds on the same basis as with respect to payment of debt service due on the Bonds.

5. Additional Payments. The Issuer agrees unconditionally that it will pay or reimburse \_\_\_\_\_ on demand solely from Pledged Funds as described above, any and all reasonable charges, fees, costs, losses, liabilities and expenses that \_\_\_\_\_ may pay or incur, including, but not limited to, fees and expenses of \_\_\_\_\_'s agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waives and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Security Documents ("Administrative Costs"). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of \_\_\_\_\_ spent in connection with the actions described in the preceding sentence. The Issuer agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-annually, from the date that payment is first due to \_\_\_\_\_ until the date \_\_\_\_\_ is paid in full.

6. Special Provisions for Insurer Default: If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraph 2 above to the contrary, (1) if at any time prior to or following an Insurer Default, \_\_\_\_\_ has made payment under the Policy, to the extent of such payment \_\_\_\_\_ shall be treated like any other holder of the Bonds for all purposes, including giving of consents, and (2) if \_\_\_\_\_ has not made any payment under the policy, \_\_\_\_\_ shall have no further consent rights until the particular Insurer Default is no longer continuing or \_\_\_\_\_ makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph (6), "Insurer Default" means: (A) \_\_\_\_\_ has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) \_\_\_\_\_ shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment of the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of \_\_\_\_\_ (including without limitation under the New York Insurance Law).

7. Definitions. All capitalized terms not otherwise defined herein have the meanings set forth in the Resolution. In addition:

" \_\_\_\_\_ " shall mean \_\_\_\_\_, or any successor thereto.

"Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of

interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in the City of New York, New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as \_\_\_\_\_, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to \_\_\_\_\_ shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

"Policy" shall mean the Municipal Bond Insurance Policy issued by \_\_\_\_\_ that guarantees the scheduled payment of principal of and interest on the Bonds when due.

"Security Documents" shall mean the Resolution, the Bonds and any additional or supplemental document executed in connection with the Bonds.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed in their respective names as of the date first written above.

**CITY OF LAKE WORTH BEACH,  
FLORIDA**

\_\_\_\_\_

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
Title: Authorized Officer

ATTEST:

\_\_\_\_\_  
Clerk

Approved as to form:

\_\_\_\_\_  
Nabors, Giblin & Nickerson, P.A.,  
Bond Counsel

**EXHIBIT E**

**FORM OF CUSTODY AGREEMENT**

## CUSTODY AGREEMENT

This custody agreement (the "Agreement") dated as of November \_\_, 2020 (the "Effective Date"), is between U.S. BANK NATIONAL ASSOCIATION, a national banking association organized under the laws of the United States of America, as Custodian ("Custodian") and the City of Lake Worth Beach, Florida ("City") a municipal corporation organized under the laws of the State of Florida.

The parties hereby agree as follows:

### **1. Appointment and Acceptance.**

1.1 City hereby appoints Custodian to provide custody services in connection with securities, cash and other property delivered from time to time to Custodian hereunder by, or at the direction of, City, and income, distributions and payments received by Custodian with respect thereto (collectively the "Assets"); and Custodian hereby agrees to hold the Assets in a custody account established in the name of City (the "Account"), upon the terms and conditions set forth below.

1.2 All references contained herein to actions, directions and responsibilities (other than the obligations set forth in Sections 12 and 14) of City shall include, apply to and be binding upon City's agents, including any investment manager or advisor, appointed and authorized by City to direct Custodian or otherwise take actions on behalf of City in connection with Custodian's services and responsibilities hereunder. City shall provide written notice to Custodian of the identity of all such appointed agents and the scope of their authority to act or direct Custodian hereunder.

1.3 In the event that City requires Custodian to establish one or more sub-accounts within the Account under this Agreement ("Sub-Accounts"), Custodian shall open such accounts pursuant to Custodian's account opening procedures in effect at the time. The term "Account" as used in this Agreement shall refer to one or all of the Sub-Accounts, as the context of this Agreement shall require. The City specifically directs the establishment of separate "2020 Construction Fund" and "Prior Bond Proceeds Fund" Sub-Accounts.

1.4 Custodian shall have no duties or responsibilities except those specifically set forth herein and shall not be liable except for failure to perform the duties and obligations set forth herein. No implied duties, responsibilities, representations, warranties, covenants or obligations shall be read into this Agreement against Custodian.

### **2. Asset Delivery, Transfer, Custody and Safekeeping.**

2.1 City will from time to time deliver, or cause to be delivered, Assets to Custodian. Custodian shall receive and accept such Assets for the Account upon Appropriate Instructions (defined in Section 11.1) from City. Custodian shall keep records of all transactions involving the Account and Assets belonging to the Account. Custodian shall not have any responsibility or liability for any assets of City that are not delivered to and received by Custodian.

2.2 Upon receipt of Appropriate Instructions, Custodian shall return Assets to City, or deliver Assets to such location or third party as Appropriate Instructions may indicate, provided that in connection therewith it is the sole responsibility of City to provide any transfer documentation as may be required by the applicable Depository (defined in Section 3.3) or third-party recipient. Custodian shall have no power or authority to assign, hypothecate, pledge or otherwise dispose of any Assets, except as provided herein or pursuant to Appropriate Instructions.

2.3 As part of the services for which Custodian charges its basic fee hereunder, Custodian shall furnish City with monthly Account statements reflecting all Asset transactions in the Account during the reporting period and ending Asset holdings.

2.3.1 If City wishes Custodian to report on Assets that are not in control of Custodian, City shall execute Custodian's CLIENT CONTROL ADDENDUM, which shall be provided to City upon request.

2.3.2 Custodian is not an investment manager of the Assets. The Account statements described above (including their timing and form) will serve as the sole written notification to City of any securities transaction effected by Custodian for the Account unless City requests that Custodian provide written notification of such transactions pursuant to 12 CFR 12.4(a) or 12 CFR 12.4(b) at no additional cost to City.

2.4 Custodian shall forward to City, or City's designated agent identified in Section 17.4 (or as identified in a separate written designation by City that is received by Custodian) all information it receives with respect to any of the Assets concerning redemption rights that are exercisable at City's option, tender or exchange offers, all proxy material it receives with respect to securities included among the Assets and all other special matters or shareholder rights. This Section 2.4 is subject to the following exceptions:

2.4.1 Exception: If Custodian receives a class action litigation proof of claim in respect to any of the Assets, Custodian shall file such claim on behalf of City.

2.4.2 Exception: Custodian will not forward so-called "mini-tenders" to City or its designated agent. Mini-tenders are tender offers for a small amount of the outstanding securities of a "target" City, generally with an offer price at or below market value. For equity issues, unless a tender offer is made for 5% or greater of the outstanding securities, and is subject to Securities and Exchange Commission ("SEC") review, the tender offer will not be forwarded by Custodian.

2.4.3 Exception: No tender offer will be forwarded by Custodian for a debt issue if, (i) it is not registered with the SEC, (ii) it has a "first received, first buy" basis with no withdrawal privilege and includes a guarantee of delivery clause, or (iii) the offer includes the statement that "the purchase price includes all accrued interest on the note and has been determined in the sole discretion of the buyer and may be more than or less than the fair market value of the notes" or similar language.

2.5 Absent Custodian's receipt of specific investment directions to the contrary from City, Custodian is hereby authorized and directed by City to hold funds in the investment indicated on Schedule A hereto. If applicable, City acknowledges receipt of a current copy of the prospectus for the investment authorized in Schedule A prior to providing such direction.

**3. Powers of Custodian.** In the performance of its duties hereunder, Custodian shall have the following powers:

3.1 To register any of the Assets in the name of City or in Custodian's name or in the name of a nominee of Custodian or in the name of Custodian's agent bank or to hold any of the Assets in unregistered form or in such form as will pass title by delivery, provided that such Assets shall at all times be recorded in the Account as belonging to City. In consideration of Custodian's registration of any securities or other property in the name of Custodian or its nominee or agent, City agrees to pay on demand to Custodian or to Custodian's nominee or agent the amount of any loss or liability, claimed or asserted against Custodian or Custodian's nominee or agent by reason of such registration.

3.2 To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any or all other instruments that may be necessary or appropriate to carry out the duties described and powers granted herein.

3.3 To maintain qualifying Assets in any registered clearing agency such as the Depository Trust City or in a Federal Reserve Bank (collectively a "Depository"), and to permit such deposited Assets to be registered in the name of Custodian, Custodian's agent or nominee or Depository, on the records of a Depository and to employ and use securities depositories, clearing agencies, clearance systems, sub-custodians or agents located outside the United States in connection with transactions involving foreign securities.

3.4 To employ agents and to delegate duties to them as it sees fit and to employ or consult with experts, advisors and legal counsel (who may be employed by City) and shall be fully protected in relying on information and advice received from such agents, experts, advisors, and legal counsel.

3.5 To perform any and all other ministerial acts deemed by Custodian necessary or appropriate to the proper discharge of its duties hereunder.

3.6 To hold uninvested cash awaiting investment or distribution and to deposit the same, with or without interest, in the commercial or savings departments of Custodian.

**4. Purchases.** Upon the receipt of Appropriate Instructions from City, Custodian shall purchase securities for City on a contractual settlement basis. City's legal obligation to pay for such purchases arises immediately upon Custodian's receipt of such Appropriate Instructions. City hereby covenants and agrees that (i) it shall not instruct Custodian to

sell any Asset until such Asset has been fully paid for by City, and (ii) City shall not engage in any practice whereby City relies on the proceeds from the sale of an Asset to pay for the earlier purchase of the same Asset.

**5. Sales.** Upon receipt of Appropriate Instructions from City, Custodian will deliver Assets held by it as Custodian hereunder and sold by or for City against payment to Custodian of the amount specified in such Appropriate Instructions in accordance with the then current securities industry practices and in form satisfactory to Custodian. Custodian will not hold physical securities in the account.

**6. Settlements.**

6.1 Custodian shall provide City with settlement of all purchases and sales of Assets in accordance with Custodian's then prevailing settlement policies, provided that Custodian has timely received all funds and other information necessary to complete the transaction.

6.2 To avoid a deficiency in the Account, City covenants and agrees that (i) it shall not initiate any trade without sufficient Assets to settle such trade, and (ii) City shall not notify a separate financial institution that it intends to settle purchases out of the Account without sufficient Assets to do so.

6.3 Custodian shall not be liable or responsible for or on account of any act, omission, default, or insolvency of any broker, bank, trust City, person, or other agent designated by City to purchase or sell securities for the Account.

6.4 Notwithstanding anything to the contrary, (i) if Custodian has advanced funds on behalf of City for the purchase or settlement of Assets, any deposit of such Assets into the Account shall be provisional, subject to reversal if Custodian does not receive Full Payment (defined below) for such Assets, (ii) Custodian shall retain all interest, ownership and title to Assets for which Custodian has not received Full Payment, including the right to dispose of the Assets, until Custodian has been paid in full for any such Assets, and (iii) nothing in this Agreement shall constitute a waiver of any of Custodian's rights as a securities intermediary under Uniform Commercial Code §9-206 as in effect in the Jurisdiction (defined in Section 17.8). For the purposes of this Agreement, the term "Full Payment" with respect to any Asset shall mean Custodian's receipt of payment in full, in immediately available funds, in an amount equal to the purchase and settlement cost of that Asset.

**7. Corporate Actions.** In connection with any mandatory conversion of Assets pursuant to their terms, reorganization, recapitalization, redemption in kind, consolidation or other exchange transaction that does not require or permit approval by the owner of the affected Assets, Custodian will tender or exchange securities held for other securities, for other securities and cash, or for cash alone.

**8. Collections.**

8.1 Custodian shall collect all income, principal and other distributions due and payable on Assets held either by Custodian or a Depository but shall be under no obligation or duty to take action to effect collection of any amount if the Assets upon which such payment is due are in default, or if payment is refused after due demand and presentation. If Custodian receives notice of default or refusal to pay from an issuer or transfer agent, Custodian shall so advise City.

8.2 Collections of monies in foreign currency, to the extent possible, are to be converted into United States dollars at customary rates through customary banking channels, including Custodian's own banking facilities, and in accordance with Custodian's prevailing policies for foreign funds repatriation. Custodian shall have no responsibility for risks, expenses or fluctuating exchange rates affecting collections or conversions related to foreign assets.

**9. No Discretionary Authority; Standard of Care.**

9.1 City and Custodian acknowledge that Custodian is not a fiduciary with respect to any Asset or City and the duties of Custodian hereunder do not include discretionary authority, control or responsibility with respect to the management or disposition of any Asset; or authority or responsibility to render investment advice with respect to any Asset. In addition, it is agreed that:

9.1.1 Custodian shall have no duty to make any evaluation or to advise anyone of the suitability or propriety of action or proposed action of City in any particular transaction involving an Asset or the suitability or propriety of retaining any particular investment as an Asset. Custodian shall have no duty or authority to review, question, approve or make inquiries as to any investment instructions given pursuant



hereto. Custodian shall be under no duty or obligation to review the securities or other property held in the Account with respect to prudence or diversification.

9.1.2 Custodian shall not be liable for any loss or diminution of Assets by reason of investment experience or for its actions taken in reliance upon a direction or other instruction from City or City's agent.

9.1.3 Custodian shall have no duty or responsibility to monitor or otherwise investigate the actions or omissions of City.

9.1.4 Custodian shall have no responsibility for the accuracy of Asset valuations quoted by outside services or sources.

9.1.5 Custodian shall only be responsible for the performance of such duties as are expressly set forth in this Agreement and no implied duties or obligations shall be read into this Agreement against Custodian. Custodian's sole responsibility shall be for the safekeeping of the Assets in accordance with Custodian's customary practices and disbursement thereof in accordance with the terms of this Agreement. The Custodian shall have no liability under and no duty to inquire as to the provisions of any agreement other than this Agreement, including without limitation any other agreement between any or all of the parties hereto or any other persons even though reference thereto may be made herein. In no event shall Custodian be liable for indirect, special, or consequential or punitive damages or penalties (including, but not limited to lost profits), even if the Custodian has been advised of the likelihood of such damages or penalty and regardless of the form of action damages.

9.1.6 Custodian shall not be liable for a failure to take an action required under this Agreement in the event and to the extent that the taking of the action is prevented or delayed by war, revolutions, terrorism, insurrection, riot, civil commotion, acts of God, epidemic, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, communication line failures, computer viruses, attacks or intrusions, laws, regulations, orders or other acts of any governmental authority or any other cause whatsoever beyond its control; nor shall any such failure or delay give City the right to terminate this Agreement, except as provided in Section 15 of this Agreement.

9.1.7 Custodian shall not be liable for any action taken or omitted by it in good faith except to the extent that a court of competent jurisdiction determines that the Custodian's gross negligence or willful misconduct in connection with a material breach of this Agreement was the sole cause of any loss to City.

9.2 Custodian may consult legal counsel selected by it in the event of any dispute or question as to the construction of any of the provisions hereof or of any other agreement or of its duties hereunder, or relating to any dispute involving any party hereto, and shall incur no liability and shall be fully indemnified from any liability whatsoever in acting in accordance with the advice of such counsel.

**10. Books, Records and Accounts.** Custodian will make and maintain proper books of account and complete records of all Assets and transactions in the Account maintained by Custodian hereunder on behalf of City. Custodian will preserve for the periods prescribed by applicable federal statute or regulation all records required by such statutes or regulations to be so maintained.

**11. Instructions and Directions.**

11.1 The following shall constitute appropriate instructions ("Appropriate Instructions") if delivered in compliance with the requirements of Section 11.3 hereof: written instructions including a letter, memorandum, or other means of written communication, which Custodian believes is (i) given by any person whose name is listed on the most recent certificate delivered by City to Custodian which lists those persons authorized to give orders, and instructions in the name of and on behalf of City ("Authorized Persons Certificate") or (ii) given by any other person duly authorized by City to give instructions or directions to Custodian hereunder or who Custodian believes to be so authorized (for example an investment adviser or other agent designated by City).

11.2 [reserved]

11.3 All notices, approvals, consents, requests, and other communications hereunder shall be in writing (provided that each such communication to Custodian must be in the form of a document that is signed manually or by way of a DocuSign digital signature or electronic copy of either manually signed by City) and shall be delivered (i) by personal delivery, or (ii) by national overnight courier service, or (iii) by certified or registered mail, return

receipt requested. Notice shall be effective upon receipt. Such notices shall be sent the applicable party or parties at the address specified below:

If to City, at: City of Lake Worth Beach, Florida  
ATTN: Finance Director  
7 North Dixie Highway  
Lake Worth Beach, FL 33460  
Telephone: 561/586-1641

with a copy to: City of Lake Worth Beach, Florida  
ATTN: City Attorney  
7 North Dixie Highway  
Lake Worth Beach, FL 33460  
Telephone: 561/586-1659

If to Custodian, at: U.S. Bank National Association, as Custodian  
ATTN: Global Corporate Trust Services  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

and to:

U.S. Bank National Association  
ATTN: \_\_\_\_\_  
Trust Finance Management  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

or to such other address as each party may designate for itself by like notice and unless otherwise provided herein shall be deemed to have been given on the date received.

11.4 In the event that Custodian is directed to deliver Assets to any person other than City, Appropriate Instructions must include and City shall supply to Custodian appropriate transfer instructions.

11.5 Custodian may conclusively rely and shall be fully protected in acting or refraining from acting upon any direction, instruction, resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

11.6 In the event Asset transfer instructions, address changes or change in contact information are given (other than in writing at the time of execution of this Agreement), whether in writing, by facsimile or otherwise, the Custodian is authorized but shall be under no duty to seek confirmation of such instructions by telephone call-back to the person or persons designated on Schedule B hereto, and the Custodian may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for call-backs may be changed only in writing actually received and acknowledged by Custodian and shall be effective only after Custodian has a reasonable opportunity to act on such changes. If the Custodian is unable to contact any of the designated representatives identified in Schedule B, the Custodian is hereby authorized but shall be under no duty to seek confirmation of such instructions by telephone call-back to any one or more of City's executive officers ("Executive Officers"), as the case may be, which shall include the titles of Mayor, City Manager and Finance Director, as the Custodian may select. Such Executive Officer shall deliver to the Custodian a fully executed incumbency certificate, and the Custodian may rely upon the confirmation of anyone purporting to be any such officer. City agrees that the Custodian may at its option record any telephone calls made pursuant to this Section. The Custodian in any funds or Assets transfer may rely solely upon any account numbers or similar identifying numbers provided by City to identify (a) the beneficiary, (b) the beneficiary's bank, or (c) an intermediary bank. The Custodian may apply any of the Assets for any payment or transfer order it executes using any such identifying number, even when its use may result in a person other than the beneficiary being paid, or the transfer of Assets to a bank other than the beneficiary's bank or an intermediary bank designated. City acknowledges that these optional security procedures are commercially reasonable.

## **12. Compensation, Security.**

12.1 City shall, upon demand, (a) reimburse Custodian for costs incurred by it hereunder, and (b) pay to Custodian fees for its services under this Agreement as set forth in Custodian's then current applicable fee schedule or such other fee arrangement as Custodian and City may otherwise agree in writing.

12.2 If any advance of funds is made by Custodian on behalf of City to purchase, or to make payment on or against delivery of securities or there shall arise for whatever reason an overdraft in the Account, or if City is for any other reason indebted to Custodian, including, but not limited to, any advance of immediately available funds to City with respect to payments to be received by Custodian in next-day funds (which City acknowledges City is liable to repay if Custodian does not receive final payment), City agrees to repay Custodian on demand the amount of the advance, overdraft or other indebtedness and accrued interest at a rate per annum (based on a 360-day year for the actual number of days involved) equal to the Federal Funds rate in effect at the time.

12.3 In the event of an advance of funds by Custodian, or if any overdraft is created by Account transactions, or if City is otherwise in default of any obligation to Custodian, Custodian may directly charge the Account and deduct such payment therefrom.

12.4 In the event that a compensation or indemnity payment due Custodian is past due by more than 30 days, such amount may be charged to the Account and Custodian may deduct such payment therefrom.

12.5 To secure such payment obligations as are set forth under this Section 12 or Section 14, City does hereby grant to Custodian a first security interest in, lien upon and rights of sale and setoff against and deduction from all Assets up to the amount of any deficiency or other indebtedness to Custodian.

12.6 None of the provisions of this Agreement shall require Custodian to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers hereunder.

**13. City Responsibility.** City shall be responsible for the review of all reports, accountings and other statements provided by Custodian, and shall within 90 days following receipt thereof notify Custodian of any mistakes, defects or irregularities contained or identified therein, after which time all such matters shall be conclusively deemed ratified, approved and correct and shall not provide any basis for claim or liability against Custodian.

## **14. Indemnification.**

14.1 City hereby agrees, to the extent permitted by law, and solely from legally available non-ad valorem funds, to fully and promptly indemnify Custodian and its affiliates, officers, directors, employees and agents (each, a "Indemnified Party") and hold each Indemnified Party harmless from and against any cost, losses, claims (whether asserted by City or any other person or entity), liabilities, fines, penalties, damages and expenses (including reasonable fees of attorneys and other professionals) (collectively, "Liabilities") arising out of:

14.1.1 Custodian's actions or omissions hereunder; provided, however, that no Indemnified Party shall have the right to be indemnified hereunder for any Liabilities finally determined by a court of competent jurisdiction, subject to no further appeal, to have been directly caused solely by the gross negligence or willful misconduct of such Indemnified Party in connection with Custodian's material breach of this Agreement; or

14.1.2 Custodian's action taken or omitted hereunder or upon any direction, instruction, information, order, indenture, stock certificate, power of attorney, assignment, affidavit or other instrument delivered hereunder to Custodian and believed by Custodian to be genuine or to bear the signature of a person or persons authorized by City to sign, countersign or execute the same.

14.2 City further agrees to indemnify and hold harmless, subject to the limitations of Section 14.1 above, each Indemnified Party for costs and expenses incurred by such Indemnified Party in enforcing City's obligations to Custodian under this Agreement.

14.3 The obligations of this Section 14 and Section 12 shall survive the termination of this Agreement and Custodian's removal or resignation.

## **15. Termination.**

15.1 This Agreement will remain in effect until terminated by either party giving written notice thirty days in advance of the termination date.

15.2 Upon termination of this Agreement, Custodian shall follow such reasonable City instructions concerning the transfer of Assets, provided that:

15.2.1 Custodian shall have no liability for the costs of shipping and insurance associated therewith; and

15.2.2 Custodian shall not be required to make any delivery or payment until (a) full payment shall have been made by City of all liabilities constituting a charge on or against Custodian, and (b) full payment shall have been made to Custodian of all its compensation, costs, including special termination costs, if any, and expenses hereunder; and

15.2.3 Custodian shall have been reimbursed for any advances of monies or securities made hereunder to City. If any Assets remain in the Account after termination, Custodian shall require further transfer instructions regarding delivery of Assets to City or a successor custodian. If a successor custodian is not appointed by City within 30 days after termination, City acknowledges and agrees that Custodian may petition a court of competent jurisdiction regarding such appointment and charge the Account for fees and expenses involved therein.

15.3 Upon termination of this Agreement, all obligations of the parties to each other hereunder shall cease, except that all payment and indemnification provisions herein shall survive with respect to any Liabilities arising from events prior to, or in connection with, such termination.

**16. Binding Obligations.** City and Custodian each hereby represent and warrant that this Agreement constitutes its legal, valid and binding obligation enforceable in accordance with the terms hereof; subject, as to enforcement of remedies, to applicable bankruptcy and insolvency laws, and to general principles of equity.

**17. General Provisions.**

17.1. Tax Responsibility. Custodian shall have no responsibility for the tax consequences of this Agreement and City shall consult with independent counsel concerning any and all tax matters. City shall provide Custodian Form W-9 and an original Form W-8, as applicable, for each payee, together with any other documentation and information requested by Custodian in connection with Custodian's reporting obligations under this Agreement. If such tax documentation is not so provided, Custodian is authorized to withhold taxes as required by the Internal Revenue Code and related regulations. . Except as otherwise agreed by Custodian in writing, Custodian has no tax reporting or withholding obligation except to the IRS with respect to IRS Form 1099-B reporting on payments of gross proceeds under Internal Revenue Code Section 6045 and IRS Form 1099 and IRS Form 1042-S reporting with respect to investment income earned on the Escrow Funds, if any. Custodian shall have no responsibility for Form 1099-MISC reporting with respect to disbursements that Custodian makes in an administrative or ministerial function to vendors or other service providers and shall have no tax reporting or withholding duties with respect to the Foreign Investment in Real Property Tax Act.

17.3 Shareholder Communications Act Authorization. The Shareholder Communications Act of 1985, as amended, requires Custodian to make an effort to permit direct communications between a City that issues securities and the shareholder that exercises shareholder rights with respect to those securities. Unless City specifically directs Custodian in writing not to release City's name, address and security position to requesting companies, Custodian is required by law to disclose City's name and address to such companies. City hereby responds to the following question [the absence of a response will mean "Yes"]:

Does City authorize Custodian to provide its name, address and security position to requesting companies whose stock is owned in this Account?  Yes /  No

17.4 City's Agent – Shareholder Rights. Should City require that a designated agent for the Account, such as an investment advisor, be responsible for proxy voting and other special matters and shareholder rights as specified in Section 2.4 above, City shall provide the name and address of that agent below. Such agent shall be removed upon Custodian's receipt of a written removal from City. City may designate more than one agent to be responsible for separate sub-Accounts or investment accounts under this Agreement by providing a clear, written designation to that effect to Custodian. Custodian has no authority or responsibility with regard to proxy voting or any

similar special matters. Therefore, Custodian may not be designated below unless Custodian has separately agreed in writing to act as investment advisor for the Account.

**Designated Agent:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_

17.5 Publicity. Neither party will (a) use the other party's proprietary indicia, trademarks, service marks, trade names, logos, symbols, or brand names, or (b) otherwise refer to or identify the other party in advertising, publicity releases, or promotional or marketing publications, or correspondence to third parties without, in each case, securing the prior written consent of the other party.

17.6 Complete Agreement; Modification. This Agreement contains a complete statement of all the arrangements between the parties with respect to its subject matter, supersedes all existing agreements, both oral and written, between the parties concerning the subject, and cannot be amended or modified in any manner except by a written agreement executed by both parties.

17.7 Governing Law; Venue. This Agreement shall be subject to, governed by, and construed in accordance with the laws of the State of Minnesota (the "Jurisdiction") applicable to agreements made and to be performed in the Jurisdiction, without regard to the Jurisdiction's conflict of laws rules. All legal actions or other proceedings directly or indirectly relating to this Agreement shall be brought in federal court (when available, or state court when federal court is not available) sitting in the Jurisdiction. By execution of this Agreement, the parties submit to the courts of the Jurisdiction. To the extent that Custodian or City may be entitled to claim, for itself or its assets, immunity from suit, execution, attachment (whether before or after judgment) or other legal process, each hereby irrevocably agrees not to claim, and hereby waives, such immunity.

17.8 Assignment. No party may assign any of its rights hereunder without the consent of the other party.

17.9 Separability. If any provision of this Agreement is invalid or unenforceable, the balance of the Agreement shall remain in effect, and if any provision is inapplicable to any person or circumstances, it shall nevertheless remain applicable to all other persons and circumstances.

17.10 No Agency or Third-party Rights. In performing its services hereunder, Custodian is acting solely on behalf of City. No agency, contractual or service relationship shall be deemed to be established hereby between Custodian and any other person or entity. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person other than City, Custodian and the Indemnified Parties any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

17.11 Counterparts and Duplicates. This Agreement may be executed in any number of counterparts, each of which shall be considered an original, but all of which together shall constitute the same instrument. This Agreement and any administrative form under the Agreement may be proved either by a signed original or by a reproduced copy thereof (including, not by way of limitation, a microfiche copy or an electronic file copy).

17.12 Legal Actions affecting Account. If Custodian is served with a subpoena, restraining order, writ of attachment or execution, levy, garnishment, search warrant or similar order relating to the Account, (a "Legal Action") Custodian will comply with that Legal Action and shall be protected, indemnified, and held harmless therefrom. City will reimburse Custodian for all fees and expenses Custodian incurs in responding to any Legal Action affecting the Assets or the Account (including but not limited to the fees of attorneys and other professionals). If any portion of the Assets is at any time attached, garnished or levied upon under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then and in any such event, the Custodian is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel selected by it is binding upon it without the need for appeal or other action; and if the Custodian complies with any such order, writ, judgment or decree, it shall not be liable to any of the parties hereto or to any other person or entity by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

17.13 Abandoned Property. Any Assets remaining unclaimed or abandoned by City for a period of time as is set forth in the applicable state's abandoned property, escheat, or similar law shall be delivered to the proper public official pursuant to law and Custodian shall be held harmless therefrom. This Section shall survive the termination of the Agreement.

17.14 Waiver of Jury Trial. Each of the parties hereby irrevocably waive all right to a trial by jury in any action, proceeding, claim, or counterclaim (whether based on contract, tort or otherwise) directly or indirectly arising out of or relating to this Agreement.

17.15 Brokerage Confirmations. The parties acknowledge that to the extent regulations of the Comptroller of Currency or other applicable regulatory entity grant a right to receive brokerage confirmations of security transactions of the escrow, City waives receipt of such confirmations, to the extent permitted by law. The Custodian shall furnish a statement of security transactions on its regular monthly reports.

17.16 Identifying Information. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a Trust, or other legal entity, Custodian asks for documentation to verify its formation and existence as a legal entity. Custodian may also ask to see financial statements, licenses, and identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

*[signature page follows]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative effective as of the Effective Date.

**CITY OF LAKE WORTH BEACH, FLORIDA (City)**

**U.S. BANK NATIONAL ASSOCIATION, as  
Custodian**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Mayor \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Nabors, Giblin & Nickerson, P.A.

## SCHEDULE A

### U.S. BANK NATIONAL ASSOCIATION Investment Authorization Form

#### DESCRIPTION AND TERMS

The U.S. Bank Money Market Deposit Account is a U.S. Bank National Association (“U.S. Bank”) interest-bearing money market deposit account designed to meet the needs of U.S. Bank’s Corporate Trust Services Escrow Group and other corporate trust customers of U.S. Bank. Selection of this investment includes authorization to place funds on deposit and invest with U.S. Bank.

U.S. Bank uses the daily balance method to calculate interest on this account (actual/365 or 366). This method applies a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates are determined at U.S. Bank’s discretion, and may be tiered by City deposit amount.

The owner of the account is U.S. Bank as agent for its corporate trust customers. U.S. Bank’s corporate trust department performs all account deposits and withdrawals. Deposit accounts are FDIC Insured per depositor, as determined under FDIC Regulations, up to applicable FDIC limits.

#### Automatic Authorization

In the absence of specific written direction to the contrary, U.S. Bank is hereby directed to invest and reinvest proceeds and other available moneys in the U.S. Bank Money Market Deposit Account. The City confirms that the U.S. Bank Money Market Deposit Account is a permitted investment under the operative documents and this authorization is the permanent direction for investment of the moneys until notified in writing of alternate instructions.



**SCHEDULE B**

Each of the following person(s) is authorized to execute documents and direct Custodian as to all matters, including Asset transfers, address changes and contact information changes on City's behalf:

<u>Pam Triolo</u> Name	<u>Mayor</u> Specimen signature	<u>561/586-1600</u> Telephone No.
<u>Michael Bernstein</u> Name	<u>City Manager</u> Specimen signature	<u>561/586-1689</u> Telephone No
<u>Bruce Miller</u> Name	<u>Finance Director</u> Specimen signature	<u>561/586-1641</u> Telephone No

(Note: if only one person is identified above, please add the following language)  
The following person not listed above is authorized for call-back confirmations:

[ \_\_\_\_\_ ]  
Name Telephone Number

**EXHIBIT F**

**FORM OF ESCROW DEPOSIT AGREEMENT**

## ESCROW DEPOSIT AGREEMENT

**ESCROW DEPOSIT AGREEMENT** (the "Agreement"), dated as of November 1, 2020, by and between the City of Lake Worth Beach, Florida (the "Issuer") and U.S. Bank National Association (the "Escrow Agent"), a national banking association having its designated corporate trust office in Fort Lauderdale, Florida, as escrow agent hereunder.

**WHEREAS**, the Issuer has heretofore issued its [Utility System Refunding Revenue Bond, Series 2013] in the original aggregate principal amount of \$\_\_\_\_ (the "Refunded Bond") pursuant to Resolution No. 27-2013, adopted April 16, 2013 (the "Refunded Bond Resolution"); and

**WHEREAS**, the Issuer desires to provide payment of the Refunded Bond as set forth on Schedule A attached hereto through the issuance of its Consolidated Utility Revenue Bonds, Series 2020A (the "2020A Bonds") and discharge and satisfy the pledges, liens and other obligations of the Issuer with respect to the Refunded Bond under the Refunded Bond Resolution; and

**WHEREAS**, the deposit of cash funds into an Escrow Fund (herein defined) to be invested and held by the Escrow Agent, and the discharge and satisfaction of the pledges, liens and other obligations of the Issuer under the Refunded Bond Resolution in regard to the Refunded Bond shall occur as a simultaneous transaction; and

**WHEREAS**, this Agreement is intended to effectuate such simultaneous transaction;

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. The Issuer represents that the recitals stated above are true and correct and incorporated herein.

2. Receipt of the Resolution is hereby acknowledged by the Escrow Agent. The Escrow Agent also acknowledges receipt of the verification report of \_\_\_\_\_, dated \_\_\_\_\_, 2020 (the "Verification Report"). The applicable and necessary provisions of the Resolution are incorporated herein by reference. Reference herein to or citation herein of any provisions of the Resolution shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein.

3. The Issuer by this writing exercises its option to have the pledges, liens and obligations to the holder of the Refunded Bond defeased, discharged and satisfied.

4. There is hereby created and established with the Escrow Agent a special, segregated and irrevocable escrow fund designated the "Lake Worth Beach, Florida Utility System Refunding

Revenue Bond, Series 2013 Escrow Deposit Fund" (the "Escrow Fund"). The Escrow Fund shall be held in the custody of the Escrow Agent as an escrow fund for the benefit of the holders of the Refunded Bond, separate and apart from other funds and accounts of the Issuer and the Escrow Agent. The Escrow Agent hereby accepts the Escrow Fund and acknowledges the receipt of and deposit to the credit of the Escrow Fund of the sum of [ \$\_\_\_\_\_ ] in immediately available funds, of which the Issuer represents \$\_\_\_\_\_ constitutes proceeds of the 2020A Bonds and \$\_\_\_\_\_ constitutes amounts held by the Issuer for the benefit of the Refunded Bond . For purposes of this Agreement, the Escrow Fund shall consist of a single fund with no sub-accounts.

5. The Escrow Agent shall, concurrently with the Issuer's deposit, use such amount to purchase on behalf of and for the account of the Issuer, certain direct non-callable obligations of the United States of America (the "Initial Escrow Securities"), in the aggregate principal or par amount of [ \$\_\_\_\_\_ ], which are described in Schedule A hereto, and the Escrow Agent will deposit such obligations in the Escrow Fund. The remaining [ \$\_\_\_\_\_ ] (the "Cash Deposit") shall be held as cash in the Escrow Fund. Any securities which shall be on deposit in the Escrow Fund, including the Initial Escrow Securities, shall herein be referred to as the "Escrow Securities."

6. In reliance upon the Verification Report, the Issuer represents and warrants that the interest on and the principal amounts successively maturing on the Escrow Securities in accordance with their terms (without consideration of any reinvestment of such maturing principal and interest) are sufficient such that moneys will be available to the Escrow Agent in amounts sufficient and at the times required to pay the amounts of principal of, redemption premium, if any, and interest due and to become due on the Refunded Bond as described in Schedule B attached hereto. If the Escrow Securities shall be insufficient to make such redemption payments, the Issuer shall timely deposit to the Escrow Fund, solely from legally available funds of the Issuer, such additional amounts as may be required to pay the Refunded Bond as described in Schedule B hereto. Notice of any insufficiency shall be given by the Escrow Agent to the Issuer as promptly as possible, but the Escrow Agent shall in no manner be responsible for the Issuer's failure to make such deposits.

7. The deposit of the Escrow Securities in the Escrow Fund shall constitute an irrevocable deposit of federal securities in trust solely for the payment of the principal of, redemption premium, if any, and interest on the Refunded Bond at such times and amounts as set forth in Schedule B hereto, and subject to the provisions of Section 9 and Section 17 hereof, the principal of and interest earnings on such Escrow Securities and the Cash Deposit shall be used solely for such purposes.

8. The Escrow Agent shall pay the registered owner of the Refunded Bond from the moneys on deposit in the Escrow Fund an amount sufficient to pay scheduled principal of and interest on and to redeem the Refunded Bond prior to its scheduled maturity date as contemplated in Schedule B attached hereto. The Escrow Securities shall be used to pay the principal of, redemption premium, if any, and interest on the Refunded Bond as the same become due and the Refunded Bond is redeemed. The liability of the Escrow Agent for the payment of the principal of, redemption premium, if any, and interest on the Refunded Bond pursuant to this Agreement

shall be limited to the application of the Escrow Securities and the Cash Deposit and the interest earnings thereon available for such purposes in the Escrow Fund.

9. Moneys deposited in the Escrow Fund shall be invested only in the Escrow Securities listed in Schedule A hereto and, except as provided in Section 5 hereof and in this Section 9, neither the Issuer nor the Escrow Agent shall otherwise invest or reinvest any moneys in the Escrow Fund.

Except as provided in Section 5 hereof and in this Section 9, the Escrow Agent may not sell or otherwise dispose of any or all of the Escrow Securities in the Escrow Fund and reinvest the proceeds thereof in other securities nor may it substitute securities for any of the Escrow Securities, except upon written direction of the Issuer and where, prior to any such reinvestment or substitution, the Escrow Agent has received from the Issuer the following:

- (a) a written verification report by an independent certified public accountant or firm of independent certified public accountants, of recognized standing, appointed by the Issuer, addressed to the Issuer and the Escrow Agent, stating that after such reinvestment or substitution the principal amount of Escrow Securities, together with the interest therein, will be sufficient to pay the Refunded Bond as described in Schedule B hereto; and
- (b) a written opinion of Bond Counsel to the effect that such investment does not violate any provision of Florida law or of the Resolution and will not adversely affect the tax-exempt status of the Refunded Bonds;

provided, that the Escrow Agent shall not release any Escrow Securities then held in the Escrow Fund for such sale, transfer, exchange, redemption or other disposition until the Escrow Agent shall be in possession of the proceeds thereof or the substituted securities.

In the event the above-referenced verification concludes that there are surplus moneys in the Escrow Fund, such surplus moneys shall be released to the Issuer upon its written direction. The Escrow Fund shall continue in effect until the date upon which the Escrow Agent makes the final payment to the paying agent for the Refunded Bond in an amount sufficient to pay the Refunded Bond as described in Schedule B hereto, whereupon the Escrow Agent shall sell upon written direction from the Issuer or redeem any Escrow Securities remaining in the Escrow Fund, and shall remit to the Issuer the proceeds thereof, together with all other money, if any, then remaining in the Escrow Fund.

10. The Issuer has been advised by counsel that, concurrently with the deposit of the Initial Escrow Securities and the Cash Deposit set forth in Section 5 hereof, the Refunded Bond are hereby deemed to have been paid and discharged within the meaning and with the effect expressed in the Resolution. The Escrow Agent shall provide the required notice of redemption of the Refunded Bond, substantially in the form attached hereto as Schedule C, in the manner

provided in the Resolution. The Refunded Bond shall be redeemed on \_\_\_\_\_ at a redemption price of 100% of par, plus accrued interest.

11. Concurrently with the deposit of the Escrow Securities set forth in Section 5 hereof, the Refunded Bond shall be deemed to have been paid within the meaning and with the effect expressed in the Resolution. Within ten (10) days of the deposit of moneys into the Escrow Fund, the Escrow Agent, on behalf of the Issuer, shall cause notice to be given to the registered owner of the Refunded Bond of said defeasance, in compliance with Section 1102 of the Master Resolution.

12. The Escrow Fund hereby created shall be irrevocable and the holders of the Refunded Bond shall have an express lien on all amounts on deposit in the Escrow Fund pursuant to the terms hereof until paid out, used and applied in accordance with this Agreement and the Resolution. Neither the Issuer nor the Escrow Agent shall cause nor permit any other lien or interest whatsoever to be imposed upon the Escrow Fund.

13. This Agreement is made for the benefit of the Issuer and the holders from time to time of the Refunded Bond and it shall not be repealed, revoked, altered or amended or supplemented in whole or in part without the written consent of such holders of the Refunded Bond and the written consent of the Escrow Agent; provided, however, that the Issuer and the Escrow Agent may, without the consent of, or notice to, such holder, enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holder and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Agreement;
- (b) to grant, or confer upon, the Escrow Agent for the benefit of the holder of the Refunded Bond, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holder or the Escrow Agent; and
- (c) to subject to this Agreement additional funds, securities or properties.

The Escrow Agent shall be entitled to rely exclusively upon an unqualified opinion of Bond Counsel with respect to compliance with this Section 13, including the extent, if any, to which any change, modification or addition affects the rights of the holder of the Refunded Bond, or that any instrument executed hereunder complies with the conditions and provisions of this Section 13.

14. In consideration of the services rendered by the Escrow Agent under this Agreement, the Issuer agrees to and shall pay to the Escrow Agent a one-time fee of \$\_\_\_\_\_, and promptly on receipt of an invoice to pay all reasonable, customary and ordinary expenses, charges, attorneys' fees, costs and expenses and other disbursements incurred by it in connection with publication of notices of redemption and appointment of a successor Escrow Agent hereunder. Additionally, should the Escrow Agent perform any extraordinary services not contemplated

hereunder, it shall be entitled to extraordinary fees and reimbursement of any out of pocket and extraordinary costs and expenses, including, but not limited to, attorneys' fees, costs and expenses made in connection with such extraordinary services. The Escrow Agent shall have no lien whatsoever upon any amount in said Escrow Fund for the payment of such proper fees and expenses. The Issuer hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated), to the extent permitted by law, and solely from the Trust Estate under the Resolution, to indemnify, protect, save and keep harmless the Escrow Agent and its respective successors, assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements), which may be imposed on, incurred by, or asserted against, at any time, the Escrow Agent (whether or not also indemnified against the same by the Issuer or any other person under any other agreement or instrument) and in any way relating to or arising out of the execution and delivery of this Agreement, the establishment of the Escrow Fund established hereunder, the acceptance of the funds and securities deposited hereunder, and any payment, transfer or other application of funds or securities by the Escrow Agent in accordance with the provisions of this Agreement; provided, however, that the Issuer shall not be required to indemnify the Escrow Agent against its own gross negligence or willful misconduct. In no event shall the Issuer be liable to any person by reason of the transactions contemplated hereby other than to the Escrow Agent as set forth in this Section. The indemnities contained in this Section shall survive the termination of this Agreement or the sooner resignation or removal of the Escrow Agent.

The Escrow Agent undertakes to perform only such duties as are expressly set forth herein. The duties and responsibilities of the Escrow Agent hereunder shall be determined solely by the express provisions of this Agreement, and no further duties or responsibilities shall be implied. The Escrow Agent shall not have any liability under, nor duty to inquire into the terms and provisions of, any agreement or instructions, other than as outlined in the Agreement. The Escrow Agent shall conclusively rely and shall be fully protected in acting or refraining from acting upon any written notice, instruction or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper party or parties. The Escrow Agent shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document. The Escrow Agent in its capacity as Escrow Agent hereunder shall not have any liability for any loss sustained as a result of any investment made pursuant to this Agreement or as a result of any directed liquidation of any investment prior to its maturity. The Escrow Agent shall have no duty to solicit any payments that may be due it hereunder. The Escrow Agent shall not incur any liability for following the instructions herein contained or expressly provided for, or written instructions given by the parties hereto. In the administration of this Escrow Agreement and the Escrow Fund hereunder, the Escrow Agent may execute any of its powers and perform its duties hereunder directly or through agents or attorneys, and may consult with counsel, accountants and other skilled persons to be selected and retained by it. The Escrow Agent shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons. Any payment obligation of the Escrow Agent shall be paid from, and is limited to funds available, established and maintained hereunder and the Escrow Agent shall not be required to expend its own funds for the performance of its

duties under this Agreement. The Escrow Agent shall not be liable for any action taken or neglected to be taken in performing or attempting to perform its obligations hereunder other than for its negligence or willful misconduct. Anything in this Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of such loss or damage and regardless of the form of action. The Escrow Agent shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Escrow Agent shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

The Escrow Agent may act without liability, upon any written notice, request, waiver, opinion, consent, certificate, receipt, authorization, power of attorney, or other instrument or document which the Escrow Agent in good faith believes to be genuine and to be what it purports to be and the Escrow Agent shall be under no duty to make an investigation or inquiry as to matters contained in any such instrument or document.

15. On or before December 1, 20\_\_\_\_, the Escrow Agent shall forward, in writing, to the Issuer, a statement in detail of the deposit and withdrawal of money from the Escrow Fund, since the date of this Agreement.

16. The Escrow Agent, at the time acting hereunder, may at any time resign and be discharged from the duties and obligations hereby created by giving not less than twenty (20) days' written notice to the Issuer and mailing notice thereof, specifying the date when such resignation will take effect to the holder of the Refunded Bond then outstanding, but no such resignation shall take effect unless a successor Escrow Agent shall have been appointed by the holder of the Refunded Bond then outstanding or by the Issuer as hereinafter provided and such successor Escrow Agent shall have accepted such appointment, in which event such resignation shall take effect immediately upon the appointment and acceptance of a successor Escrow Agent.

The Escrow Agent may be replaced at any time upon thirty (30) days' notice by an instrument or concurrent instruments in writing, delivered to the Escrow Agent and signed by the Issuer or the holder of the Refunded Bond then outstanding. Such instrument shall provide for the appointment of a successor Escrow Agent, which appointment shall occur simultaneously with the removal of the Escrow Agent.

In the event the Escrow Agent hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case the Escrow Agent shall be taken under the control of any public officer or



officers, or of a receiver appointed by a court, a successor may be appointed by the holder of the Refunded Bond then outstanding by an instrument or concurrent instruments in writing, signed by such holder, or by its attorneys in fact, duly authorized in writing; provided, nevertheless, that in any such event, the Issuer shall appoint a temporary Escrow Agent to fill such vacancy until a successor Escrow Agent shall be appointed by the holder of the Refunded Bond then outstanding in the manner above provided, and any such temporary Escrow Agent so appointed by the Issuer shall immediately and without further act be superseded by the Escrow Agent so appointed by such holder. The Issuer shall mail notice of any such appointment made by it at the times and in the manner described in the first paragraph of this Section 16.

In the event that no appointment of a successor Escrow Agent or a temporary successor Escrow Agent shall have been made by such holder or the Issuer pursuant to the foregoing provisions of this Section 16 within twenty (20) days after written notice of resignation of the Escrow Agent has been given to the Issuer, the holder of the Refunded Bond or any retiring Escrow Agent may apply to any court of competent jurisdiction for the appointment of a successor Escrow Agent, and such court may thereupon, after such notice, if any, as it shall deem proper, appoint a successor Escrow Agent.

No successor Escrow Agent shall be appointed unless such successor Escrow Agent shall be a corporation with trust powers organized under the banking laws of the United States or any State, and shall have at the time of appointment capital and surplus of not less than \$20,000,000.

In the event of replacement or resignation of the Escrow Agent, the Escrow Agent shall have no further liability hereunder and the Issuer shall pay any applicable termination fees and expenses and indemnify and hold harmless the Escrow Agent from any such liability, including costs or expenses (including legal fees, costs and expenses) incurred by Escrow Agent or its counsel.

Every successor Escrow Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and to the Issuer an instrument in writing accepting such appointment hereunder and thereupon such successor Escrow Agent, without any further act, deed or conveyance, shall become fully vested with all the rights, immunities, powers, duties and obligations of its predecessor; but such predecessor shall nevertheless, on the written request of such successor Escrow Agent or the Issuer execute and deliver an instrument transferring to such successor Escrow Agent all the estates, properties, rights, and powers of such predecessor hereunder; and every predecessor Escrow Agent shall deliver all securities and moneys held by it to its successor; provided, however, that before any such delivery is required to be made, all fees, advances and expenses of the retiring or removed Escrow Agent shall be paid in full. Should any transfer, assignment or instrument in writing from the Issuer be required by any successor Escrow Agent for more fully and certainly vesting in such successor Escrow Agent the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor Escrow Agent, any such transfer, assignment and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

Any corporation into which the Escrow Agent, or any successor to it in the escrow created by this Agreement, may be merged or converted or with which it or any successor to it may be consolidated, or any corporation resulting from any merger, conversion, consolidation or tax-free reorganization to which the Escrow Agent or any successor to it shall be a party shall be the successor Escrow Agent under this Agreement without the execution or filing of any paper or any other act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

17. Except as otherwise provided herein, this Agreement shall terminate when all transfers and payments required to be made by the Escrow Agent under the provisions hereof shall have been made. Upon such termination, all moneys remaining in the Escrow Fund shall be released to the Issuer for deposit to the Revenue Fund under the Resolution.

18. The Issuer acknowledges that to the extent the regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer the right to receive individual confirmations of security transactions at no additional cost, as they occur, the Issuer specifically waives receipt of such confirmations to the extent permitted by law. The Escrow Agent will furnish the Issuer monthly cash transaction statements that include detail for all investment transactions made by the Escrow Agent hereunder.

19. This Agreement shall be governed by the applicable laws of the State of Florida, with regard to conflict of law principles.

20. If any one or more of the covenants or agreements provided in this Agreement on the part of the Issuer or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

21. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument. The transactions described herein may be conducted and related documents may be sent and stored by electronic means.

22. Any notice, authorization, request or demand required or permitted to be given in accordance with the terms of this Agreement shall be in writing and sent by registered or certified mail addressed to:

U.S. Bank National Association  
500 West Cypress Creek Road, Suite 460  
Fort Lauderdale, Florida 33309  
Attention: Corporate Trust

City of Lake Worth Beach, Florida  
7 North Dixie Highway  
Lake Worth Beach, Florida 33460  
Attention: Mayor

with a copy to:

City of Lake Worth Beach  
Attn: City Attorney  
7 N. Dixie Highway  
Lake Worth Beach, FL 33460

SIGNATURE PAGE OF THE ISSUER FOR  
ESCROW DEPOSIT AGREEMENT

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Escrow Deposit Agreement to be executed by their duly authorized officers or agents and appointed officials and, in the case of the Issuer, its seal to be hereunder affixed and attested as of the date first above written.

**LAKE WORTH BEACH CITY COMMISSION**

\_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

\_\_\_\_\_  
Deborah M. Andrea, CMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nabors, Giblin & Nickerson, P.A.

SIGNATURE PAGE OF THE ESCROW AGENT FOR  
ESCROW DEPOSIT AGREEMENT

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Escrow Deposit Agreement to be executed by their duly authorized officers and appointed officials and, in the case of the Issuer, its seal to be hereunder affixed and attested as of the date first above written.

**U.S. BANK, NATIONAL ASSOCIATION**, as  
Escrow Agent

By: \_\_\_\_\_  
Title: Authorized Officer

**SCHEDULE A**

**INITIAL ESCROW SECURITIES**

<u>Maturity Date</u>	<u>Type</u>	<u>Interest Rate</u>	<u>Par Amount</u>
	SLGS		
	SLGS		

**SCHEDULE B**

**REFUNDED BOND**

Date	Principal	Interest	Principal Redeemed	Total
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**SCHEDULE C**

**NOTICE OF REDEMPTION**

**City of Lake Worth Beach, Florida  
Utility System Refunding Revenue Bond, Series 2013**

NOTICE IS HEREBY GIVEN on behalf of the City of Lake Worth Beach, Florida (the "County") pursuant to that certain Resolution No. 27-2013, adopted April 16, 2013 (the "Resolution"), that the County's outstanding Utility System Refunding Revenue Bond, Series 2013 (the "Refunded Bond"), which was originally issued on April \_\_, 2013, shall be redeemed, prior to its stated maturity, on \_\_\_\_\_ (the "Redemption Date"), at a redemption price equal to 100% of the principal amount thereof, together with interest accrued thereon to the Redemption Date.

Payment of the Redemption Price of such Refunded Bond shall become due and payable on the Redemption Date and shall be paid by wire transfer of U.S. Bank, National Association, as escrow agent. Interest on such Refunded Bond will cease to accrue from and after the Redemption Date.

U.S. BANK, NATIONAL ASSOCIATION,  
as Escrow Agent

By: \_\_\_\_\_

Dated: \_\_\_\_\_



# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Community Sustainability

**TITLE:**

Ordinance No. 2020-15 – First Reading - amending Chapter 23 “Land Development Regulations” regarding changes to commercial vehicle parking, open air operations, temporary banner signage for new construction, landscaping requirements and artificial turf

**SUMMARY:**

Consideration of Ordinance 2020-15 amending Chapter 23 “Land Development Regulations” of the City’s Code of Ordinances as follows

1. Article 1- Section 23.1-12 – Definitions (commercial vehicles)
2. Article 4- Section 23.4-15 - Cemeteries/mausoleums/columbariums
3. Article 4 - Section 23.4-19 - Outdoor storage and open-air operations
4. Article 4 - Section 23.4-22 - Parking, storing or keeping of commercial vehicles in non-residential districts
5. Article 5 - Section 23.5-1 – Signs (temporary banner signage)
6. Article 6 - Section 23.6-1 – Landscape Regulations
7. Article 6 - Section 23.6-1 – Landscape Regulations (artificial turf) – Staff is recommending that the artificial turf section be removed from the ordinance and discussed at a City Commission workshop on December 1, 2020.

**BACKGROUND AND JUSTIFICATION:**

Ordinance 2020-15 provides for a series of updates, clarifications, corrections and additions to the City’s Land Development Regulations (LDRs). Back at its workshop on March 3, 2020, Staff presented a series of priorities for the LDRs to the Commission. The subject LDR amendments address a second series of prioritized items identified at the March meeting as summarized below. Commissioner Robinson separately requested that staff draft regulations related to permit artificial turf for discussion by the City Commission. The draft text amendments are located in Exhibit G of Ordinance 2020-15 and summarized below.

- **Landscape Regulations (Artificial Turf):** The proposed amendments would allow for artificial turf within the City subject to the requirements related to location, quality and installation. If approved by the City Commission, staff is recommending that this item would be pulled from Ordinance 2020-15 and discussed at a public workshop on December 1, 2020 based on public received at the PZB, HRPB and Tree Board October meetings.
- **Commercial Vehicles:** The proposed amendments provide clarity and with regards to the regulation of commercial vehicles on non-residential properties.
- **Cemeteries/mausoleums/columbariums:** The proposed amendments provide additional use and site development requirements for cemeteries, mausoleums, and columbariums
- **Open Air Operations:** The proposed amendments will amend the outdoor storage section to specifically address open air operation, including outdoor display.

- **Temporary Signage:** The proposed amendments provide additional banner style signage related to the opening of a newly constructed building or substantially renovate building.
- **Landscape Regulations:** The proposed amendments provide clarity for when permits are requirements and related to installation requirements for ground cover and inorganic mulch.

At the October meetings, the Planning & Zoning Board (PZB) and Historic Resources Preservation Board (HRPB) both recommended unanimously for the City Commission to approve the proposed amendments excluding the artificial turf changes in Exhibit G. The HRPB voted to not recommend approval of the artificial turf changes. However, if approved by the City Commission, the HRPB requested that all applications for artificial turf within the historic districts require a Certificate of Appropriateness prior to the issuance of a landscape permit for artificial turf. This requested change by the HRPB is reflected in the attached ordinance. The PZB declined to make a formal motion on artificial turf at its meeting citing the need for additional public discussion. The Tree Board requested to discuss the artificial turf changes in Exhibit G although review of land development regulations is outside of their board authority. At their October 28<sup>th</sup> meeting, the Tree Board recommended that the City Commission not allow artificial turf based on concerns identified in two (2) public comment letters and a letter to the editor in the Lake Worth Herald, which members requested be forwarded to the City Commission.

#### **MOTION:**

Move to approve/disapprove Ordinance No. 2020-15 on first reading **excluding/including Exhibit G related to artificial turf** and schedule the second reading and public hearing for December 1, 2020.

#### **ATTACHMENT(S):**

Ordinance 2020-15

PZB/HRPB Staff Report

Tree Board - Public Comment Letters & Lake Worth Herald Letter to the Editor (are available upon request from the City Clerk's office)

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3 **ORDINANCE 2020-15 - AN ORDINANCE OF THE CITY OF LAKE**  
4 **WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND**  
5 **DEVELOPMENT REGULATIONS, BY AMENDING ARTICLE 1**  
6 **“GENERAL PROVISIONS,” DIVISION 2, “DEFINITIONS,” SECTION**  
7 **23.1-12 - DEFINITIONS; ARTICLE 4, “DEVELOPMENT STANDARDS” -**  
8 **SECTION 23.4-15 - CEMETERIES/MAUSOLEUMS/COLUMBARIUMS.;**  
9 **ARTICLE 4, “DEVELOPMENT STANDARDS” SECTION 23.4-19 -**  
10 **OUTDOOR STORAGE; ARTICLE 4, “DEVELOPMENT STANDARDS”**  
11 **NEW SECTION 23.4-22 - PARKING, STORING OR KEEPING OF**  
12 **COMMERCIAL VEHICLES IN NON-RESIDENTIAL DISTRICTS;**  
13 **ARTICLE 4 “DEVELOPMENT STANDARDS” SECTION 23.5-1(12)**  
14 **TEMPORARY SIGNS; ARTICLE 6 “ENVIRONMENTAL**  
15 **REGULATIONS”, SECTION 23.6-1 LANDSCAPE REGULATIONS;**  
16 **ARTICLE 6 “ENVIRONMENTAL REGULATIONS”, AND CREATING A**  
17 **NEW SECTION 23.6-1(K)(15) “ARTIFICIAL TURF” OF THE CITY’S**  
18 **CODE OF ORDINANCES; AND PROVIDING FOR SEVERABILITY, THE**  
19 **REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE**  
20 **DATE.**  
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23 **WHEREAS**, as provided in Section 2(b), Article VIII of the Constitution of the State  
24 of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the  
25 “City”), a municipal corporation, enjoys all governmental, corporate, and proprietary  
26 powers necessary to conduct municipal government, perform municipal functions, and  
27 render municipal services, and may exercise any power for municipal purposes, except  
28 as expressly prohibited by law; and  
29

30 **WHEREAS**, as provided in Section 166.021(3), Florida Statutes, the governing  
31 body of each municipality in the state has the power to enact legislation concerning any  
32 subject matter upon which the state legislature may act, except when expressly prohibited  
33 by law; and  
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35 **WHEREAS**, the City wishes to amend Chapter 23, Division 2 “Definitions,” Section  
36 23.1-12, by adding definitions to provide clarity for commercial vehicle parking and  
37 storage; and  
38

39 **WHEREAS**, the City wishes to amend Chapter 23, Article 4 “Development  
40 Standards,” Section 23.4-15 – Cemeteries / mausoleums / columbariums to update and  
41 augment use standards; and  
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43 **WHEREAS**, the City wishes to amend Chapter 23, Article 4 “Development  
44 Standards,” Sec. 23.4-19 - Outdoor storage, to provide clarity on permitted outdoor  
45 displays; and  
46

47 **WHEREAS**, the City wishes to amend Chapter 23, Article 4 “Development  
48 Standards,” to add a new section, Section 23.4-22. - Parking, storing or keeping of  
49 commercial vehicles in non-residential districts, to provide clarity for commercial vehicle  
50 parking and storage; and

51           **WHEREAS**, the City wishes to amend Chapter 23, Article 5 “Supplemental  
52 Regulations,” Section 23.5-1 – Signs, to allow for additional signage for newly constructed  
53 and substantially renovated buildings; and

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55           **WHEREAS**, the City wishes to amend Chapter 23, Article 6 “Environmental  
56 Regulations,” Sec. 23.6-1 - Landscape regulations, to clarify requirements; and

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58           **WHEREAS**, the City wishes to amend Chapter 23, Article 6 “Environmental  
59 Regulations,” Sec. 23.6-1. - Landscape regulations, to allow for artificial turf with  
60 requirements related to location, quality and installation; and

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

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

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

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

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

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79           **Section 2:** Chapter 23 “Administration,” Division 2 “Definitions,” Section 23.1 -  
80 12, related to commercial vehicle parking and storage of the City’s Code of Ordinances,  
81 is hereby amended by adding the words shown in underlined type and deleting the words  
82 ~~struck through~~ as indicated in **Exhibit A**.

83  
84           **Section 3:** Chapter 23 Land Development Regulations,” Article 4 “Development  
85 Standards,” Section 23.4-15, related to use standards for cemeteries, mausoleums, and  
86 columbariums is hereby amended by adding the words shown in underlined type and  
87 deleting the words ~~struck through~~ as indicated in **Exhibit B**.

88  
89           **Section 4:** Chapter 23 Land Development Regulations,” Article 4 “Development  
90 Standards,” Section 23.4-19, related to outdoor storage and open air display is hereby  
91 amended by adding the words shown in underlined type and deleting the words ~~struck~~  
92 ~~through~~ as indicated in **Exhibit C**.

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94           **Section 5:** Chapter 23 Land Development Regulations,” Article 4 “Development  
95 Standards,” New Section 23.4-22 related to commercial vehicle parking and storage is  
96 hereby amended by adding the words shown in underlined type and deleting the words  
97 ~~struck through~~ as indicated in **Exhibit D**.

99           **Section 6:** Chapter 23 “Land Development Regulations,” Article 5  
100 “Supplemental Regulations,” Section 23.5-1, related to temporary signage are hereby  
101 amended by adding the words shown in underlined type and deleting the words ~~struck~~  
102 ~~through~~ as indicated in **Exhibit E**.

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104           **Section 7:** Chapter 23 “Land Development Regulations,” Article 6  
105 “Environmental Regulations,” Sec. 23.6-1, related to landscape requirements are hereby  
106 amended by adding the words shown in underlined type and deleting the words ~~struck~~  
107 ~~through~~ as indicated in **Exhibit F**.

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109           **Section 8:** Chapter 23 “Land Development Regulations,” Article 6  
110 “Environmental Regulations,” Sec. 23.6-1, related to artificial turf landscape requirements  
111 are hereby amended by adding the words shown in underlined type and deleting the  
112 ~~words struck~~ through as indicated in **Exhibit G**.

113  
114           **Section 9:** Severability. If any section, subsection, sentence, clause, phrase or  
115 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of  
116 competent jurisdiction, such portion shall be deemed a separate, distinct, and  
117 independent provision, and such holding shall not affect the validity of the remaining  
118 portions thereof.

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120           **Section 10:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in  
121 conflict herewith are hereby repealed to the extent of such conflict.

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123           **Section 11:** Codification. The sections of the ordinance may be made a part of  
124 the City Code of Laws and ordinances and may be re-numbered or re-lettered to  
125 accomplish such, and the word “ordinance” may be changed to “section”, “division”, or  
126 any other appropriate word.

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128           **Section 12:** Effective Date. This ordinance shall become effective 10 days after  
129 passage.

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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 Pam Triolo
- Vice Mayor Andy Amoroso
- Commissioner Scott Maxwell
- Commissioner Omari Hardy
- Commissioner Herman Robinson

The Mayor thereupon declared this ordinance duly passed on first reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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 Pam Triolo
- Vice Mayor Andy Amoroso
- Commissioner Scott Maxwell
- Commissioner Omari Hardy
- Commissioner Herman Robinson

The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

\_\_\_\_\_  
Deborah Andrea, CMC, City Clerk

EXHIBIT A

Chapter 23

CODE OF ORDINANCES ARTICLE 1 "GENERAL PROVISIONS"

DIVISION 2. – DEFINITIONS

\*\*\*

Sec. 23.1 -12. Definitions.

\*\*\*

Commercial Business or Service Vehicles: Vehicles no larger than a Class 3 vehicle as defined by the Federal Highway Administration with a curb weight of less than 8,000 lbs that a reasonable person would associate with commercial activity, or includes the display of a business name, logo, address, telephone number, or business license number. Commercial business or service vehicles includes but is not limited to: small delivery vans, fleet vehicle parking, and light duty pick-up trucks or vehicles that meet the size and weight requirements without openly visible and unconcealed equipment.

\*\*\*

Commercial vehicle: Any "truck," "truck tractor," "pole trailer," "semi-trailer," "truck trailer" and "passenger bus" as defined in the appropriate, duly enacted statutes of the State of Florida providing the regulation, registration, licensing and recording of ownership of motor vehicles in the State of Florida. A vehicle that is defined herein as either a Commercial Business or Service Vehicle, or a Medium and Heavy Duty Commercial Vehicle or Construction Vehicle.

\*\*\*

Medium and Heavy Duty Commercial Vehicles or Construction Vehicles: Vehicles that include any construction vehicle or equipment, other motor vehicles classified by the Federal Highway Administration as a Class 3 or greater with a curb weight more than 8,000 lbs, towed trailers regardless of size and weight, vehicles with an openly visible or an unconcealed load of equipment, cargo, tools, construction materials, mounted accessories that a reasonable person would associate with commercial activity. Such may vehicles may include the display of a business name, logo, address, telephone number, or business license number. Medium and Heavy Duty Vehicles or Construction Vehicles includes but is not limited to: commercial trailers (e.g. landscape trailers), tow trucks, service trucks, rental trucks, tracker trailers and construction vehicles or equipment, such as a bulldozer, backhoe, and vehicles with blades attached for plowing or grading.

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**EXHIBIT B**

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 4 “DEVELOPMENT STANDARDS”

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**Section 23.4-15. - Cemeteries/mausoleums/columbariums.**

- A. Cemeteries/mausoleums/columbariums shall comply with the following:
- (1) These uses shall comply with the underlying restrictions of the zoning district in which they are located. No variances with regard to height, setback, lot coverage or FAR shall be granted.
  - (2) The minimum parcel size shall be 2.5 acres.
  - (3) When located adjacent to residential single-family uses, a minimum twenty (20) feet of landscaped buffer shall be provided, which shall include native shade trees at a minimum of twenty-five (25) feet on center.
  - (4) Access to site shall be directly from a primary street.
  - (5) Facilities shall not be located within a radius of one thousand (1,000) feet of existing assisted living center/facility/nursing home or retirement home.
  - (6) Facilities shall be provided with a perimeter fence or wall six (6) feet in height. Fences and walls abutting a right-of-way shall be setback a minimum of thirty (30) inches to provide a landscape area along the right-of-way.
  - (7) Facilities shall have visitation hours of 8 am to sunset.
  - (8) Facilities shall provide guest parking of at least twenty-five (25) spaces.



EXHIBIT C

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 4 "DEVELOPMENT STANDARDS"

Sec. 23.4-19. - Outdoor storage- and open-air operations.

A. Outdoor storage.

\*\*\*

B. Open air operations.

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

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

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

- 1. Art or craft demonstrations.
- 2. Outdoor sales of items.
- 3. Guest art or craft or artist related items.

c) 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 D**

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 4 "DEVELOPMENT STANDARDS"

\*\*\*

**[NEW SECTION]**

**Section 23.4-22. - Parking, storing or keeping of commercial vehicles in non-residential districts**

a) Medium or Heavy Duty Commercial Vehicles or Construction Vehicles.

1) Exclusions

A. This section shall not apply to any vehicle in this category that is parked or stopped upon a public right-of-way as a result of an emergency due to a malfunction of the vehicle beyond the control of its owner; in the case of such emergency, the owner will be permitted to make necessary repairs or arrange for its removal, but such incapacitated vehicle shall not be permitted upon such public right-of-way for more than twenty-four (24) hours.

B. This section shall not apply to the temporary parking of any vehicle in this category or construction equipment on any privately-owned real property within a residential district where construction for which a current and valid permit has been issued by the city is underway on the property. Nothing in this subsection is intended to require a permit where none is otherwise required.

C. This section shall not apply to deliveries by tradesmen, or the use of vehicles in this category in making service calls.

2) General conditions.

A. Outdoor parking, storage or keeping of commercial vehicles in this category shall be permitted only in the I-POC industrial district on impervious approved surfaces. The outdoor parking, storage or keeping of these vehicles shall be considered an outdoor storage use and the requirements in Section 23.4-19- Outdoor Storage shall apply.

B. No major vehicle repair work may be conducted on the premises unless the owner of the business maintains an active business license for automotive service and repair.

D. Restriction on size. There shall be no restriction on size other than the requirement that the vehicle shall not extend onto or over public property or abutting private properties.

F. Screening requirements. All commercial vehicles in this category shall be effectively screened from all public rights-of-way and any adjacent property that is zoned for residential or mixed use.

b) Commercial Business or Service Vehicles.

1) Exclusions

- 340 A. This section shall not apply to any vehicle in this category that is parked or  
341 stopped upon a public right-of-way as a result of an emergency due to a  
342 malfunction of the vehicle beyond the control of its owner; in the case of such  
343 emergency, the owner will be permitted to make necessary repairs or arrange  
344 for its removal, but such incapacitated vehicle shall not be permitted upon such  
345 public right-of-way for more than twenty-four (24) hours.  
346 B. This section shall not apply to the temporary parking of any commercial vehicle  
347 in this category on any privately-owned real property within a residential district  
348 where construction for which a current and valid permit has been issued by  
349 the city is underway on the property. Nothing in this subsection is intended to  
350 require a permit where none is otherwise required.  
351 C. This section shall not apply to deliveries by tradesmen, or the use of vehicles  
352 in this category in making service calls.

353  
354 2) General Conditions

- 355 A. Commercial business or service vehicles, excluding all towed trailers  
356 regardless of size and weight, may be parked in mixed-use districts in  
357 designated parking spaces on the same property as an associated business  
358 with an active business license. Site plan approval is required. Commercial  
359 business or service vehicle parking shall be depicted on the site plan and  
360 shall not exceed twenty-five percent (25%) of required parking. Garage  
361 parking of these vehicles is permitted on the first two floors of a parking  
362 garage.  
363 B. The Development Review Official or applicable board shall be authorized to  
364 allow for businesses to exceed the maximum commercial vehicle parking  
365 limitation of twenty-five percent (25%) through the site plan approval process  
366 on existing non-conforming properties, provided that the applicant can  
367 demonstrate off-street parking in front of the business accommodates  
368 customer and employee parking and provides a parking plan that designates  
369 commercial business or service vehicle parking and employee parking.  
370 C. No major vehicle repair work may be conducted on the premises unless the  
371 owner of the business maintains an active business license for automotive  
372 service and repair.  
373 F. Screening requirements. All commercial vehicles in this category shall be  
374 effectively screened from all public rights-of-way and any adjacent property  
375 that is zoned residential or mixed use whenever feasible.  
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**EXHIBIT E**

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 5 “SUPPLEMENTAL REGULATIONS”

**Sec. 23.5-1. - Signs.**

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*12. Temporary signs.*

\*\*\*

C. Non-residential zoning districts and mixed use zoning districts.

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(vi) Banners shall be permitted as follows:

- i. No more than two (2) banners are permitted on a property at any one time and may not remain for more than fifteen (15) days.
- ii. Banners shall be securely fastened.
- iii. Banners shall not be attached to utility poles or landscaping.
- iv. Banners may not be displayed more than two times per year.
- v. Banners related to the leasing and sale of units or bays in newly constructed buildings or in fully renovated buildings including improvements to one hundred percent (100%) of structure/s interior areas shall not exceed three percent (3%) of the building façade facing a right-of-way in total or 36 sf, whatever is greater, and shall be limited to two (2) banners per street frontage. These banners shall require a temporary sign permit that shall expire within six (6) months unless an extension of up to an additional six (6) months is granted by the development review official.

EXHIBIT F

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 6 "ENVIRONMENTAL REGULATIONS"

Sec. 23.6-1. - Landscape regulations.

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(g) Permit required.

(1) A landscape permit, including a landscape plan, shall be required for the following:

a. All new construction projects or the expansion or renovation of any existing development when the expansion or renovation of the existing development is equal to fifty (50) percent of the assessed value of the improvements according to the property appraiser, or

b. When the total square footage of a structure is expanded by fifty (50) percent or greater. In such cases the entire site shall be upgraded to present landscape standards.

c. For improvements associated with a minor site plan amendment, major site plan amendment, conditional use permit, planned unit development amendment, administrative use permit or for the conversion of residential use to commercial use.

\*\*\*

(k) Landscape design standards. The following are the minimum standards for the design and installation of all landscaping within the City of Lake Worth Beach:

\*\*\*

(10) Ground covers. Living ground covers and native grasses used in lieu of turf or sod, in whole or part, shall be planted at such spacing to present a finished appearance and reasonably complete coverage within six (6) months- based on the expected mature spread. Ground covers that have an expected mature spread of 24 inches or less must be planted 12 inches apart. If the expected mature spread is greater than 24 inches the groundcovers must be planted 18 inches apart. Groundcovers shall not be planted in straight rows; the planting must be staggered to ensure even coverage. All ground cover areas must be kept free from weeds.

\*\*\*

(13) Inorganic Mulches. Inorganic mulches such as Gravel, river rock, shell, Chattahoochee pebbles or similar material shall be treated as a semi-pervious surface. The quantity of inorganic mulch to be incorporated into a project shall be limited by the maximum percentage of impervious surface for the subject property within the applicable zoning district. Rubber products such as crumb rubber or

456 chipped tires are prohibited except for stabilized applications installed to achieve  
457 or maintain ADA compliance.

458 ~~(13)~~ (14) *Vegetable and fruit gardens.* Vegetable and fruit gardens are allowed  
459 so long as the minimum landscape requirements for the site are met.

460

EXHIBIT G

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 6 "ENVIRONMENTAL REGULATIONS"

Sec. 23.6-1. - Landscape regulations.

\*\*\*

(k) Landscape design standards. The following are the minimum standards for the design and installation of all landscaping within the City of Lake Worth Beach:

\*\*\*

(15) Artificial turf.

a. All installation of artificial turf shall require a landscape permit. The use and location of artificial turf shall be limited to the following:

(1) Single family and duplex properties in the rear yard only and not visible from the right of way.

(2) Between parking strips in the front yard of non-conforming properties previously constructed with off-street parking utilizing sixty percent (60%) or more of the width of the front yard. This application of artificial turf shall be approved by the Development Review Official or applicable review board, which shall review the proposed application for consistency with the City's land development regulations, visual appropriateness, enhanced site design and appearance, and improved drainage.

(3) On roof top terraces.

(4) As part of a planned development in a recreation or amenity area.

b. In all areas of installation, artificial turf shall be treated as a semi-pervious surface. The quantity of artificial turf to be incorporated into a project shall be limited by the maximum percentage of impervious surface for the subject property within the applicable zoning district.

c. Artificial turf shall not be installed:

(1) as part of any landscape buffer or landscape area required by this article;

(2) within permanent drainage features (e.g., ponds, swales); or

(3) in any public right of way.

d. Minimum material standards. All artificial turf shall comply with each of the following minimum standards:

(1) Artificial turf shall consist of green lifelike individual blades of grass that emulate natural turf in look and color and shall have a minimum pile height of one- and one-half inches and shall have a minimum tufted weight of 80 ounces per square yard.

- 505           (2) Artificial turf installations shall have a minimum permeability of 30 inches per  
506           hour per square yard.
- 507           (3) All artificial turf shall have a minimum ten-year manufacturer's warranty that  
508           protects against color fading and a decrease in pile height.
- 509           (4) Artificial turf shall be lead free and be partially or wholly manufactured from  
510           recyclable materials.
- 511           (5) All materials must include test documentation which declares that the artificial  
512           turf yarn and backing materials are disposable under normal conditions, at  
513           any U.S. landfill station (Total Content Leach Protocol (TCLP) test).  
514           Documentation must also be provided that identifies all components that are  
515           recyclable and all components that consist of recycled material.
- 516           (6) The use of indoor or outdoor plastic or nylon carpeting as a replacement for  
517           artificial turf or natural turf shall be prohibited.
- 518           (7) The artificial turf system shall utilize organic plant-derived and other natural  
519           infill components, including, but not limited to, cork, coconut, corn husk, rice  
520           husk, and sand. The use of crumb rubber and other synthetic materials shall  
521           be prohibited in all applications except for sports fields.
- 522           (8) Artificial Turf shall not be treated as a fill in material, but rather as a planned  
523           element of the site or yard outside of required landscape areas and buffers

524 e. Installation, maintenance and repair.

- 525           (1) All artificial turf shall, at a minimum, be installed according to the  
526           manufacturer's specifications.
- 527           (2) All artificial turf installations shall be anchored to ensure that the turf will  
528           withstand the effects of wind.
- 529           (3) All seams shall be secured and edges shall be trimmed to fit against all  
530           regular and irregular edges to resemble a natural look.
- 531           (4) If artificial turf is planned to be installed immediately adjacent to a seawall,  
532           the artificial turf shall be pinned or staked behind the seawall. No artificial  
533           turf or installation mechanism shall be attached directly to or placed on a  
534           seawall or seawall cap.
- 535           (5) All artificial turf shall be installed over a subgrade prepared to provide  
536           positive drainage and an evenly graded mass of compacted, porous  
537           crushed rock aggregate material. Base comprising of sand only is not  
538           permitted. Proper drainage shall be provided for all Artificial Turf  
539           installations to prevent runoff or pooling of water.
- 540           (6) Artificial turf shall be visually level, with the grain pointing in a single  
541           direction.
- 542           (7) An appropriate solid barrier device (e.g., concrete mow strip, bender board  
543           or other barrier with a minimum of 38" thickness) is required to separate  
544           artificial turf from soil and live vegetation and to prevent intrusion of living  
545           plant material.



546 (8) Artificial turf shall not be installed directly against the trunk of trees and/or  
547 palms. A 3-foot mulch bed measured from the base of the tree or palm must  
548 be maintained around all trees and or palms. Precautions for installation  
549 around existing trees shall be monitored and may be restricted to ensure  
550 tree roots are not damaged with the installation of the base material and  
551 that the overall health of the tree will not be compromised.

552 (9) All artificial turf shall be maintained in a green fadeless condition and shall  
553 be maintained free of dirt, mud, stains, weeds, debris, tears, holes, and  
554 impressions. Maintenance shall include, but not be limited to cleaning,  
555 brushing, debris removal; repairing of depressions and ruts to maintain a  
556 visually-level surface; elimination of any odors, flat or matted areas, weeds,  
557 and invasive roots; and all edges of the artificial turf shall not be loose and  
558 must be maintained with appropriate edging or stakes.

559 (10) There shall be no parking on artificial turf.

560 (11) Artificial turf shall not be visible from public rights-of-way except where it is  
561 installed between parking strips or approved as part of a planned  
562 development.

563 (12) All other landscape requirements must be met.

564 (13) Applicants shall provide an owner affidavit agreeing to perpetually maintain  
565 the artificial turf system in good working order to ensure that there is  
566 continued permeability. If the artificial turf falls into disrepair with fading or  
567 holes or loose areas. The replacement and/or repairs shall be done with like  
568 for like materials from the same manufacturer and done so in a manner that  
569 results in a repair that blends in with the existing artificial turf.

570 f. A landscape permit shall be obtained from the City prior to the installation of any  
571 artificial turf. The permit application shall include the following material  
572 specifications and plans.

573 (1) A landscape plan showing the area of synthetic turf, area of living plant  
574 material, and separation between these areas;

575 (2) A dimensioned cross section of proposed materials and installation details,  
576 including subgrade, drainage, base or leveling layer, and infill;

577 (3) Edge material and detail for seams;

578 (4) Material description and specifications, including manufacturer,

579 (5) Installer (with contact information), and warranty information.

580 (6) A sample of the artificial turf proposed that meets these standards.

581 (7) Product specifications that demonstrate compliance the requirements for  
582 artificial turf in this article and the ability to be warranted in the United States  
583 of America.

584 (8) The plan shall demonstrate conformance with the City's landscape  
585 requirements.

586 g. A Certificate of Appropriateness shall be obtained from the HRPB prior to the  
587 installation of any artificial turf in a historic district.

588        h. Inspections. An in-progress inspection shall be required to ensure that the  
589        appropriate base material has been installed in accordance to the  
590        manufactures' specifications. A final inspection shall also be required.



**City Of Lake Worth**  
**Department for Community Sustainability**  
**Planning, Zoning and Historic Preservation Division**  
1900 Second Avenue North · Lake Worth · Florida 33461 · Phone: 561-586-1687

DATE: October 1, 2020

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

FROM: William Waters, Director Community Sustainability

MEETING: October 7, 2020

SUBJECT: **PZHP 20-03100007**: Consideration of an ordinance to Chapter 23 “Land Development Regulations” regarding changes to commercial vehicle parking, open air operations, temporary banner signage for new construction, landscaping requirements and artificial turf (Ordinance 20-15).

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**BACKGROUND/ PROPOSAL:**

On March 5, 2020, the City Commission held a workshop on the prioritization of amendments to the City’s Land Development Regulations (LDR) that were previously identified by staff and the Commission. The subject LDR amendments address a second series of prioritized items identified at the March meeting. These include changes related to open air operations, signage and parking. Per commissioner request, requirements related to artificial turf were drafted for discussion and review. The proposed amendments to the Land Development Regulations have been reviewed by staff for consistency with the City’s Comprehensive Plan. A summary of each component in the draft ordinance is also provided.

The proposed LDR amendments for Chapter 23 will modify the following sections of the City’s Code of Ordinances:

- Article 1- Section 23.1-12 – Definitions
- Article 4- Section 23.4-15 - Cemeteries/mausoleums/columbariums
- Article 4 - Section 23.4-19 - Outdoor storage and open-air operations
- Article 4 - Section 23.4-22 - Parking, storing or keeping of commercial vehicles in non-residential districts
- Article 5 - Section 23.5-1 - Signs
- Article 6 - Section 23.6-1 – Landscape Regulations
- Article 6 - Section 23.6-1 – Landscape Regulations (Artificial Turf)

There also are a few changes to Chapter 2 of the Code of Ordinances related to development fees.

**Definitions:** The proposed amendments provide clarity and with regards to the regulation of commercial vehicles on non-residential properties.

**Cemeteries/mausoleums/columbariums:** The proposed amendments provide additional use and site development requirements for cemeteries, mausoleums, and columbariums

**Open Air Operation:** The proposed amendments will amend the outdoor storage section to specifically address open air operation, including outdoor display.

**Temporary Signage:** The proposed amendments provide additional banner style signage related to the opening of a newly constructed building or substantially renovate building.

**Landscape Regulations:** The proposed amendments provide clarity for when permits are requirements and related to installation requirements for ground cover and inorganic mulch.

**Landscape Regulations (Artificial Turf):** The proposed amendments would allow for artificial turf within the City subject to the requirements related to location, quality and installation.

#### **STAFF RECOMMENDATION:**

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2020-XX: PZB / HRPB Project Number 20-03100007.

#### **POTENTIAL MOTION:**

I move to RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION **TO ADOPT** the proposed LDR text amendments included in PZB / HRPB Project Number 20-03100007. (Ordinance 2020-15).

#### **Attachments**

- A. Draft Ordinance 2020-15

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Community Sustainability

**TITLE:**

Ordinance No. 2020-17 – First Reading - Approve the establishment of a mixed-use urban planned development for Village Flats

**SUMMARY:**

Ordinance No. 2020-17 provides for the establishment of a mixed-use urban planned development including a major site plan, a conditional use, and sustainable bonus incentive for Village Flats, which includes 41 residential units.

**BACKGROUND AND JUSTIFICATION:**

Village Flats is a two-phase, forty-one (41) unit multi-family project being proposed by InHabit Property Group, which is located on several vacant lots totaling 1.1 acres between Lake and Lucerne Avenues and between North F and North C Streets as depicted in Exhibit A of the ordinance. Phase 1 of the project will be located on 8 lots totaling 0.64 acres adjacent to North E Street between Lake and Lucerne Avenues and will consist of two buildings containing a total of 30 one-bedroom and two-bedroom units, including 5 live/work units. Phase 1 will also include a pocket park to be located at the southeastern corner of the site. Phase 2 will be located at two sites totaling 0.46 acres at 1310 Lake Avenue and 1401 Lucerne Avenue respectively. The parcel at 1310 Lake Avenue will consist of six (6) one-bedroom units, while 1401 Lucerne Avenue will consist of five (5) three-bedroom live/work units. Phase 2 will require subsequent site plan amendment review once the development plans are finalized, which will require either administrative review or review by the Planning & Zoning Board (PZB) as applicable.

This project is the result of RFP 01-1819, initiated by the Lake Worth Beach Community Redevelopment Agency (CRA) for affordable, market-rate housing to be located on CRA-owned property. The project was subsequently submitted for review by Community Sustainability staff and the City's Site Plan Review Team (SPRT). On October 7, 2020, the PZB reviewed the project and unanimously recommended the project be approved by the City Commission with conditions outlined in Exhibit C of the ordinance. The applicant submitted revised plans on October 20, 2020, to address minor comments raised by the PZB, including additional signage detail. The revised plans were reviewed by staff for consistency with PZB comments and are included in the development plans attachment.

If approved, the City's official zoning map will be amended to reflect the establishment of the mixed-use urban planned development.

**MOTION:**

Move to approve/disapprove Ordinance No. 2020-17 on first reading and to schedule the public hearing and second reading on December 1, 2020.

**ATTACHMENT(S):**

Ordinance 2020-17

PZB Staff Report

Development Plans

Supplemental Supporting Documents

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**ORDINANCE NO. 2020-17 AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING MAP BY APPROVING THE CREATION OF A MIXED USE URBAN PLANNED DEVELOPMENT DISTRICT, LOCATED AT 1216, 1220, 1230, & 1310 LAKE AVENUE, AND 1207, 1209, 1211, 1213, 1215, & 1401 LUCERNE AVENUE CONSISTING OF APPROXIMATELY 1.1 ACRES AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, THAT IS LOCATED WITHIN THE MIXED USE – EAST (MU-E) ZONING DISTRICT WITH A FUTURE LAND USE DESIGNATION OF MIXED USE – EAST (MU-E) THAT INCLUDES THE SPECIFIC DEVELOPMENT STANDARDS DESCRIBED IN EXHIBIT B; APPROVING A CONDITIONAL USE PERMIT; APPROVING DENSITY AND HEIGHT BONUS INCENTIVES THORUGH THE CITY’S SUSTAINABLE BONUS INCENTIVE PROGRAM; APPROVING A MAJOR SITE PLAN FOR THE CONSTRUCTION OF A MIXED USE URBAN PLANNED DEVELOPMENT CONSISTING OF 41 RESIDENTIAL UNITS INCLUDING 10 LIVE/WORK UNITS; PROVIDED FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

WHEREAS, the City Commission of the City of Lake Worth Beach, Florida, pursuant to the authority granted in Chapters 163 and 166, Florida Statutes, and the Land Development Regulations, as adopted by the City of Lake Worth Beach, is authorized and empowered to consider petitions relating to zoning and land development orders; and

WHEREAS, Chapter 23, Article 3, Division 6. – Planned Development of City of Lake Worth Beach’s Land Development Regulations allows for the creation of planned development districts to incentivize innovative development through the utilization of incentive programs and flexible dimensional and use requirements that are defined within and occur in conformity with an approved master development plan; and

WHEREAS, InHabit Property Group (the Applicant), has petitioned the City of Lake Worth Beach (the City) for creation of a Mixed Use Urban Planned Development District to allow for the approval of a mixed use development on a site located at 1216, 1220, 1230, & 1310 Lake Avenue, and 1207, 1209, 1211, 1213, 1215, & 1401 Lucerne Avenue (PCNs 38-43-44-21-15-505-0120; 38-43-44-21-15-505-0130; 38-43-44-21-15-505-0160; 38-43-44-21-15-504-0130; 38-43-44-21-15-503-0050; 38-43-44-21-15-505-0010; 38-43-44-21-15-505-0020; 38-43-44-21-15-505-0030; 38-43-44-21-15-505-0040; 38-43-44-21-15-505-00500) as further described in Exhibit A (the Property) within the MU-E Zoning District and the MU-E Future Land Use designation, and if approved, shall constitute an amendment to the City’s official zoning map; and

WHEREAS, the Applicant requests use of the City’s Sustainable Bonus Incentive Program to allow for additional height and density to be considered in conjunction with

47 the Applicant's request for approval for a major site plan for the construction of a mixed  
48 use urban planned development currently known as "Village Flats" that will contain 41  
49 dwelling units, inclusive of 10 live/work units, to be constructed on this site;

50  
51 WHEREAS, on October 7, 2020, the Lake Worth Beach Planning and Zoning  
52 Board (P&Z Board) considered the subject application for a Mixed Use Urban Planned  
53 Development District, Major Site Plan, Conditional Use Permit, and Sustainable Bonus  
54 Incentive Program and recommended that the City Commission approve the creation of  
55 this mixed use urban planned development district; and

56  
57 WHEREAS, the City Commission has considered all of the testimony and evidence  
58 and has determined that the Mixed Use Urban Planned Development District, Major Site  
59 Plan, Sustainable Bonus Incentive Program, and Conditional Use Permit, including the  
60 development regulations and conditions, meets the requirements of the Land  
61 Development Regulations, Section 23.3.25.

62  
63 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
64 **CITY OF LAKE WORTH BEACH, FLORIDA, that:**

65  
66 Section 1. Recitals. The foregoing recitals are true and correct and are hereby  
67 affirmed and ratified.

68  
69 Section 2. The Mixed Use Urban Planned Development District located within the MU-  
70 E Zoning District with a future land use designation of MU-E, as described more  
71 particularly in **Exhibit A**, is hereby approved. This approval includes the approval of the  
72 following elements to be known as the Master Development Plan: (a) Mixed Use Urban  
73 Planned Development (b) Major Site Plan (c) Sustainable Bonus Incentive Program (d)  
74 Conditional Use Permit; (e) district development standards (**Exhibit B**) (f) conditions of  
75 approval (**Exhibit C**); (g) required plans including the site plan, architectural plan,  
76 landscape plan, and civil & drainage plans dated 9/21/2020; (h) supplemental supporting  
77 documents, as well as all agreements, provisions and/or covenants which shall govern  
78 the use, maintenance, and continued protection of the mixed use urban planned  
79 development and any of its common areas or facilities. The Applicant is bound to all  
80 elements and requirements of the Master Development Plan.

81  
82 Section 3. The City's zoning maps shall be updated to reflect the changes to the  
83 property described in **Exhibit A**.

84  
85 Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict  
86 herewith are hereby repealed to the extent of such conflict.

87  
88 Section 5. Severability. If any provision of this ordinance or the application thereof is  
89 held invalid by a court of competent jurisdiction, the invalidity shall not affect other  
90 provisions of the ordinance which can be given effect without the invalid provision or  
91 application, and to this end the provisions of this ordinance are declared severable.

92



93 Section 6. Effective Date. This ordinance shall become effective ten (10) days after  
94 its final passage.

95  
96 The passage of this ordinance on first reading was moved by \_\_\_\_\_,  
97 seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

- 98
- 99 Mayor Pam Triolo
- 100 Vice Mayor Andy Amoroso
- 101 Commissioner Scott Maxwell
- 102 Commissioner Herman Robinson

103  
104 The Mayor thereupon declared this ordinance duly passed on first reading on the  
105 20<sup>th</sup> day of October, 2020.

106  
107  
108 The passage of this ordinance on second reading was moved by  
109 \_\_\_\_\_, seconded by \_\_\_\_\_, and upon being put to a vote,  
110 the vote was as follows:

- 111
- 112 Mayor Pam Triolo
- 113 Vice Mayor Andy Amoroso
- 114 Commissioner Scott Maxwell
- 115 Commissioner Herman

116  
117  
118 The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_\_ day of  
119 \_\_\_\_\_, 2020.

120  
121 LAKE WORTH BEACH CITY COMMISSION  
122 By: \_\_\_\_\_  
123 Pam Triolo, Mayor

124 ATTEST:

125  
126  
127 \_\_\_\_\_  
128 Deborah M. Andrea, City Clerk  
129

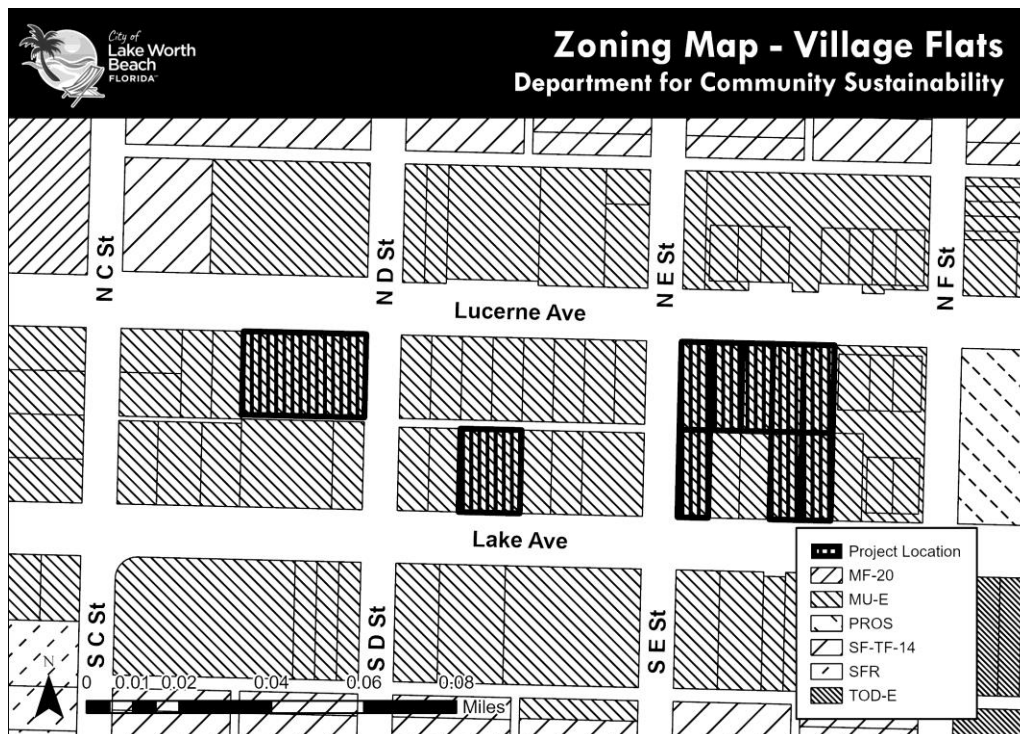
## Exhibit A

### DEPARTMENT FOR COMMUNITY SUSTAINABILITY, PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION PROPERTY DESCRIPTION FOR PZB CASE No. 20-01000001

The subject site encompasses 1216, 1220, 1230, & 1310 Lake Avenue, and 1207, 1209, 1211, 1213, 1215, & 1401 Lucerne Avenue. The site is comprised of select properties located between Lake & Lucerne Avenues, between North C & North F Street and is Mixed-Use East (MU-E). The subject properties PCNs are 38-43-44-21-15-505-0120, 38-43-44-21-15-505-0130, 38-43-44-21-15-505-0160, 38-43-44-21-15-504-0130, 38-43-44-21-15-503-0050, 38-43-44-21-15-505-0010, 38-43-44-21-15-505-0020, 38-43-44-21-15-505-0030, 38-43-44-21-15-505-0040, and 38-43-44-21-15-505-0050. A zoning map of the subject site is provided below.

#### PROPERTY DESCRIPTION:

<b>Applicant</b>	Corey O’Gorman and Jeff Costello of PLACE Planning & Design on behalf of Timothy Carey of InHabit Property Group
<b>Owner</b>	Lake Worth Beach Community Redevelopment Agency (CRA)
<b>General Location</b>	Multiple sites located between Lake & Lucerne Avenues, between North C & North F Streets.
<b>Existing PCN Numbers</b>	38-43-44-21-15-505-0120; 38-43-44-21-15-505-0130; 38-43-44-21-15-505-0160; 38-43-44-21-15-504-0130; 38-43-44-21-15-503-0050; 38-43-44-21-15-505-0010; 38-43-44-21-15-505-0020; 38-43-44-21-15-505-0030; 38-43-44-21-15-505-0040; 38-43-44-21-15-505-0050
<b>Legal Description</b>	Town of Lake Worth Lots 1-5, 12-13, & 16, Block E Town of Lake Worth Lots 13 & 14 (Less N 5ft Alley R/W) Block D Town of Lake Worth Lots 5-8 (Less S 5ft Alley R/W) Block C
<b>Existing Land Use</b>	Vacant Lots
<b>Existing Zoning</b>	Mixed-Use East (MU-E)
<b>Proposed Zoning</b>	Mixed Use Urban Planned Development
<b>Future Land Use Designation</b>	Mixed-Use East (MU-E)



**Exhibit B****DEPARTMENT FOR COMMUNITY SUSTAINABILITY, PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION  
DEVELOPMENT STANDARDS FOR PZB CASE No. 20-01000001**

Development Standard		Base Zoning District	Mixed Use Urban Planned Development with Sustainable Bonus Incentive Program (SBIP)	Phase 1 Provided	Phase 2 Provided (approximate)
Lot Size (min) In square feet (sf)		6,500 sf	0.5 acres	47,950 sf (1.1 acres)	
Lot Width (min)		25'	100'	175'	70' + 140'
Setbacks	Front (min)	10'	10'	10'	10' & 20'
	Rear (min)	10'	10'	10'	41' & 43'
	Street Side (min)	10'	10'	10'	N/A
	Interior Side (min)	0'	0'	0'	11.5' & 5'/10'
Impermeable Surface Coverage (maximum)		75%	75%	72.4%	62.4%
Structure Coverage (max)		65%	65%	29.7%	27.9%
Living Area (minimum)	One bedroom units	600 sf	600 sf	Unit 1 (5): 715-723 sf Unit 3 (12): 686 sf Unit 4 (6): 710 sf	Building 3 Unit (6): 700 sf
	Two bedroom units	750 sf	750 sf	Unit 2 (7): 982-1041 sf	None
	Three bedroom units	900 sf	900 sf	None	Building 4 Unit (5): 1,550 sf
Parking		Phase 1: 47 / Phase 2: 24 / Office: 3 Total: 56 (74 – 25% mixed-use credit)		49 (36 spaces on-site, 13 on street)	29
Density (max)		30 du/acre (33 units)	37.5 du/acre (41.25 units)	37.27 du/acre (41 units)	
Building Height (max)		30 feet (2 stories)	56.25 feet (5 stories)	Building 1: 48.67' Building 2: 35.5'	Buildings 3 & 4: Not to exceed LDRs
Floor Area Ratio (FAR) (max)		1.5	1.94	.82	.64

## Exhibit C

### DEPARTMENT FOR COMMUNITY SUSTAINABILITY, PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION CONDITIONS OF APPROVAL FOR PZB CASE No. 20-01000001

#### Planning:

1. Phase 1 & 2 Conditions:
  - i. Prior to the issuance of a building permit for Phase 1, provide a TPS Letter from the Palm Beach County Traffic Division. The TPS letter may be for only Phase 1 or both Phase 1 & 2. Should the TPS Letter only be for Phase 1, a second TPS letter shall be applied for prior to Site Plan approval for Phase 2, and said letter shall be submitted prior to the issuance of a building permit.
  - ii. Prior to the issuance of a building permit, designate 3 parking spaces as electric vehicle parking and outfit each parking space with electric vehicle charging equipment as outlined in LDR Section 23.4-10.
  - iii. Exterior lighting shall be shielded and in conformance with the Major Thoroughfare Design Guidelines. Exterior LED lighting shall have a warm color temperature (<3000K).
  - iv. Prior to the issuance of a building permit, a color scheme more characteristic with the aesthetic of Lake Worth Beach shall be approved by the Development Review Official.
  - v. Prior to the issuance of a certificate of occupancy, all fences shall comply with Section 23.4-4.
2. Phase 1 Conditions:
  - i. Prior to the issuance of a building permit, push back the north wall of Building 2 so that it lies 5' south of the existing gravity sewer running east/west through the site.
  - ii. Prior to the issuance of a building permit, screen the recycling area from all rights-of-way.
  - iii. Prior to the issuance of a building permit, submit a signage plan that provides consistent signage theme, sizing and materials.
3. Phase 2 Conditions:
  - i. Phase 2 shall obtain final site plan approval through a Site Plan amendment process to be approved administratively by staff or by the Planning & Zoning Board as applicable.
  - ii. An application for final site plan approval for Phase 2 shall be required no later than one (1) year of the planned development approval with an administrative extension of up to six (6) months if approved by the City's Development Review Official.
  - iii. Phase 2 shall be restricted to 11 units total. Should additional units be sought through the city's Transfer of Development Rights program, the site plan shall be amended through a Major Site Plan amendment process.
  - iv. Aside from waivers granted through the Planned Development, Phase 2 shall be designed in accordance and comply with Chapter 23 of the city's Land Development Regulations.
  - v. Prior to the issuance of a building permit, submit a signage plan that provides consistent signage theme, sizing and materials.

**Public Works:**

1. The issuance of any permits shall comply with all provisions of the Lake Worth Beach Municipal Code and all other applicable standards including but not limited to the Florida Department of Transportation (FDOT), Manual on Uniform Traffic Control Devices (MUTCD), and City of Lake Worth Public Works Construction Standards and Policy and Procedure Manual
2. Prior to performing work in the right of way, the applicant shall apply for and receive issuance of a "Right of Way/Utility Permit" application
3. Prior to the issuance of a building permit, the following shall be completed:
  - i. the applicant shall contact the Lake Worth Drainage (LWDD) District's Engineering Department and obtain any required permit(s), if necessary, and furnish to the City.
  - ii. the applicant shall contact the South Florida Water Management District's (SFWMD) Engineering Department and obtain any required permit(s), if necessary,
  - iii. the applicant shall submit an Erosion Control plan and indicate the BMP's and NPDES compliance practices.
4. Prior to the issuance of a certificate of occupancy, the following shall be completed:
  - i. all conditions of approval shall have been satisfied under jurisdiction of the Department of Public Works,
  - ii. the applicant shall construct new Type F curb/Valley gutter and a new 5-foot wide sidewalk along the east side of North E Street from the south property line to the north property line in compliance with the Public Works Department's specifications and Policy and Procedure Manual,
  - iii. the applicant shall construct a 1" mill and overlay for the entire lane on the east side of North E Street from Lake Ave to Lucerne Ave; current proposed design has a partial lane mill and overlay,
  - iv. the Applicant shall ensure the entire surrounding off-site infrastructure inclusive of the roadway, sidewalk, curbing, stormwater system piping and structures, valve boxes, manholes, landscaping, striping, signage, and other improvements are in the same condition as prior to construction,
  - v. the applicant shall fine grade and sod all disturbed areas with bahia sod,
  - vi. the applicant shall broom sweep all areas of the affected right of way and remove of all silt and debris collected as a result of construction activity,
  - vii. the applicant shall restore the right of way to a like or better condition. Any damages to pavement, curbing, striping, sidewalks or other areas shall be restored in kind.

**Utilities Water & Sewer:**

1. Provide the Utilities Department unimpeded access to utilities within the easement.
2. Prior to the issuance of a building permit, the following shall be completed:
  - a. adjust and expand the east/west utility easement such that there is an easement that exists 4 feet north of the existing watermain (and encompasses the electric) and continues to 5 feet south of the existing gravity sewer.  
the MEP shall verify the 2-inch service size for 24 residential units, and 1-inch service size for 16 residential units, is adequate to meet the demand.



**DATE:** October 1, 2020  
**TO:** Members of the Planning and Zoning Board  
**FROM:** Andrew Meyer, Senior Community Planner  
**THRU:** William Waters, AIA, NCARB, LEED, AP BD+C, ID, SEED, Director for Community Sustainability  
**MEETING:** October 7, 2020

**SUBJECT:** **PZB Project Number 20-01000001**: Consideration of a mixed-use urban planned development, major site plan with sustainable bonus, and conditional use permit to construct a two-phase multi-family development with live-work units, generally known as “Village Flats”, and located at 1216, 1220, 1230, & 1310 Lake Avenue, and 1207, 1209, 1211, 1213, 1215, & 1401 Lucerne Avenue pursuant to the City of Lake Worth Beach Land Development Regulations (LDR’s). The subject properties are located in the Mixed-Use – East (MU-E) zoning district. PCN #s 38-43-44-21-15-505-0120; 38-43-44-21-15-505-0130; 38-43-44-21-15-505-0160; 38-43-44-21-15-504-0130; 38-43-44-21-15-503-0050; 38-43-44-21-15-505-0010; 38-43-44-21-15-505-0020; 38-43-44-21-15-505-0030; 38-43-44-21-15-505-0040; 38-43-44-21-15-505-0050.

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**PROJECT DESCRIPTION:**

The Applicant, Corey O’Gorman and Jeff Costello of PLACE Planning & Design on behalf of Timothy Carey of InHabit Property Group, is requesting approval of Village Flats, a project consisting of the following:

- 1.) **Mixed Use Urban Planned Development** to construct a two-phased live/work and multifamily residential development. (page 8)
- 2.) **Major Site Plan** for the development of new live/work and multifamily residential buildings in excess of 7,500 square feet. (page 10)
- 3.) **Sustainable Bonus Program Incentive** to meet the requirements of a Mixed Use Urban Planned Development and gain an increase in overall density to 37.5 units per acre, and an increase in height to four stories and 48.67 ft. (page 14)
- 4.) **Conditional Use Permit** to establish a mixed-use master plan greater than 7,500 square feet inclusive of townhomes and live/work units. (page 15)

Village Flats is proposed as a response for a Request for Proposal (RFP) issued by the Lake Worth Beach CRA, and is currently sponsored by the CRA. Village Flats consists of two phases; Phase 1 will be located across the properties located at 1216, 1220, & 1230 Lake Avenue, and 1207, 1209, 1211, 1213, & 1215 Lucerne Avenue, while Phase 2 will be located across the properties located at 1310 Lake Avenue and 1401 Lucerne Avenue. Phases 1 and 2 together is classified as a large lot of approximately 47,950 square feet, or 1.1 acres.

Phase 1 is located between Lake and Lucerne Avenues, on the west side of North E Street, and is currently a collection of vacant lots. Phase 1 consists of two buildings – a four-story, 24-unit (of which five are live-work) multi-family residential building (Building 1) and a three-story, six-unit multi-family building (Building 2). Building 1 is located along the entire north side of Phase 1, facing Lucerne Avenue. Building 2 is located to the south west of Building 1, facing North E Street.

Phase 2 is located at 1310 Lake Avenue and 1401 Lucerne Avenue; both sites are currently vacant lots. 1310 Lake Avenue is proposed to contain a three-story, six-unit multifamily residential building (Building 3), and 1401 Lucerne Avenue is proposed to contain five, two-story live-work townhouses (Building 4). The design of Phase 2 has not yet been finalized. The recommendation of approval has been conditioned to require staff review and approval of a site plan amendment prior to the issuance of a building permit.

Based on the site plan package, the following unit types will be proposed:

- Phase 1:
  - Building 1:
    - Unit 1 (5 units) – live/work, one bed, one bath, totaling at 715-723 square feet per unit
    - Unit 2 (7 units) – two bed, two bath, totaling at 982-1041 square feet per unit
    - Unit 3 (12 units) – one bed, one bath, totaling at 686 square feet per unit
  - Building 2:
    - Unit 4 (6 units) – one bed, one bath, totaling at 710 square feet per unit
- Phase 2:
  - Building 3:
    - 6 Units – one bed, one bath, totaling 700 square feet per unit
  - Building 4:
    - 5 Units – live/work, three bed, one or two baths, totaling 1,550 square feet per unit

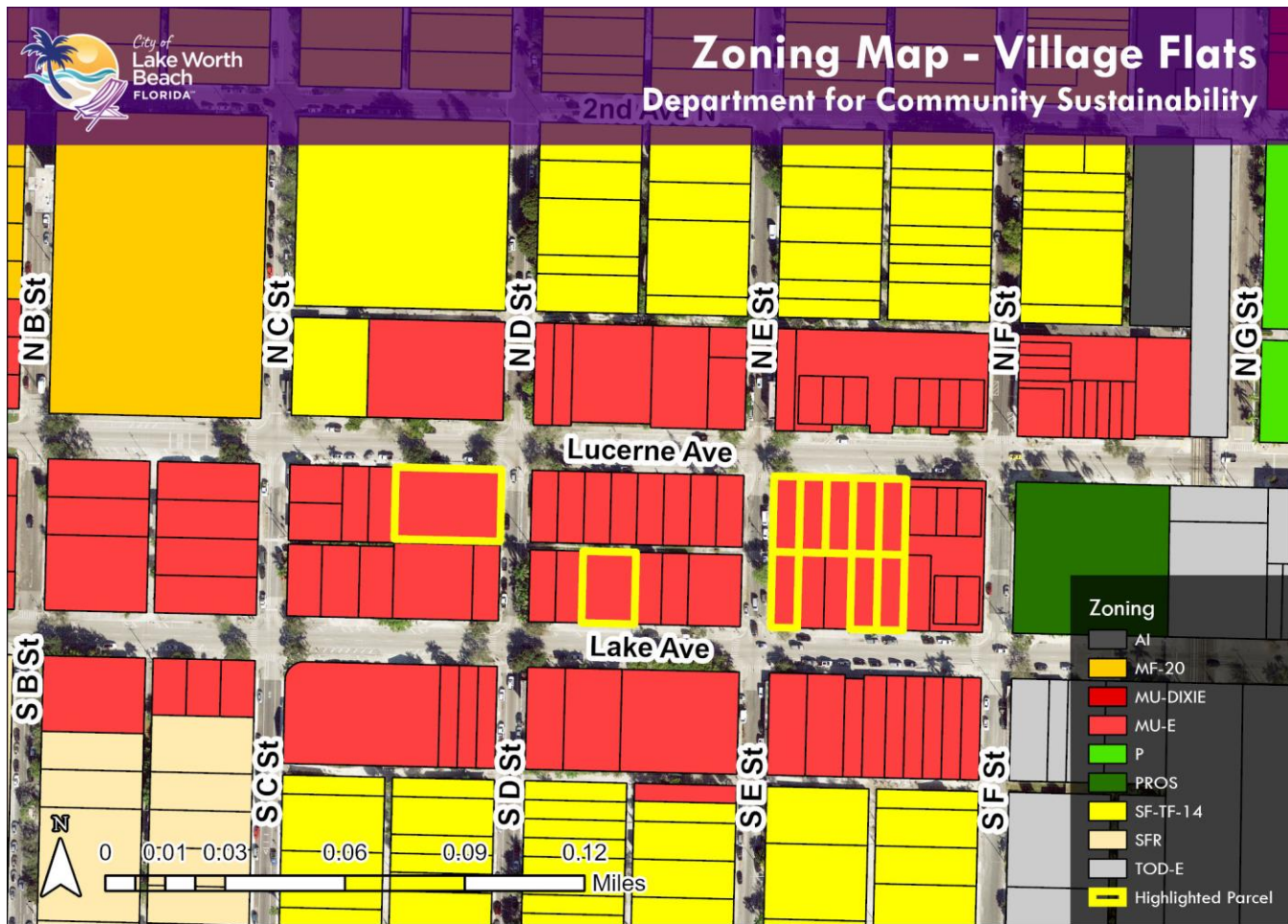
All units in Buildings 1 and 2 above the first floor are accompanied with a +/- 55 square foot balcony. The Applicant states that the development will include additional features such as a pocket park, which includes a trellis, dog walk, benches, and a landscaped seating area in the southeast corner of Phase 1.

#### **Staff Recommendation:**

Staff has reviewed the documentation and materials provided, applying the applicable guidelines and standards found in the City of Lake Worth Zoning Code, Comprehensive Plan, and Strategic Plan. The proposed development meets the criteria of the Comprehensive Plan and LDRs. Staff recommends that the Board recommend approval of the Mixed Use Urban Planned Development, Major Site Plan, Conditional Use Permit, and Sustainable Bonus Program Incentive as conditioned on pages 19-20 to the City Commission.

#### **PROPERTY DESCRIPTION:**

<b>Applicant</b>	Corey O’Gorman and Jeff Costello of PLACE Planning & Design on behalf of Timothy Carey of InHabit Property Group
<b>Owner</b>	Lake Worth Beach Community Redevelopment Agency (CRA)
<b>General Location</b>	Multiple sites located between Lake & Lucerne Avenues, between North C & North F Streets.
<b>Existing PCN Numbers</b>	38-43-44-21-15-505-0120; 38-43-44-21-15-505-0130; 38-43-44-21-15-505-0160; 38-43-44-21-15-504-0130; 38-43-44-21-15-503-0050; 38-43-44-21-15-505-0010; 38-43-44-21-15-505-0020; 38-43-44-21-15-505-0030; 38-43-44-21-15-505-0040; 38-43-44-21-15-505-0050
<b>Existing Land Use</b>	Vacant Lots
<b>Zoning</b>	Mixed-Use East (MU-E)
<b>Future Land Use Designation</b>	Mixed-Use East (MU-E)

**ZONING MAP:****BACKGROUND:**

The project site is comprised of 10 vacant parcels generally located between Lake and Lucerne Avenue, between North C and North F Street. The collection of lots were purchased and assembled by the Lake Worth Beach Community Redevelopment Agency over several years. Collectively, they were offered through a competitive Request for Proposal process to private developers for redevelopment.

Below is a timeline summary of the properties' histories based on Palm Beach Property Appraiser's records and City records:

- 1216 Lake Avenue
  - Existing 3,500 square foot (35' x 100') lot
  - 1939 – A single-family residence was constructed on the property
  - July 30, 2018 – The single-family residence was demolished. The site is currently vacant.
  - September 24, 2020 – There are no active business licenses at this site
  - September 24, 2020 – There are no active code cases at this site
- 1220 Lake Avenue
  - Existing 3,500 square foot (35' x 100') lot
  - 1939 – A single-family residence was constructed on the property
  - November 21, 2006 – The single-family residence was demolished.



- October 18, 2012 – A building permit was issued to construct a new single-family residence.
- November 2012- September 2020 – All existing buildings were demolished. The site is currently vacant.
- September 24, 2020 – There are no active business licenses at this site
- September 24, 2020 – There are no active code cases at this site
- 1230 Lake Avenue
  - Existing 3,500 square foot (35' x 100') lot
  - 1939 – A single-family residence was constructed on the property
  - July 30, 2018 – The single-family residence was demolished. The site is currently vacant.
  - September 24, 2020 – There are no active business licenses at this site
  - September 24, 2020 – There are no active code cases at this site
- 1310 Lake Avenue
  - Existing 7,000 square foot (70' x 100') lot
  - 1952 – A multi-family residence was constructed on the property
  - November 4, 2013 – The multi-family residence was demolished. The site is currently vacant.
  - September 24, 2020 – There are no active business licenses at this site
  - September 24, 2020 – There are no active code cases at this site
- 1207 Lucerne Avenue
  - Existing 3,500 square foot (35' x 100') lot
  - 1956 – A single-family residence was constructed on the property
  - July 30, 2018 – The single-family residence was demolished. The site is currently vacant.
  - September 24, 2020 – There are no active business licenses at this site
  - September 24, 2020 – There are no active code cases at this site
- 1209 Lucerne Avenue
  - Existing 3,500 square foot (35' x 100') lot
  - 1956 – A multi-family residence was constructed on the property
  - August 27, 2012 – The multi-family residence was demolished. The site is currently vacant.
  - September 24, 2020 – There are no active business licenses at this site
  - September 24, 2020 – There are no active code cases at this site
- 1211 Lucerne Avenue
  - Existing 3,500 square foot (35' x 100') lot
  - 1956 – A multi-family residence was constructed on the property
  - July 30, 2018 – The multi-family residence was demolished. The site is currently vacant.
  - September 24, 2020 – There are no active business licenses at this site
  - September 24, 2020 – There are no active code cases at this site
- 1213 Lucerne Avenue
  - Existing 3,500 square foot (35' x 100') lot
  - 1950 – A single-family residence was constructed on the property
  - July 30, 2018 – The single-family residence was demolished. The site is currently vacant.
  - September 24, 2020 – There are no active business licenses at this site
  - September 24, 2020 – There are no active code cases at this site
- 1215 Lucerne Avenue
  - Existing 3,500 square foot (35' x 100') lot
  - 1956 – A multi-family residence was constructed on the property
  - July 27, 2012 – The multi-family residence was demolished. The site is currently vacant.
  - September 24, 2020 – There are no active business licenses at this site
  - September 24, 2020 – There are no active code cases at this site
- 1401 Lucerne Avenue

- Existing 14,000 square foot (140' x 100') lot
- 1956 – A mixed use, multi-family building was constructed on the property
- 2004 – Plato Loco held a business license at the location for a take-out restaurant
- 2000 – 2015 – Lois Vanderwoude Trust held a business license at the location to rent out multi-family units
- July 2, 2014 – The mixed use, multi-family building was demolished. The site is currently vacant.
- September 24, 2020 – There are no active business licenses at this site
- September 24, 2020 – There are no active code cases at this site

## **ANALYSIS:**

### **Consistency with the Comprehensive Plan and Strategic Plan**

Both Phase 1 and Phase 2 have a Future Land Use (FLU) designation of Mixed-Use East (MU-E). Per Policy 1.1.1.5, the MU-E FLU is established to provide for a mixture of residential, office, service and commercial retail uses within specific areas east of I-95, near or adjacent to the central commercial core and major thoroughfares of the City. The proposed development provides multi-family and live-work units within one of the central commercial cores of the city. Therefore, it is consistent with the intent of the MU-E FLU. Furthermore, Objective 1.2.2 states that the City shall facilitate a compact, sustainable urban development pattern that provides opportunities to more efficiently use and develop infrastructure, land and other resources and services, and to reduce dependence on the automobile. This can be accomplished by concentrating more intensive growth within the City's mixed-use development areas. The proposed development is a mixed use urban planned development that utilizes the City's Sustainable Bonus Incentive Program, which grants the development additional height, density, and floor area ratio over what is permitted by right. Thus, this project is consistent with Objective 1.2.2.

The City's Strategic Plan focuses on fostering safer neighborhoods, encouraging community pride, building a vibrant and diverse economy, planning for the future, and enhancing the natural, historic, and cultural environment of the City. Pillars II.A, II.B, and II.E of the Strategic Plan state that the City shall diversify housing options, continue crime reduction and prevention in achieving a safe, livable and friendly community, and deliver sustainable indoor-outdoor leisure opportunities. The Applicant also is providing a pocket park which includes a trellis, dog walk, benches, and a landscaped seating area in the southeast corner of Phase 1. In addition, Pillars I.A and I.B of the City's Strategic Plan represent a commitment to economic development, of which this project brings. Therefore, the project inclusive of Phases 1 and 2 is consistent with Pillars I.A, I.B, II.A, II.B, and II.E of the City's Strategic Plan. Pillars II.C, II.D, and II.F are not applicable to this project.

Based on the analysis above, the proposed development is consistent with the goals, objectives, and polices of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan.

### **Consistency with the City's Land Development Regulations**

Per Section 23.3-25, planned developments are intended to encourage innovative land planning and development techniques through incentives to create more desirable and attractive development within the City. The Department of Community Sustainability is tasked in the Code to review planned development applications in accordance with the City's LDRs, to assess compliance with the findings for granting planned developments (analyzed in the following sections) and to provide a recommendation for whether the application should be approved, approved with conditions, or denied.

**Mixed-Use East (MU-E):** Per LDR Section 23.3-13(a), the MU-E zoning district is intended to promote the establishment and expansion of a broad range of office, commercial, hotel/motel and medium-density multiple-family residential development as well as to facilitate redevelopment within these areas that achieves a mix of residential and professional office land uses. The MU-E district is also intended to create a place of common vision and physical predictability for all

new construction, renovations, and redevelopment. The proposed mixed use urban planned development provides a mixture of residential and live/work uses. As such, the proposal is consistent with the intent of the MU-E district.

The table below shows the proposed site features and its compliance with the Code, factoring in the Sustainable Bonus incentives, Planned Development incentives, and the Comprehensive Plan maximums:

Development Standard		Base Zoning District	Mixed Use Urban Planned Development with Sustainable Bonus Incentive Program (SBIP)	Phase 1 Provided	Phase 2 Provided (approximate)
Lot Size (min) In square feet (sf)		6,500 sf	0.5 acres	47,950 sf (1.1 acres)	
Lot Width (min)		25'	100'	175'	70' + 140'
Setbacks	Front (min)	10'	10'	10'	10' & 20'
	Rear (min)	10'	10'	10'	41' & 43'
	Street Side (min)	10'	10'	10'	N/A
	Interior Side (min)	0'	0'	0'	11.5' & 5'/10'
Impermeable Surface Coverage (maximum)		75%	75%	72.4%	62.4%
Structure Coverage (max)		65%	65%	29.7%	27.9%
Living Area (minimum)	One bedroom units	600 sf	600 sf	Unit 1 (5): 715-723 sf Unit 3 (12): 686 sf Unit 4 (6): 710 sf	Building 3 Unit (6): 700 sf
	Two bedroom units	750 sf	750 sf	Unit 2 (7): 982-1041 sf	None
	Three bedroom units	900 sf	900 sf	None	Building 4 Unit (5): 1,550 sf
Parking		Phase 1: 47 / Phase 2: 24 / Office: 3 Total: 56 (74 – 25% mixed-use credit)		49 (36 spaces on-site, 13 on street)	29
Density (max)		30 du/acre (33 units)	37.5 du/acre (41.25 units)	37.27 du/acre (41 units)	
Building Height (max)		30 feet (2 stories)	56.25 feet (5 stories)	Building 1: 48.67' Building 2: 35.5'	Buildings 3 & 4: Not to exceed LDRs
Floor Area Ratio (FAR) (max)		1.5	1.94	.82	.64

**Density:** The proposed development complies with the City's LDRs and Comprehensive Plan. The project proposes a total of 41 units between Phases 1 & 2. As shown in the table above, the base density in the MU-E zoning district is currently a maximum of 30 dwelling units per acre. Per Policy 1.2.3.4 of the City's Comprehensive Plan, a mixed use urban planned development may obtain bonus density, intensity (FAR), and height over the base line as outlined in Table 1 of the Comprehensive Plan. Therefore, the maximum allowed density for this project is 37.5 dwelling units per acre which equates to 41.25 units.

**Impermeable Surface Coverage:** Because this project is a planned development, the maximum impermeable surface requirement for a small lot is applicable in lieu of the large lot maximum. Therefore, the maximum impermeable surface is 75%. Phase 1 proposes a total structure coverage of 72.4%, and Phase 2 is estimated to have a lot coverage of approximately 62%, with both Phases 1 and 2 having a combined lot coverage of approximately 68.3%. Therefore, the project is compliant with the maximum impermeable surface criterion.

**Structure Coverage:** Phase 1 proposes a total structure coverage of 29.7%, and Phase 2 proposes a total structure coverage of approximately 27.9%, with Both Phases 1 & 2 having a combined total structure coverage of 28.9%. The maximum permitted coverage for all structures is 55%; as such, the project is compliant with the maximum structure coverage criterion.

**Setbacks:** The project as proposed does not meet the minimum required setbacks for all stories above the second story, and does not meet the minimum required setbacks for balconies of the base zoning district, MU-E. As part of the mixed-use planned development application, the Applicant is seeking to modify the required minimum setbacks for all stories above the second story and the minimum required setbacks for balconies, and has provided a justification for the waivers in Attachment C. Planned developments may establish alternate site land development requirements as per Section 23.3-25(a)(1).

Per LDR Section 23.3-13(d)(3)(D)&(E), the minimum setback for all stories above the second story is between 8 to 12 feet. The Applicant states that due to site constraints of the lots, the building cannot be setback the additional distance on the 2<sup>nd</sup> and 3<sup>rd</sup> floors without impacting the number and size of the dwelling units and the project in general.

In addition, per LDR Sections 23.3-13(d)(3)(A)(1), 23.3-13(d)(3)(B), and 23.3-13(d)(3)(c)(2), the minimum setback from all property lines adjacent to streets is 10'. The land development regulations do not make provisions for balconies extending into the setback, therefore balconies are typically held to the 10' setback regulation. As such, the applicant is also requesting that the City Commission waive Sections 23.3-13(d)(3)(A)(1), 23.3-13(d)(3)(B), and 23.3-13(d)(3)(c)(2) to permit balconies to extend into the front setback by 3 feet. The applicant states that balconies are typically permitted to encroach into required setbacks, and that the inclusion of balconies on the façade creates visual interest provides coverage and weather protection for the units below, and promotes neighborhood safety by providing the ability to have additional eyes on the street.

In summary, the Applicant is requesting the following setback waivers:

Phase 1:

- Building 1
  - to allow the third and fourth stories to be setback 10' from the north property line, adjacent to Lucerne Avenue, the west property line, adjacent to North E Street, and the east property line, adjacent to 1205 Lucerne Avenue.
  - to allow the balconies to extend 3' into the setback located along the north property line, adjacent to Lucerne Avenue.
- Building 2
  - to allow the third story to be setback 10' from the west property line, adjacent to North E Street, and south property line, adjacent to Lake Avenue.
  - to allow the balconies to extend 3' into the setback located along the west property line, adjacent to North E Street

Phase 2:

- Building 3

- to allow the third story to be setback no less than 10 feet from the south property line, adjacent to Lake Avenue.

**Parking:** The proposed development exceeds the minimum parking requirements in the City's LDRs. In total, after receiving a mixed-use credit of 25% of 74 parking spaces, 56 parking spaces are required for a project of this size, and the applicant is proposing 78 parking spaces. In addition, each phase by itself meets the minimum parking requirements in the City's LDRs. Forty-eight (48) parking spaces are required of Phase 1, while Phase 1 contains a total of 49 spaces, met through a combination of 36 on-site spaces, 12 on-street spaces, and 4 bicycle spaces (which count as 1 vehicular space). Twenty-six (26) spaces are required by Phase 2, and the applicant is proposing 29 spaces.

Section 23.4-10(g) requires mixed-use projects exceeding 25 parking spaces to designate 4% of the total minimum required off-street parking spaces as electric vehicle charging spaces. As such, the project as proposed will be required to provide a total of 3 electric vehicle charging spaces, each with operable Level 2 charging equipment. A condition of approval has been added to reflect this requirement.

**Landscaping:** Overall, the development proposal complies with the City's landscape regulations. The project proposes Dahoon Holly and Cabbage Palmetto along Lake and Lucerne Avenues, and North E Street. In addition, the project proposes Southern Live Oak, Orange Geiger Tree, Silver Buttonwood, and Wax Myrtle within the proposed pocket park.

**Signage:** This application does not include a master sign program. The applicant has stated that any proposed signage during the building permitting phase will comply with LDR Section 23.5-1. The submittal of a signage plan that provides consistent signage theme, sizing and materials prior to the issuance of a building permit for signage is a staff recommended condition of approval.

**Walls/Fences:** The site plan proposes a 3.5' high wood fence along Lucerne Avenue to provide separation of space, yet still allow permeability and visibility between the live/work units and the street. This fence, as well as the remainder of the walls and fences on the site are in accordance with LDR Section 23.4-4.

**Lighting and Security:** The application's photometric plan complies with the City's exterior lighting code, Section 23.4-3, Exterior Lighting. In attempt to reduce the crime potential at this location, the applicant is proposing to install a security gate that will provide limited access to the buildings. Additionally, the application states that the project will be consistent with Crime Prevention Through Environmental Design Principles (CPTED) to reinforce the privacy and safety of the residents.

**Major Thoroughfare Design Guidelines:** The project has been reviewed and found to be compliant with the City's Major Thoroughfare Design Guidelines. The aforementioned presence of the 3.5 foot high fence, along with the presence of trees, large windows, and balconies help create a sense of place and create a space of high visibility. The orientation of the buildings toward the major thoroughfares, and the siting of parking in the interior of the site, isolates the vehicular circulation from pedestrian circulation, enhancing walkability and safety of the major thoroughfares.

**Townhomes:** Per Section 23.4-13(3)(c)(11), townhomes are required be reviewed against specific use criteria (Page 18). One specific use criterion requires townhome structures to be no longer than 120' in length. Currently, the application proposes a townhome structure as part of Phase 2, Building 4 which is 125' in length, or 5' longer than what the criteria allows. Staff is recommending support of a waiver to allow for the proposed configuration. With the proposed waiver, the townhomes are consistent with the specific use criteria for townhomes.

**Mixed Use Urban Planned Development:**

The intent of this section is to encourage, through incentives, the use of innovative land planning and development techniques to create more desirable and attractive development in the City. Incentives include but are not limited to:

1. Relaxing or waiving of height, setback, lot dimensions, and lot area requirements;
2. Allowing an increase in density or a decrease in minimum living area per dwelling unit; and
3. Permitting uses or a mixture of uses not normally permitted in the underlying zoning district.

The proposed project is a mixed use urban planned development, comprised of a majority of residential units, with ground floor units that provide for a live/work dwelling that help activate the adjacent thoroughfares and contribute to a range of diverse housing options. The sections of the Code the Applicant is requesting a waiver from as part of the mixed use urban planned development are outlined under the “Consistency with the City’s LDR Requirements” analysis section above. The criteria below are requirements of all mixed use urban planned developments.

**Section 23.3-25(e) – Mixed Use Urban Planned Development District**

*1. Location.* Urban planned developments may be located in any mixed-use district, such as Mixed Use — East, Mixed Use — West, Mixed Use — Dixie Highway, Mixed Use — Federal Highway, Transit Oriented Development — East, and Downtown with the exception of the neighborhood commercial district. Industrial planned developments are not allowed as a mixed use urban planned development.

**Staff Analysis:** The subject site is located in the Mixed Use – East zoning district. **Meets Criterion.**

*2. Minimum area required.* The minimum area required for an urban planned development district shall be one-half (.5) acres.

**Staff Analysis:** Phases 1 & 2 combined are 47,950 square feet in total, or approximately or 1.1 acres, which is over the required minimum area. **Meets Criterion.**

*3. Permitted uses within a mixed use urban development are shown in Article 3 of these LDRs.* An urban planned development may be residential alone or may be any mixture of residential, retail, commercial, office, personal services, institutional, and cultural and artisanal arts or other uses specifically listed with the use tables of section 23.3-6 for the districts where the planned development is to be located.

**Staff Analysis:** Phases 1 & 2 will consist of a total of 41 units, of which 10 are live/work. Phase 1 will consist two buildings containing 30 units total, with five units designated as live/work, while Phase 2 will consist of two buildings containing 11 units, with five units also designated as live/work. This combination of strictly residential and live/work units is consistent with this criterion. **Meets Criterion.**

*4. Required setbacks.* Required setbacks shall be as provided in these LDRs for the zoning district in which the planned development is to be located.

**Staff Analysis:** The project as proposed does not meet the minimum required setbacks for all stories above the second story, and does not meet the minimum required setbacks for balconies of the base zoning district, MU-E. As part of the mixed-use planned development application, the Applicant is seeking to modify these setback regulations and has provided justification for the waiver in Attachment C.

*5. Parking and loading space requirements.* Parking and loading spaces shall be provided pursuant to Article 4 of these LDRs.

**Staff Analysis:** Parking is being provided within Phases 1 & 2 in accordance with Section 23.4-10 of these land development regulations, with the exception of 23.4-10(g) outlined under the “Consistency with the City’s LDR Requirements” analysis section above. **Meets Criterion.**

6. *Landscaping/buffering.* Landscaping and buffering shall be provided as required by section 23.6-1.

**Staff Analysis:** The required landscaping and buffering is being provided along all sides of the project, and conforms to Section 23.6-1. **Meets Criterion.**

7. *Illumination.* Any source of illumination located within a commercial or industrial planned development district shall not exceed one (1) foot candle at or beyond the boundaries of such development.

**Staff Analysis:** The applicant has provided a photometric plan for Phase 1 only. This project is conditioned that no lighting measurement shall exceed 1 foot candle at or beyond the boundaries of such development for both Phases 1 & 2, and that shielded and architecturally appropriate fixtures be submitted to staff prior to the issuance of a building permit.

8. *Outdoor storage.* All outdoor storage facilities are prohibited in any mixed use urban planned development district.

**Staff Analysis:** No outdoor storage facilities are proposed as part of this development application. **Meets Criterion.**

9. *Sustainability.* All mixed use urban planned development districts shall include provisions for sustainability features such as those listed in section 23.2-33, City of Lake Worth Sustainable Bonus Incentive Program.

**Staff Analysis:** The applicant has provided a schedule of sustainability features to be counted toward its Sustainable Bonus Incentive Program. The schedule has been reviewed against the Sustainable Bonus Incentive Program and meets the criteria. Staff analysis of the Sustainable Bonus application can be found on page 14. **Meets Criterion.**

**Master Development Plan (Major Site Plan):**

A master site plan is required in conjunction with a mixed use urban planned development. The review criteria below are intended to promote safety and minimize negative impacts of development on its neighbors by establishing qualitative requirements for the arrangements of buildings, structures, parking areas, landscaping and other site improvements.

**Section 23.2-31(c): Qualitative Development Standards**

1. *Harmonious and efficient organization.* All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as to not impede the normal and orderly development or improvement of surrounding property for uses permitted in these LDRs.

**Staff Analysis:** The application states that the site plan will be harmonious and complementary to the surrounding area and has been designed to promote safety and designed to promote walkability and enhance the major thoroughfares. The live/work units have been located on the ground floor of the residential buildings, and the buildings are pushed toward the street in accordance with the Major Thoroughfare Design Guidelines. The most intense use of the parking is located in the center of the site and away from the pedestrian circulation of Lake and Lucerne Avenues. **Meets Criterion.**

2. *Preservation of natural conditions.* The natural (refer to landscape code, Article 6 of these LDRs) landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by such other site planning approaches as are appropriate. Terrain and vegetation shall not be disturbed in a manner likely to significantly increase either wind or water erosion within or adjacent to a development site. Natural detention areas and other means of natural vegetative filtration of stormwater runoff shall be used to minimize ground and surface water pollution, particularly adjacent to major waterbodies as specified in Part II, Chapter 12, Health and Sanitation, Article VIII, Fertilizer

Friendly Use Regulations. Fertilizer/pesticide conditions may be attached to development adjacent to waterbodies. Marinas shall be permitted only in water with a mean low tide depth of four (4) feet or more.

**Staff Analysis:** This section is not applicable. The lots as they exist today are completely vacant, with only sodded ground cover in Phase 1, and a few trees in Phase 2. The applicant states that the proposed landscaping will be an environmental and aesthetic improvement to the site. Staff has reviewed the landscape plan and finds the landscaping proposed meets the landscape code and exceeds the landscaping and natural conditions currently present on the site.

**Criterion Not Applicable.**

3. *Screening and buffering.* Fences, walls or vegetative screening shall be provided where needed and practical to protect residents and users from undesirable views, lighting, noise, odors or other adverse off-site effects, and to protect residents and users of off-site development from on-site adverse effects. This section may be interpreted to require screening and buffering in addition to that specifically required by other sections of these LDRs, but not less.

**Staff Analysis:** The application states that on-site parking has been placed in the center of the site, screening it from Lake Avenue, Lucerne Avenue, and E Street. The applicant also proposes a 3.5' high decorative wood fence along the perimeter of the site, providing semi-private spaces for residents while also maintaining permeability for visitors to the live/work spaces. Staff finds that the screening for Phase 1 is sufficient, and any screening as part of Phase 2 will meet the requirements of the city's LDRs. **Meets Criterion**

4. *Enhancement of residential privacy.* The site plan shall provide reasonable, visual and acoustical privacy for all dwelling units located therein and adjacent thereto. Fences, walls, barriers and vegetation shall be arranged for the protection and enhancement of property and to enhance the privacy of the occupants.

**Staff Analysis:** The application states that the parking will be secured with an automatic gate. Staff finds that the 3.5' high fence separating the ground floor residences from the right-of-way enhances residential privacy while maintaining visibility of live/work units from the space as well as conforming to the Major Thoroughfare Design Guidelines. **Meets Criterion.**

5. *Emergency access.* Structures and other site features shall be so arranged as to permit emergency vehicle access by some practical means to all sides of all buildings.

**Staff Analysis:** The application states that emergency vehicles will access the development by using the existing roadways that are adjacent to the site as well as the interior parking lot. Both buildings on the Phase 1 site are oriented toward the street and have multiple points of access directly from the right of way. Preliminary plans for Phase 2 show similar access to the site for emergency vehicles. **Meets Criterion.**

6. *Access to public ways.* All buildings, dwelling units and other facilities shall have safe and convenient access to a public street, walkway or other area dedicated to common use; curb cuts close to railroad crossings shall be avoided.

**Staff Analysis:** As stated above, both buildings are oriented toward the street and have direct access to public streets and walkways. The live/work units front Lucerne Avenue and each have their own access to the right-of-way. The vehicular access to the site is in the rear of the site and is shielded from the major thoroughfares by the buildings. In addition, the proposed pocket park has direct access to Lake Avenue. Phase 2 will also have access to public ways through the major thoroughfares as well as alleys. **Meets Criterion.**

7. *Pedestrian circulation.* There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.



**Staff Analysis:** The application states that the pedestrian circulation system is appropriate for this urban infill site with sidewalks along the streets. Staff finds that the location of the vehicular parking area at the center of the site allows for the separation from the pedestrian circulation internally on the site and shields the vehicular portion from the pedestrian-oriented major thoroughfares. Phase 2 will be required to be designed to allow for protected pedestrian circulation to and from the sites from the major thoroughfares. **Meets Criterion.**

8. *Design of ingress and egress drives.* The location, size and numbers of ingress and egress drives to the site will be arranged to minimize the negative impacts on public and private ways and on adjacent private property. Merging and turnout lanes traffic dividers shall be provided where they would significantly improve safety for vehicles and pedestrians.

**Staff Analysis:** Phase 1 will have one ingress and egress off of North E Street. The location of this ingress/egress point minimizes conflict with pedestrian circulation along Lake and Lucerne Avenues, and is located furthest away from adjacent properties. Phase 2 currently proposes ingress and egress off of the alleyways, which also minimizes conflict with pedestrian circulation along Lake and Lucerne Avenues. **Meets Criterion.**

9. *Coordination of on-site circulation with off-site circulation.* The arrangement of public or common ways for vehicular and pedestrian circulation shall be coordinated with the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Minor streets shall not be connected to major streets in such a way as to facilitate improper utilization.

**Staff Analysis:** The application states that vehicular and pedestrian circulation will be coordinated with the existing pattern. Aside from the interior parking lot, no on-site circulation will exist, and therefore this criterion does not apply. **Meets Criterion.**

10. *Design of on-site public right-of-way.* On-site public street and rights-of-way shall be designed for maximum efficiency. They shall occupy no more land than is required to provide access, nor shall they unnecessarily fragment development into small blocks. Large developments containing extensive public rights-of-way shall have said rights-of-way arranged in a hierarchy with local streets providing direct access to parcels and other streets providing no or limited direct access to parcels.

**Staff Analysis:** No on-site right-of-way is being proposed, therefore this criterion does not apply. **Meets Criterion.**

11. *Off-street parking, loading and vehicular circulation areas.* Off-street parking, loading and vehicular circulation areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.

**Staff Analysis:** As stated earlier in this staff report, the parking area for Phase 1 is located at the interior of the site. The location of parking in this area results in the surrounding buildings screening the parking area from rights of way and a proposed fence will minimize impacts on adjacent properties. Phase 2 appears to propose parking in the rear of the sites, also screening the parking through the use of buildings fronting the major thoroughfares. **Meets Criterion.**

12. *Refuse and service areas.* Refuse and service areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.

**Staff Analysis:** The application states that the refuse will be accessed from North E Street to eliminate the need for garbage trucks to circulate through the parking lot. This location is far from adjacent property lines, and is screened through the use of opaque fences/gates and landscaping. Phase 2 refuse areas will be reviewed by staff for consistency and compliance with the city's LDRs. **Meets Criterion.**

13. *Protection of property values.* The elements of the site plan shall be arranged so as to have minimum negative impact on the property values of adjoining property.

**Staff Analysis:** The application states that the development will have a positive impact on the property values of adjoining properties and the surrounding area. The project sites currently exist as vacant lots. The project will provide residential and live/work units downtown which will increase the number of available customers for local businesses, and increase the diversity of housing options within the city. This increase of customers can increase the desirability of downtown properties, which has the potential to increase property values. **Meets Criterion.**

14. *Transitional development.* Where the property being developed is located on the edge of the zoning district, the site plan shall be designed to provide for a harmonious transition between districts. Building exteriors shall complement other buildings in the vicinity in size, scale, mass, bulk, rhythm of openings and character. Consideration shall be given to a harmonious transition in height and design style so that the change in zoning districts is not accentuated. Additional consideration shall be given to complementary setbacks between the existing and proposed development.

**Staff Analysis:** The application states that this criterion is not applicable as the site is not located in a transitional area at the edge of a zoning district. However, the project was designed to be complementary to and harmonious with the surrounding area. The project is located within the middle of the Mixed-Use East zoning district. As such, this criterion does not apply. **Criterion Not Applicable.**

15. *Consideration of future development.* In finding whether or not the above standards are met, the review authority shall consider likely future development as well as existing development.

**Staff Analysis:** Phase 2 of the project, located immediately west of Phase 1, will be finalized at a later date. The project has been conditioned to require Phase 2 to receive administrative site plan approval prior to the issuance of a building permit. Overall, the project meets the intent of the Land Development Regulations and Comprehensive Plan. **Meets Criterion.**

#### **Section 23.2-31(I): Community Appearance Criteria**

1. The plan for the proposed structure or project is in conformity with good taste, good design, and in general contributes to the image of the city as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas and high quality.

**Staff Analysis:** The design of the project reflects modern architectural styles generally associated with good taste and design. The units have balconies and large windows, and the pocket park provides an area of leisure for residents. The project currently provides a saturated color scheme that is atypical for Lake Worth Beach. The project has been conditioned to provide a less garish color palette more complementary to the aesthetic of Lake Worth Beach and South Florida. **Meets Criterion.**

2. The proposed structure or project is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.

**Staff Analysis:** The project provides for a mix of materials that are neutral and generally compatible with the local environment. The applicant states that the project will be Florida Green Building Certified, and that the project will cause an appreciation in terms of appearance and value. **Meets Criterion.**

3. The proposed structure or project is in harmony with the proposed developments in the general area, with code requirements pertaining to site plan, signage and landscaping, and the comprehensive plan for the city, and with the criteria set forth herein.

**Staff Analysis:** The project uses a modern design aesthetic which is appropriate with other projects which have been approved in the surrounding area. **Meets Criterion.**

4. The proposed structure or project is in compliance with this section and 23.2-29, as applicable.

**Staff Analysis:** The project's compliance with the community appearance and conditional use criteria is detailed within this staff report. **Meets Criterion.**

**Sustainable Bonus Incentive Program:**

The City of Lake Worth Sustainable Bonus Incentive Program (SBIP) is intended to implement Objective 1.2.3 of the City's Comprehensive Plan which states the City shall establish incentives to help support the creation of a compact, sustainable, community-oriented development by implementing a Sustainable Bonus Incentive Program. The Program offers the opportunity to attain an option for increased height and/or FAR in exchange for the incorporation of sustainable design features, community-based improvements and overall design excellence as part of a development proposal.

As mentioned, the proposed development complies with the City's LDRs and Comprehensive Plan. The base density in the MU-E zoning district is currently a maximum of 30 dwelling units per acre. Per Policy 1.2.3.4 of the City's Comprehensive Plan, a mixed use urban planned development may obtain a 25% bonus on density, intensity (FAR), and height over the base line as outlined in Table 1 of the Comprehensive Plan. Therefore, the maximum allowed density for this project is 37.5 dwelling units per acre which equates to 41.25 total units and the maximum allowed height is 56.25' with bonus. The subject application is for 41 total units and 48.67' in height.

Based on the calculation of the additional height and density proposed as part of the SBIP with a Planned Development, the Applicant is asking for a total bonus height of 18.67 ft, two bonus stories, and 8 additional units. The total square footage of bonus area under Sustainable Bonus is 14,396 square feet (two stories in Building 1, one story in Building 2, and one story in Building 3), which results in a value of required improvements for the Sustainable Bonus allowance of \$71,980 (\$5 per square foot). In addition, a Planned Development utilizing the Sustainable Bonus Program is allowed a 25% increase in height and density. Eight (8) units, for a total of 41 units, are proposed above the calculated base density of 33 units, and an additional 3.66 feet are proposed above the maximum building height (45ft) for a total height of 48.67 ft. The total square footage of bonus height and density under Planned Development is 5,248, and results in a value of required improvements for the Planned Development allowance of \$26,240 (\$10 per square foot, calculated as an additional \$5 per square foot on top of that portion of square footage already calculated under Sustainable Bonus above).

As such, the combined total value of required improvements to meet the requirements of the Sustainable Bonus and Planned Development is \$98,220. Below is the Applicant's schedule of improvements to meet and exceed the requirements of the Sustainable Bonus and Planned Development.

<b>Improvement Detail (type of amenity)</b>	<b>Valuation Amount</b>	<b>Calculation Details</b>
Florida Green Building Certification	\$49,110	50% of \$98,220
Courtyard Garden/Pocket Park (Building Amenity)	\$40,000	Includes sod, large trees, pavers, plants, pergola, benches, and tables.
Building 2 West Façade Mural (Public Art/Character and Aesthetic Excellence)	\$20,000	
Bike Racks (Bicycle Mobility Systems)	\$5,000	
<b>Total Value of Improvements/Design Excellence Required: \$98,220</b>	<b>Total Value of Improvements/Design Excellence Provided: \$114,110</b>	

**Section 23.2-33(c)(2): Review/decision**

(a) Is the award calculated correctly, consistent with the square footage and height requested and the value of the features and improvements included in the development proposal?

**Staff Analysis:** The development proposal is consistent with the increase in height and density requested. The Applicant is asking for a total bonus height of two stories or 18.67 feet, which includes the additional 15 feet requested as part of the SBIP and 3.67 feet granted under the Planned Development program. The total square footage of bonus area is 14,396 square feet. Therefore, the total value of required improvements is \$98,220 (\$5 per square foot for bonus height of 14,396 square feet, and \$10 (\$5 extra on top of \$5 already applied) for bonus density of eight units. The Applicant will be providing community-based improvements and design excellence equivalent to \$114,110, which exceeds the requirements of the Sustainable Bonus and Planned Development program. **Meets Criterion.**

(b) Do the proposed on-site features or improvements adequately provide sustainable project enhancements beyond those otherwise required by these LDRs for the development proposal that are attainable and reasonable in the context of the proposed project?

**Staff Analysis:** The proposed on-site features and improvements provide enhancements that exceed the base requirements of the LDRs. The project will have Florida Green Building certification, a courtyard garden/pocket park, public art, and bicycle racks. **Meets Criterion.**

(c) Do the proposed off-site improvements meet the priorities of the City for community sustainability?

**Staff Analysis:** The project is not including off-site improvements toward the SBIP credit. **Meets Criterion**

(d) Do the proposed features, improvements or fees-in-lieu meet the intent of the SBIP?

**Staff Analysis:** As identified by the criteria above, the proposed features and improvements incorporated into the development proposal are beyond the base requirements of the LDRs, providing additional building amenities and an increase in character and aesthetic improvement beyond what is required by the LDRs. Thus, the proposed development meets the intent of the SBIP. **Meets Criterion.**

**Conditional Use Permit:**

Conditional uses are those uses that are generally compatible with the other uses permitted in a district, but that require individual review of their location, design, structure, configuration, density and intensity of use, and may require the imposition of conditions pertinent thereto in order to ensure the appropriateness and compatibility of the use at a particular location and to prevent or minimize potential adverse impacts to the surrounding area. The project proposal includes a conditional use request to construct a mixed-use master plan consisting of 36 multi-family units and five townhouse units, 10 of which are live/work units. Conditional uses are required to be reviewed against the criteria in Section 23.2-29(d) and Section 23.2-29(e). The required analysis is provided below.

**Section 23.2-29(d): General findings relating to harmony with LDRs and protection of public interest**

The proposed project is consistent with the general findings relating to harmony with the LDRs and protection of public interest, as follows:

1. The conditional use exactly as proposed at the location where proposed will be in harmony with the uses which, under these LDRs and the future land use element, are most likely to occur in the immediate area where located.

**Staff Analysis:** The site contains a base zoning designation of MU-E and is surrounded by MU-E zoned property to the north, east, south, and west. Based on the intent of the MU-E zoning district, uses most likely to occur in this district are

office, commercial, hotel/motel, and medium-density multiple-family residential development. The subject proposal is consistent with the types of uses anticipated to occur within the MU-E district. Therefore, the proposed mixed-use planned development is compatible and harmonious with the existing and anticipated surrounding uses. **Meets Criterion.**

2. The conditional use exactly as proposed at the location where proposed will be in harmony with existing uses in the immediate area where located.

**Staff Analysis:** The existing uses in the surrounding area are as follows:

Direction	Future Land Use	Zoning District	Current Use
North (across Lucerne Ave)	MU-E	MU-E	Mixture of multi-family residences (Urban Arts Lofts), commercial, and vacant property
South (adjacent and across Lake Ave)	MU-E	MU-E	Mixture of single-family residences, multi-family residences, and commercial, property
East (adjacent and across South D St)	MU-E	MU-E	Mixture of single-family residences, multi-family residences, and commercial, property
West (adjacent and across South E St)	MU-E	MU-E	Mixture of single-family residences, multi-family residences, and commercial, property

Per the Palm Beach County Property Appraiser, the subject site is surrounded by a mixture of single-family residences, multi-family residences, commercial, and vacant property. The mixed-use development is in harmony with the existing mixture of uses in the immediate area. **Meets Criterion.**

3. The conditional use exactly as proposed will not result in substantially less public benefit or greater harm than would result from use of the Property for some use permitted by right or some other conditional use permitted on the Property.

**Staff Analysis:** The approval of this conditional use will provide urban infill development that is consistent with the intent of the MU-E zoning district and future land use category. As such, the proposal is not anticipated to result in less public benefit than other permitted or conditional uses. **Meets Criterion.**

4. The conditional use exactly as proposed will not result in more intensive development in advance of when such development is approved by the future land use element of the comprehensive plan.

**Staff Analysis:** The proposed mixed use urban planned development is utilizing the City's SBIP and mixed-use planned development bonuses. These programs are intended to promote a compact, urban development that facilitates a live, work, play environment. The project is consistent with the goals, objectives, and policies of the City of Lake Worth Beach's Comprehensive Plan and will not result in a more intensive development than what the Plan anticipates. **Meets Criterion.**

**Section 23.2-29(e): Specific standards for all conditional uses**

1. The proposed conditional use will not generate traffic volumes or movements, which will result in a significant adverse impact or reduce the level of service provided on any street to a level lower than would result from a development permitted by right.

**Staff Analysis:** Based on Palm Beach County's 8<sup>th</sup> Edition Trip Generation Table, the construction of 36 mid-rise apartments and five townhomes is anticipated to generate approximately 17 peak PM trips. While staff finds that the

proposed conditional use will not generate traffic volumes that will result in adverse impacts, a Traffic Performance Standards (TPS) Letter from the Palm Beach County Traffic Division is required prior to the issuance of a building permit to ensure that the proposed development meets the TPS of Palm Beach County. **Meets Criterion.**

2. The proposed conditional use will not result in a significantly greater amount of through traffic on local streets than would result from a development permitted by right and is appropriately located with respect to collector and arterial streets.

**Staff Analysis:** The MU-E zoning district allows for a variety of multi-family, commercial, and office uses that have the potential to produce an equal or greater amount of through traffic than the proposed use. Therefore, the traffic generated from the proposed mixed-use development will not be significantly greater than that of adjacent uses and other anticipated uses in this area. **Meets Criterion.**

3. The proposed conditional use will not produce significant air pollution emissions, to a level compatible with that which would result from a development permitted by right.

**Staff Analysis:** The mixed-use project is not anticipated to produce significant air pollution emissions that are greater than that of a development permitted by right. The proposed use of townhomes and the nonresidential space associated with the 10 live/work units do not pose a pollution hazard to the nearby properties. **Meets Criterion.**

4. The proposed conditional use will be so located in relation to the thoroughfare system that neither extension nor enlargement nor any other alteration of that system in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.

**Staff Analysis:** The project is not anticipated to cause a higher net public cost or earlier incursion of public cost than what would result from a development permitted by right. **Meets Criterion.**

5. The proposed conditional use will be so located in relation to water lines, sanitary sewers, storm sewers, surface drainage systems and other utility systems that neither extension nor enlargement nor any other alteration of such systems in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.

**Staff Analysis:** The multi-family apartments and townhomes will be utilizing the existing City utility lines. No adverse impact to infrastructure or public utilities is anticipated to occur as a result of this request. **Meets Criterion.**

6. The proposed conditional use will not place a demand on municipal police or fire protection service beyond the capacity of those services.

**Staff Analysis:** The proposed development is not anticipated to place a demand on municipal police or fire protection service beyond the capacity of those services. In attempt to reduce the crime potential at this location, the application proposes a security gate that will restrict access to the buildings. Additionally, the application states that the project will be consistent with Crime Prevention Through Environmental Design Principles (CPTED) to reinforce the privacy and safety of the residents. **Meets Criterion.**

7. The proposed conditional use will not generate significant noise, or will appropriately mitigate anticipated noise to a level compatible with that which would result from a development permitted by right. Any proposed use must meet all the requirements and stipulations set forth in section 15.24, Noise control.

**Staff Analysis:** Unreasonable noise, which is defined in Section 15.24-1, is prohibited in the City when:

- Equal to or greater than 65 dba between 11:00 p.m. and 8:00 a.m., Sunday through Thursday

- Greater than 85 dba between 8:00 a.m. and 11:00 p.m., Sunday through Thursday
- Equal to or greater than 65 dba between 12:00 a.m. and 8:00 a.m., Friday through Saturday
- Equal to or greater than 85 dba between 8:00 a.m. and 12:00 a.m., Friday through Saturday

Based on the uses being proposed, the mixed-use project is anticipated to generate noise levels that are compliant with Section 15.24. **Meets Criterion.**

8. The proposed conditional use will not generate light or glare which encroaches onto any adjacent property in excess of that allowed in Section 23.4-3, Exterior lighting.

**Staff Analysis:** The proposed mixed-use project will not generate light or glare that would negatively impact the surrounding properties. Based on the photometric plan submitted, the proposed development complies with LDR Section 23.4-3, Exterior Lighting. **Meets Criterion.**

**Section 23.4-13(3)(c)(11): Specific use criteria for townhomes**

The Code requires all townhomes to comply with the specific use criteria for all townhomes outlined in Section 23.4-13(3)(c)(11). The required analysis for the five townhouse units in Phase 2 of the proposed mixed use urban planned development is detailed below:

1. Front setback shall be ten (10) feet, with an open porch permitted in a minimum of five (5) feet of setback.

**Staff Analysis:** The proposed townhomes are located 20 feet from the front property line along Lucerne Avenue and include a porch/patio area about 13 feet from the front property line. **Meets Criterion.**

2. Distance between townhouse structures shall be twenty (20) feet; however, distance between double-stacked townhouse structures shall be thirty (30) feet.

**Staff Analysis:** The application proposes one five-unit townhouse structure at 1401 Lucerne Avenue. Therefore, the distance requirement between townhouse structures is not applicable to this application. **Criterion Not Applicable.**

3. Rear setback shall be twenty (20) feet with ten (10) feet for accessory structures.

**Staff Analysis:** The proposed five-unit townhouse structure at 1401 Lucerne Avenue is set back approximately 43 feet from the rear property line. **Meets Criterion.**

4. Townhouse structures shall not exceed one hundred twenty (120) feet in overall length or six (6) units.

**Staff Analysis:** The proposed five-unit townhouse structure is approximately 125 linear feet and does not exceed six units. Staff recommends a waiver from this requirement as the townhouse structure is proposed to stand alone and the addition of 5 feet would not materially go against the intent of the regulation. **Meets Criterion.**

5. The maximum number of attached townhouse units within a townhouse building fronting on Federal Highway shall be four units, unless a planned development district is approved.

**Staff Analysis:** This criterion is not applicable as the proposed project does not front Federal Highway. **Criterion Not Applicable.**

6. No front door access from alleys when abutting single family residential use or district.

**Staff Analysis:** The subject property proposing the five townhouse units, 1401 Lucerne Avenue, does not abut single family residential uses. Further, the site plan does not propose front door access from the alleyway. **Meets Criterion.**

7. For all stories above the second story, both the front façade and rear façade must be setback an additional distance beyond the minimum, except three-story townhouses not higher than thirty-five (35) feet shall meet the minimum front and rear setback requirements.

**Staff Analysis:** The proposed townhouse structure is not currently proposed to exceed two stories. Therefore, this criterion does not apply. **Criterion not applicable.**

**Public Support/Opposition:**

Staff has not received any letters of support or opposition.

**CONCLUSION:**

The proposed request for a Mixed Use Urban Planned Development, Major Site Plan, Conditional Use Permit, and Sustainable Bonus Program Incentive is consistent with the purpose, intent and requirements of the Comprehensive Plan, underlying zoning district, and surrounding areas, subject to compliance with staff's proposed conditions of approval. Therefore, staff recommends that the Board recommend approval of the proposed request with the conditions below:

**Planning:**

1. Phase 1 & 2 Conditions:
  - a. Prior to the issuance of a building permit for Phase 1, provide a TPS Letter from the Palm Beach County Traffic Division. The TPS letter may be for only Phase 1 or both Phase 1 & 2. Should the TPS Letter only be for Phase 1, a second TPS letter shall be applied for prior to Site Plan approval for Phase 2, and said letter shall be submitted prior to the issuance of a building permit.
  - b. Prior to the issuance of a building permit, designate 3 parking spaces as electric vehicle parking and outfit each parking space with electric vehicle charging equipment as outlined in LDR Section 23.4-10.
  - c. Exterior lighting shall be shielded and in conformance with the Major Thoroughfare Design Guidelines. Exterior LED lighting shall have a warm color temperature (<3000K).
  - d. Prior to the issuance of a building permit, a color scheme more characteristic with the aesthetic of Lake Worth Beach shall be approved by the Development Review Official.
  - e. Prior to the issuance of a certificate of occupancy, all fences shall comply with Section 23.4-4.
2. Phase 1 Conditions:
  - a. Prior to the issuance of a building permit, push back the north wall of Building 2 so that it lies 5' south of the existing gravity sewer running east/west through the site.
  - b. Prior to the issuance of a building permit, screen the recycling area from all rights-of-way.
  - c. Prior to the issuance of a building permit, submit a signage plan that provides consistent signage theme, sizing and materials.
3. Phase 2 Conditions:
  - a. Phase 2 shall obtain final site plan approval through a Site Plan amendment process to be approved administratively by staff or by the Planning & Zoning Board as applicable.
  - b. Phase 2 shall be restricted to 11 units total. Should additional units be sought through the city's Transfer of Development Rights program, the site plan shall be amended through a Major Site Plan amendment process.
  - c. Aside from waivers granted through the Planned Development, Phase 2 shall be designed in accordance and comply with Chapter 23 of the city's Land Development Regulations.



- d. Prior to the issuance of a building permit, submit a signage plan that provides consistent signage theme, sizing and materials.

**Public Works:**

1. The issuance of any permits shall comply with all provisions of the Lake Worth Municipal Code and all other applicable standards including but not limited to the Florida Department of Transportation (FDOT), Manual on Uniform Traffic Control Devices (MUTCD), and City of Lake Worth Public Works Construction Standards and Policy and Procedure Manual
2. Prior to performing work in the right of way, the applicant shall apply for and receive issuance of a “Right of Way/Utility Permit” application
3. Prior to the issuance of a building permit, the following shall be completed:
  - a. the applicant shall contact the Lake Worth Drainage (LWDD) District’s Engineering Department and obtain any required permit(s), if necessary, and furnish to the City.
  - b. the applicant shall contact the South Florida Water Management District’s (SFWMD) Engineering Department and obtain any required permit(s), if necessary,
  - c. the applicant shall submit an Erosion Control plan and indicate the BMP’s and NPDES compliance practices.
4. Prior to the issuance of a certificate of occupancy, the following shall be completed:
  - a. all conditions of approval shall have been satisfied under jurisdiction of the Department of Public Works,
  - b. the applicant shall construct new Type F curb/Valley gutter and a new 5-foot wide sidewalk along the east side of North E Street from the south property line to the north property line in compliance with the Public Works Department’s specifications and Policy and Procedure Manual,
  - c. the applicant shall construct a 1” mill and overlay for the entire lane on the east side of North E Street from Lake Ave to Lucerne Ave; current proposed design has a partial lane mill and overlay,
  - d. the Applicant shall ensure the entire surrounding off-site infrastructure inclusive of the roadway, sidewalk, curbing, stormwater system piping and structures, valve boxes, manholes, landscaping, striping, signage, and other improvements are in the same condition as prior to construction,
  - e. the applicant shall fine grade and sod all disturbed areas with bahia sod,
  - f. the applicant shall broom sweep all areas of the affected right of way and remove of all silt and debris collected as a result of construction activity,
  - g. the applicant shall restore the right of way to a like or better condition. Any damages to pavement, curbing, striping, sidewalks or other areas shall be restored in kind.

**Utilities Water & Sewer:**

1. Provide the Utilities Department unimpeded access to utilities within the easement.
2. Prior to the issuance of a building permit, the following shall be completed:
  - a. adjust and expand the east/west utility easement such that there is an easement that exists 4 feet north of the existing watermain (and encompasses the electric) and continues to 5 feet south of the existing gravity sewer.
  - b. the MEP shall verify the 2-inch service size for 24 residential units, and 1-inch service size for 16 residential units, is adequate to meet the demand.

**Board Actions:**

I MOVE TO RECOMMEND APPROVAL OF PZB PROJECT NUMBER 20-01000001 with staff recommended **conditions** for a Mixed Use Urban Planned Development, Major Site Plan, Conditional Use Permit, and Sustainable Bonus Program Incentive to construct a two-phase multi-family development with live-work units generally known as “Village Flats” located at the subject site. The project meets the applicable criteria based on the data and analysis in the staff report.

I MOVE TO RECOMMEND DENIAL OF PZB PROJECT NUMBER 20-01000001 for a Mixed Use Urban Planned Development, Major Site Plan, Conditional Use Permit, and Sustainable Bonus Program Incentive to construct a two-phase multi-family development with live-work units generally known as “Village Flats” located at the subject site. The project does not meet the applicable criteria for the following reasons [Board member please state reasons.]

**Consequent Action:**

The Planning & Zoning Board will be making a recommendation to the City Commission on the Mixed Use Urban Planned Development, Major Site Plan, Conditional Use Permit, and Sustainable Bonus Program Incentive.

**ATTACHMENTS:**

- A. Site Plan Package
- B. Supplemental Supporting Documents
- C. Waiver Requests

# VILLAGE FLATS

Lake & Lucerne  
Lake Worth Beach, FL 33460



## SITE PLAN SUBMITTAL (07-31-20) SITE PLAN RE-SUBMITTAL (09-21-20)



Architecture + Interior Design  
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Civil Engineer and  
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Land Planner

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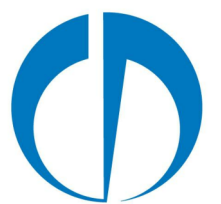


**INHABIT PROPERTY GROUP**  
Developer

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**SPINAOROURKE**  
+ PARTNERS



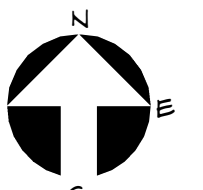
Architecture • Interior Design  
Keith M. Spina # AR13419

SITE PLAN APPLICATION  
**VILLAGE FLATS**  
Lake & Lucerne  
Lake Worth Beach, FL 33460

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Project no: 19125  
Date: (07-31-20)  
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Project Manager: Checker



**CVR.**

SITE PLAN SUBMITTAL

COVER SHEET



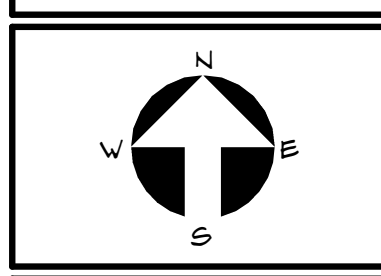
SITE LOCATION PAGE

**SITE PLAN APPLICATION**  
**VILLAGE FLATS**  
Lake & Lucerne  
Lake Worth Beach, FL 33460

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**CSP-1.**  
SITE PLAN SUBMITTAL

AERIAL LOCATION MAP



**BUILDING 4**  
5 - TWO STORY TOWNHOUSES

**PHASE 2**

**BUILDING 3**  
6 TOTAL UNITS

LUCERNE AVENUE

LAKE AVENUE

**BUILDING 1**  
4 FLOORS  
24 TOTAL UNITS

**PHASE 1**

**BUILDING 2**  
3 FLOORS  
6 TOTAL UNITS

North  
Scale: 1" = 30' (at 24x36)



SITE PLAN APPLICATION  
**VILLAGE FLATS**

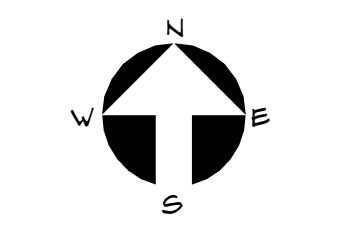
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Project Manager: Checker



MASTER RENDERED SITE PLAN

**CSP-2.**

SITE PLAN SUBMITTAL



**BUILDING 1**  
4 FLOORS  
24 TOTAL UNITS

**BUILDING 2**  
3 FLOORS  
6 TOTAL UNITS

LUCERNE AVENUE

NORTH E STREET

NORTH F STREET

LAKE AVENUE

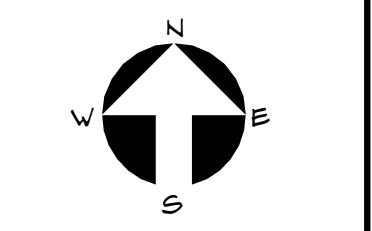
North  
Scale: 1/16" = 1' (at 24x36)

**SITE PLAN APPLICATION**  
**VILLAGE FLATS**  
Lake & Lucerne  
Lake Worth Beach, FL 33460

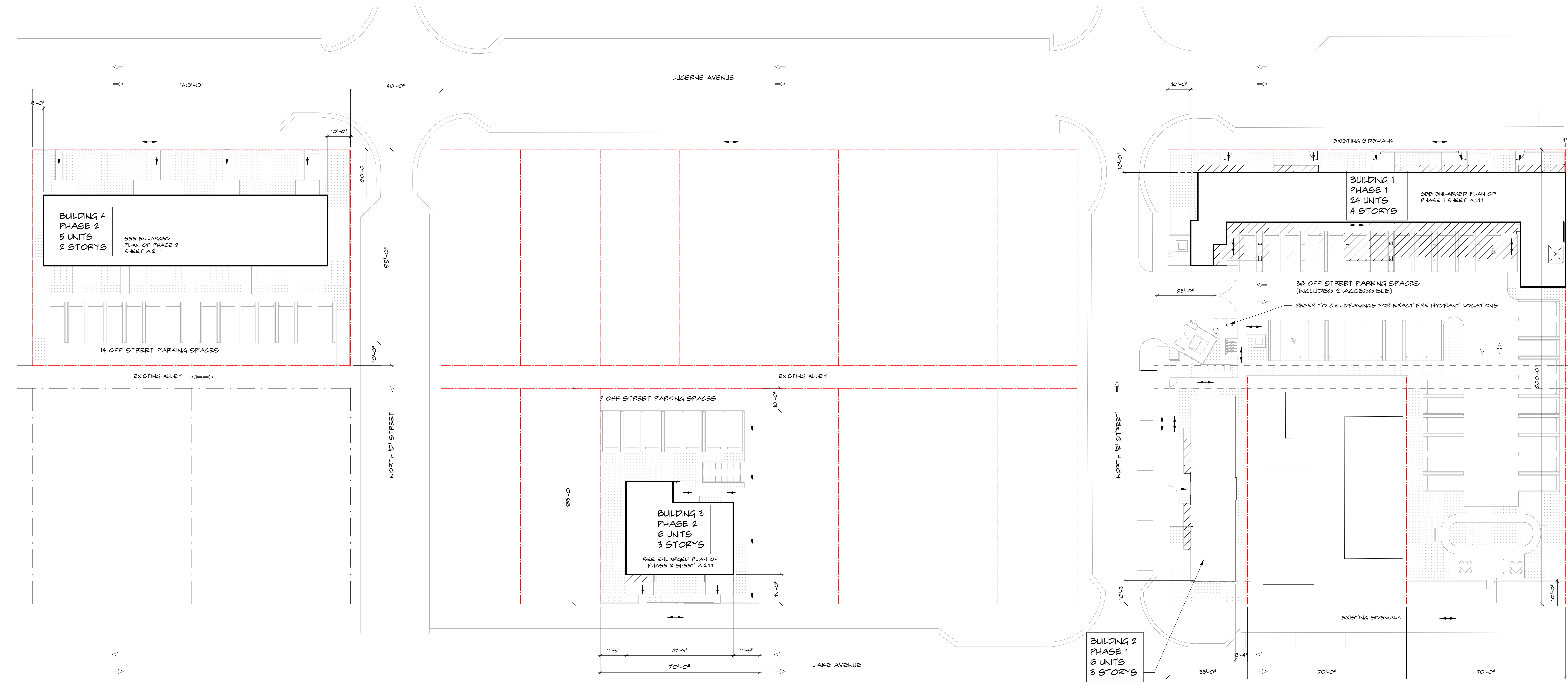
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**CSP-3.**  
SITE PLAN SUBMITTAL



**LEGEND**

- OVERHANGS
- LANDSCAPE
- VEHICULAR CIRCULATION ARROWS
- PEDESTRIAN CIRCULATION ARROWS



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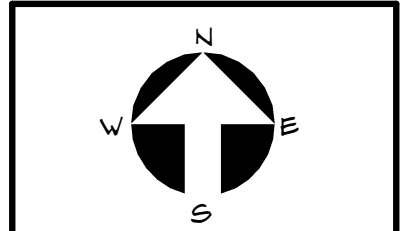
**SPINAOROURKE**  
+ PARTNERS  
Architecture • Interior Design  
Keith M. Spina # A013419

**SITE PLAN APPLICATION**  
**VILLAGE FLATS**  
Lake & Lucerne  
Lake Worth Beach, FL 33460

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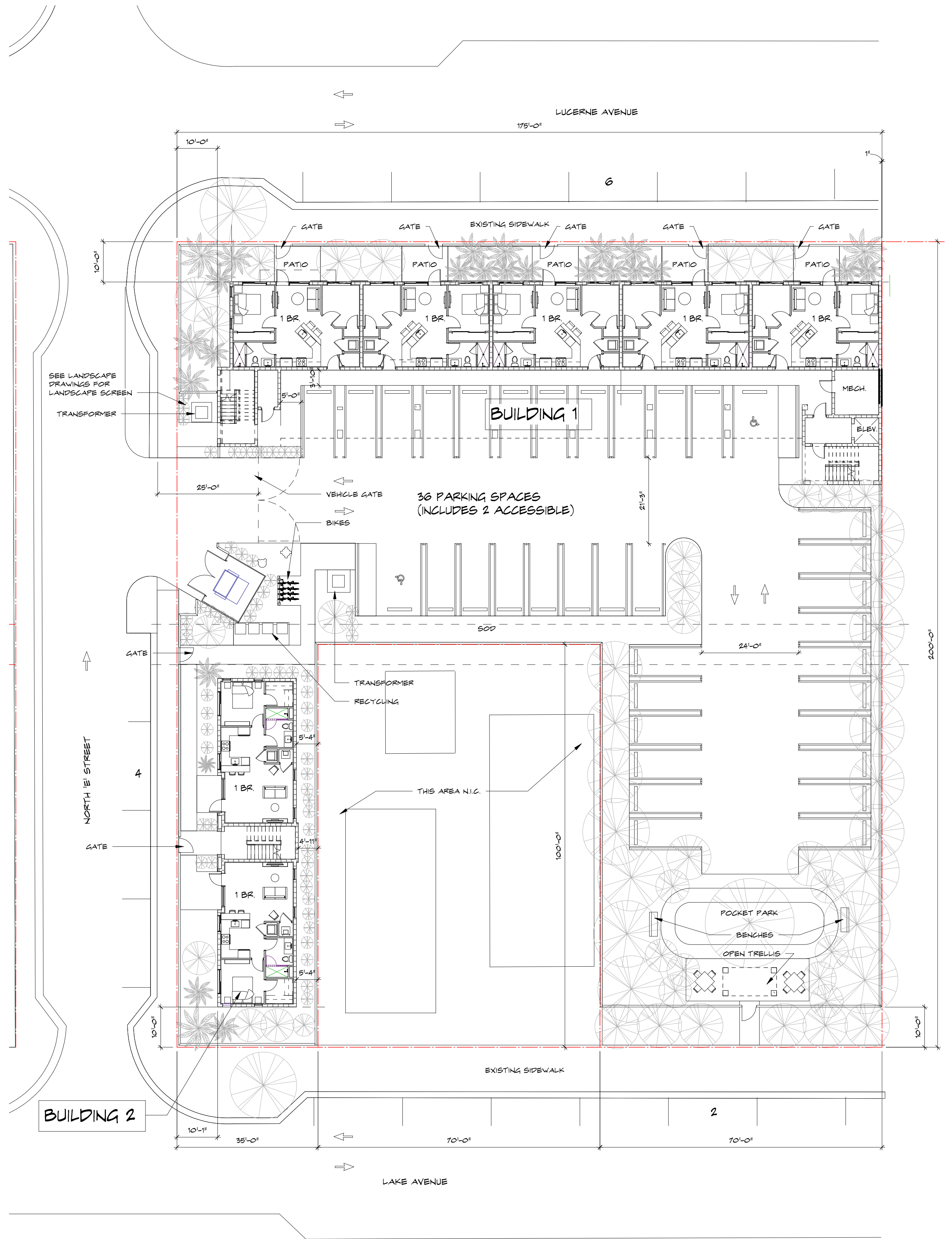
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**AS-1.**  
SITE PLAN SUBMITTAL

1 OVERALL SITE / PHASING PLAN  
AS-1 Scale: 3/64" = 1'-0"



1 GROUND FLOOR PLAN - PHASE 1  
A1.1.1 Scale: 1/16" = 1'-0"

**PROJECT DATA**

**VILLAGE FLATS LAKE WORTH BEACH FLORIDA**

**PHASE 1 PROPERTY:** SITE 1: LOTS 1207, 1209, 1211, 1213, 1215 & LUCERNE AVENUE, 1216, 1220 & 1230 LAKE AVENUE. 8 LOTS 100' X 35' EACH, 28,000 S.F.

**PHASE 2 PROPERTY:** SITE 2: LOTS 5, 6, 7 & 8 95' X 35' EACH (1401 LUCERNE) 13,300 S.F. SITE 3: LOTS 13 & 14 95' X 35' EACH (1310 LAKE) 6650 S.F.

**TOTAL AREA:** 28,000 S.F. + 19,950 S.F. = 47,950 = 1.10078 ACRES

**CURRENT ZONING DESIGNATION:** MU-E - MIXED USE EAST - LAKE & LUCERNE AVENUES

**PROPOSED USE:** MULTI-FAMILY RESIDENTIAL

**SETBACKS:**

**FRONT (LAKE & LUCERNE):**  
REQUIRED: 10' MINIMUM 22' MAXIMUM PROVIDED: 10'

**REAR:**  
REQUIRED: NA PROVIDED: N/A

**SIDE:**  
REQUIRED: 10' ON STREET AND 0 FT. ON INTERIOR LOT.  
PROVIDED: 10' ON STREET AND 0 FT. ON INTERIOR LOT.

(ADDITIONAL SETBACK ABOVE 3<sup>RD</sup> STORY NOT PROVIDED)

**PROPOSED AREA OF STRUCTURES PHASE 1:** 25,984 S.F.  
**PROPOSED AREA OF STRUCTURES PHASE 2:** 12,802 S.F.

**F.A.R.:**

**ALLOWED:** 140 FAR  
**PROPOSED:** 92 FAR (PHASE 1)  
64 FAR (PHASE 2)  
81 FAR (PHASE 1 & 2)

**HEIGHT:**

**ALLOWED:** 30 FT. MAX. (45 FT. WITH INCREASE OF ADDITIONAL 15' PER SUSTAINABLE BONUS INCENTIVE.)  
**PROVIDED:** 45 FT. MAX.

**DENSITY:**

**ALLOWED:** 30 DU/ACRE WITH INCREASE OF 25% = 412 UNITS  
**PROVIDED IN PHASE 1:** 30 DWELLING UNITS  
**PROVIDED IN PHASE 2:** 11 DWELLING UNITS

**PARKING PHASE 1:**

**REQUIRED:** STUDIO & 1 BEDROOM: 15 REQUIRED / UNIT REQUIRED  
2 BEDROOM: 1.75 SPACES/ UNIT REQUIRED  
**TOTAL PHASE 1 REQUIRED:** 47 SPACES

**PROVIDED:** 36 SPACES (ON SITE)  
+ 12 PARALLEL ON STREET  
+ 4 BIKES + 1 SPACE  
**TOTAL PHASE 1 PARKING:** 49 SPACES

**PARKING PHASE 2:**

**REQUIRED:** 24 SPACES  
**PROVIDED:** 29 SPACES

**IMPERMEABLE SURFACE:**

**PHASE 1:** ALLOWED: 65% MAX. PROPOSED: 53.4% \*  
**PHASE 2:** 65% MAX. 65%  
\*PHASE 1 UTILIZES SEMI-PERVIOUS PAVERS W/ AREA CALCULATED AT 50%

**LOT COVERAGE:**

**PHASE 1:** ALLOWED: 55% PROPOSED: 29%  
**PHASE 2:** 55% 28%

**OPEN SPACE PROVIDED:**

**PHASE 1:** 9,432 S.F.  
**PHASE 2:** 10,160 S.F.

**UNIT AREAS**

BUILDING 1 - PHASE 1		
UNIT #	TYPE	AREA PROPOSED
1	1 BEDROOM	600 S.F.
2	2 BEDROOM	750 S.F.
3	1 BEDROOM	600 S.F.

BUILDING 2 - PHASE 1		
UNIT #	TYPE	AREA PROPOSED
4	1 BEDROOM	600 S.F.

BUILDING 3 - PHASE 2		
UNIT #	TYPE	AREA PROPOSED
5 UNITS	1 BEDROOM	700 GSF

BUILDING 4 - PHASE 2		
UNIT #	TYPE	AREA PROPOSED
5 UNITS	3 BEDROOM	1,550 GSF

**UNIT TABULATION**

**PHASE 1**

**BUILDING 1 (24 UNITS)**  
1ST FLOOR: (5) 1 BEDROOM UNITS: 4314 G.S.F.  
2ND FLOOR: (5) 2 BEDROOM UNITS: 5819 G.S.F.  
3RD FLOOR: (6) 1 BEDROOM UNITS + (1) 2 BEDROOM UNIT: 5819 G.S.F.  
4TH FLOOR: (6) 1 BEDROOM UNITS + (1) 2 BEDROOM UNIT: 5819 G.S.F.

**TOTAL AREA BUILDING 1:** 21,168 G.S.F.

**BUILDING 2 (6 UNITS)**  
1ST FLOOR: (2) 1 BEDROOM UNITS 1572 S.F.  
2ND FLOOR: (2) 1 BEDROOM UNITS 1572 S.F.  
3RD FLOOR: (2) 1 BEDROOM UNITS 1572 S.F.

**TOTAL AREA BUILDING 2:** 4716 S.F.

**TOTAL AREA BUILDING 1 & 2:** 25,884 S.F.

**30 UNITS IN PHASE 1**

**PHASE 2**

**BUILDING 3 (6 UNITS)**  
1ST FLOOR: (2) 1 BEDROOM UNITS 1684 G.S.F.  
2ND FLOOR: (2) 1 BEDROOM UNITS 1684 G.S.F.  
3RD FLOOR: (2) 1 BEDROOM UNITS 1684 G.S.F.  
**TOTAL AREA BUILDING 3:** 5052 G.S.F.

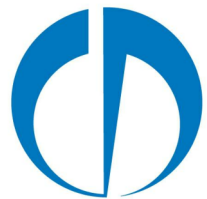
**BUILDING 4 (5 UNITS)**  
(5) 2 STORY TOWNHOUSES: 1,550 G.S.F./ UNIT  
**TOTAL AREA BUILDING 4:** 7,750 G.S.F.

**TOTAL AREA BUILDING 3 & 4:** 12,802 S.F.

**11 UNITS IN PHASE 2**

**TOTAL AREA PHASE 1 & 2:** 38,686 S.F.

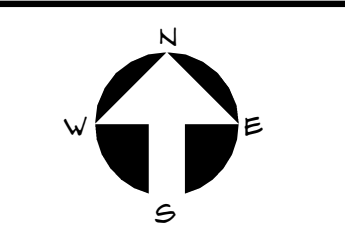
**TOTAL UNITS PHASE 1 & 2:** 41



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**Revisions:**

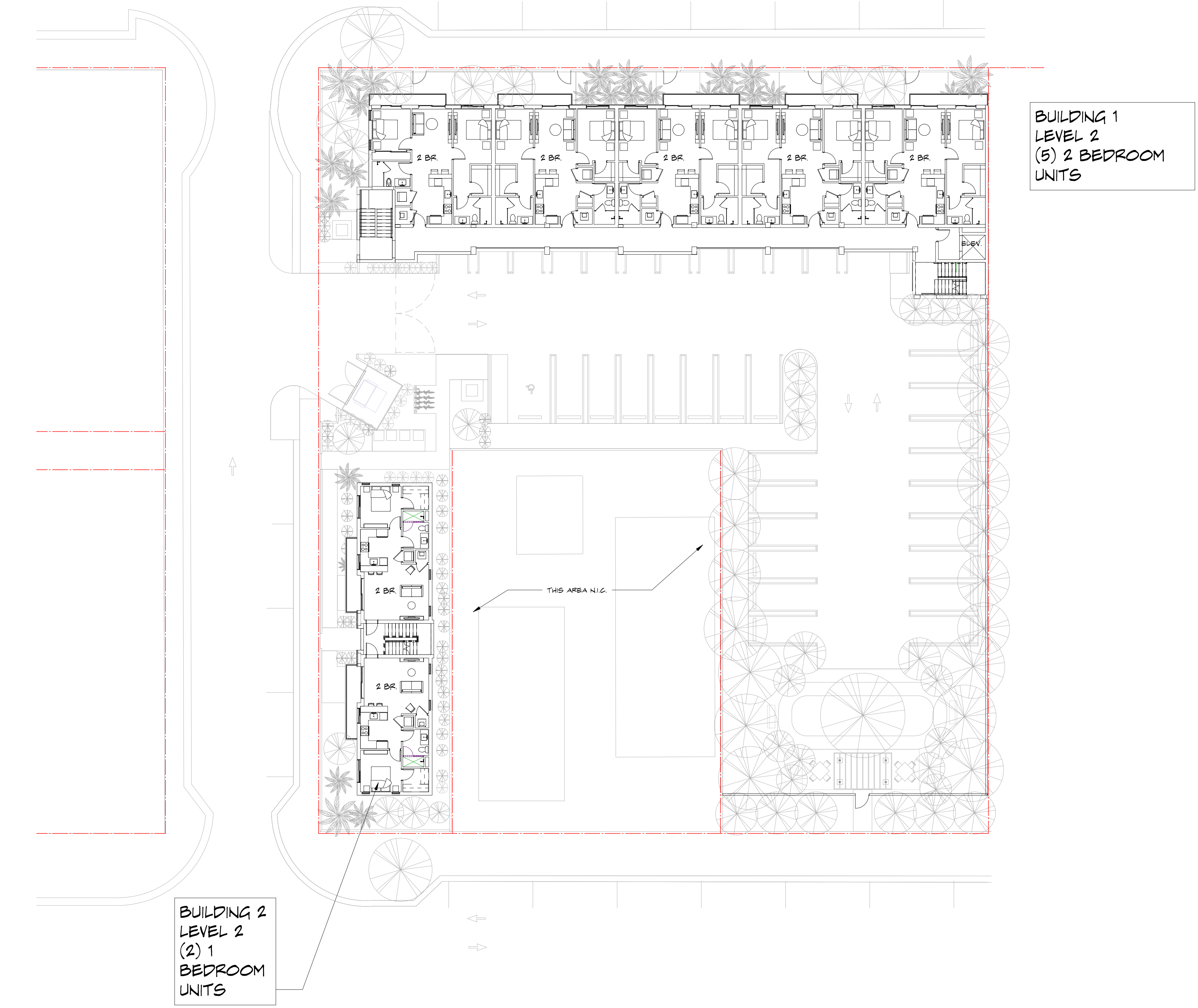
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Project Manager: Checker



**A1.1.1.**

SITE PLAN SUBMITTAL



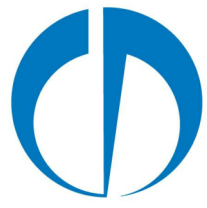


BUILDING 1  
LEVEL 2  
(5) 2 BEDROOM  
UNITS

BUILDING 2  
LEVEL 2  
(2) 1  
BEDROOM  
UNITS

THIS AREA N.I.C.

1 SECOND FLOOR PLAN - PHASE 1  
A1.1.2 Scale: 1/16" = 1'-0"



**SPINAOROURKE**  
+ PARTNERS

Architecture • Interior Design  
Keith M. Spina # AAT13419

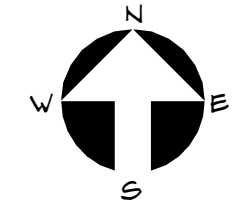
SITE PLAN APPLICATION  
**VILLAGE FLATS**

Lake & Lucerne  
Lake Worth Beach, FL 33460

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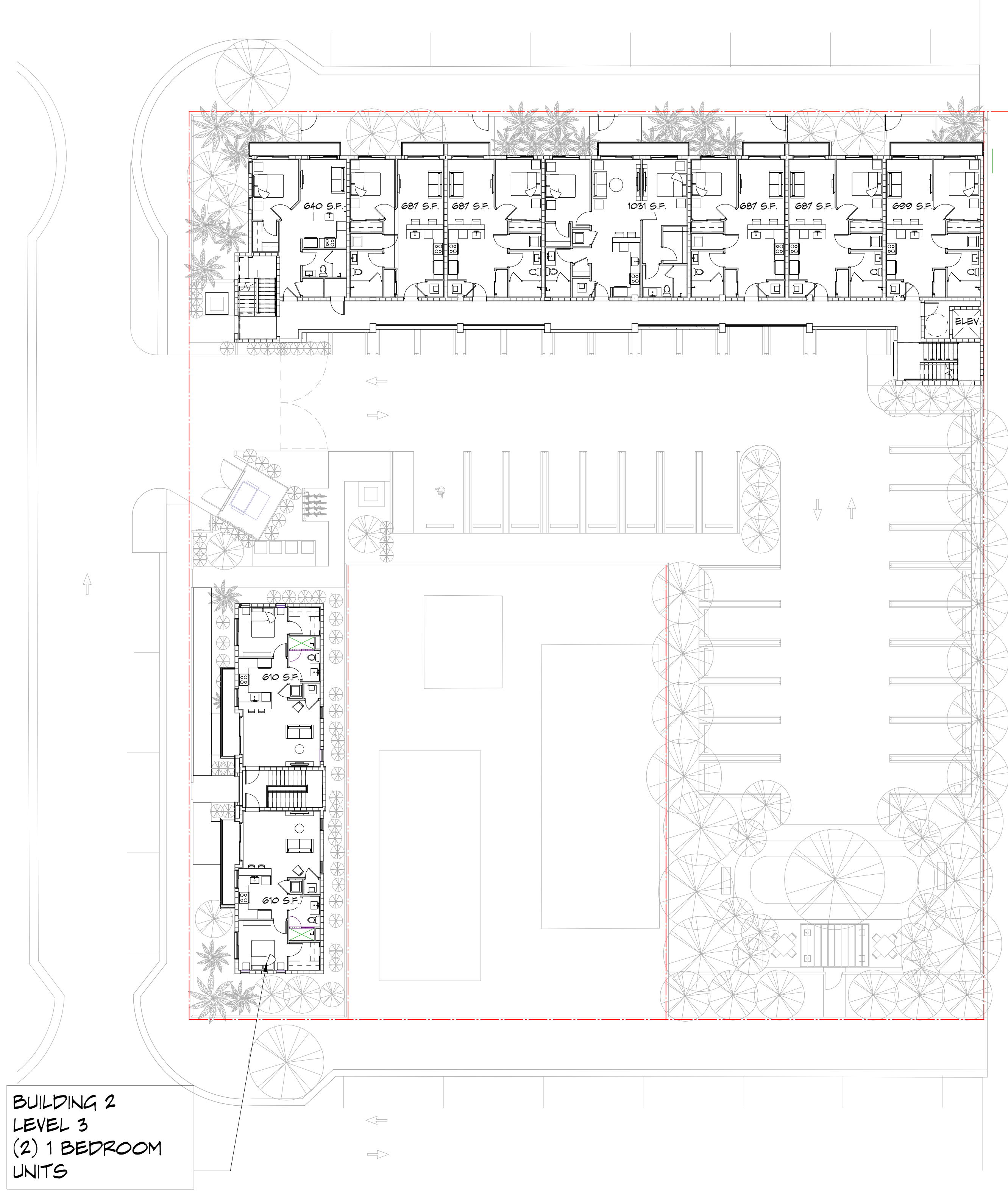


SECOND FLOOR PLAN - PHASE 1

**A1.1.2.**

SITE PLAN SUBMITTAL

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West Palm Beach Florida 33401  
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FL LIC # AA2002399



**BUILDING 1**  
**LEVEL 3**  
 (6) 1 BEDROOM UNITS  
 (1) 2 BEDROOM UNIT

**BUILDING 2**  
**LEVEL 3**  
 (2) 1 BEDROOM UNITS

1 THIRD FLOOR PLAN - PHASE 1  
 A1.1.3 Scale: 1/16" = 1'-0"



**SITE PLAN APPLICATION**  
**VILLAGE FLATS**

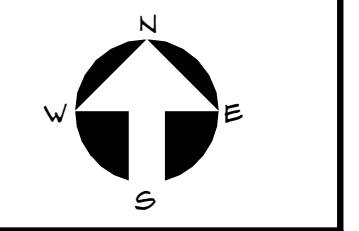
Lake & Lucerne  
 Lake Worth Beach, FL 33460

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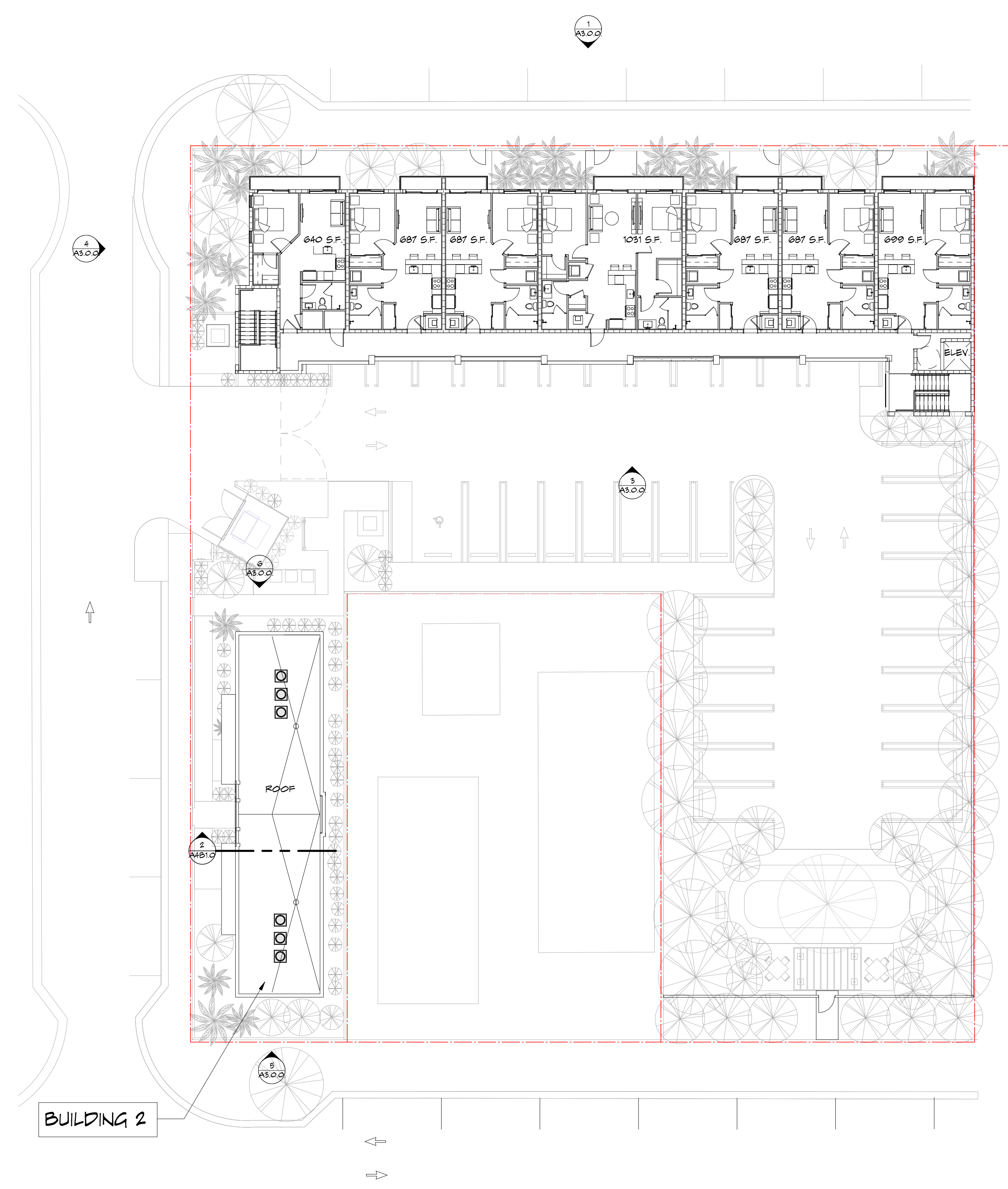
Revisions:

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Project no: 19125  
 Date: (07-31-20)  
 Drawn by: Author  
 Project Manager: Checker



**A1.1.3.**  
 SITE PLAN SUBMITTAL



**BUILDING 1**  
**LEVEL 4**  
 (6) 1 BEDROOM UNITS  
 (1) 2 BEDROOM UNIT

1 FOURTH FLOOR PLAN - PHASE 1  
 A1.1.4 Scale: 1/16" = 1'-0"



**SPINAOROURKE**  
 + PARTNERS  
 Architecture • Interior Design  
 Keith M. Spina # A013419

285 Banyan Blvd  
 West Palm Beach, Florida 33401  
 561.684.6844 • Fax: 561.684.6594  
 spinaorourke.com  
 FL LIC # A20202399

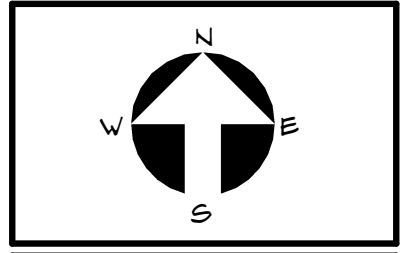
**SITE PLAN APPLICATION**  
**VILLAGE FLATS**  
 Lake & Lucerne  
 Lake Worth Beach, FL 33460

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Revisions:

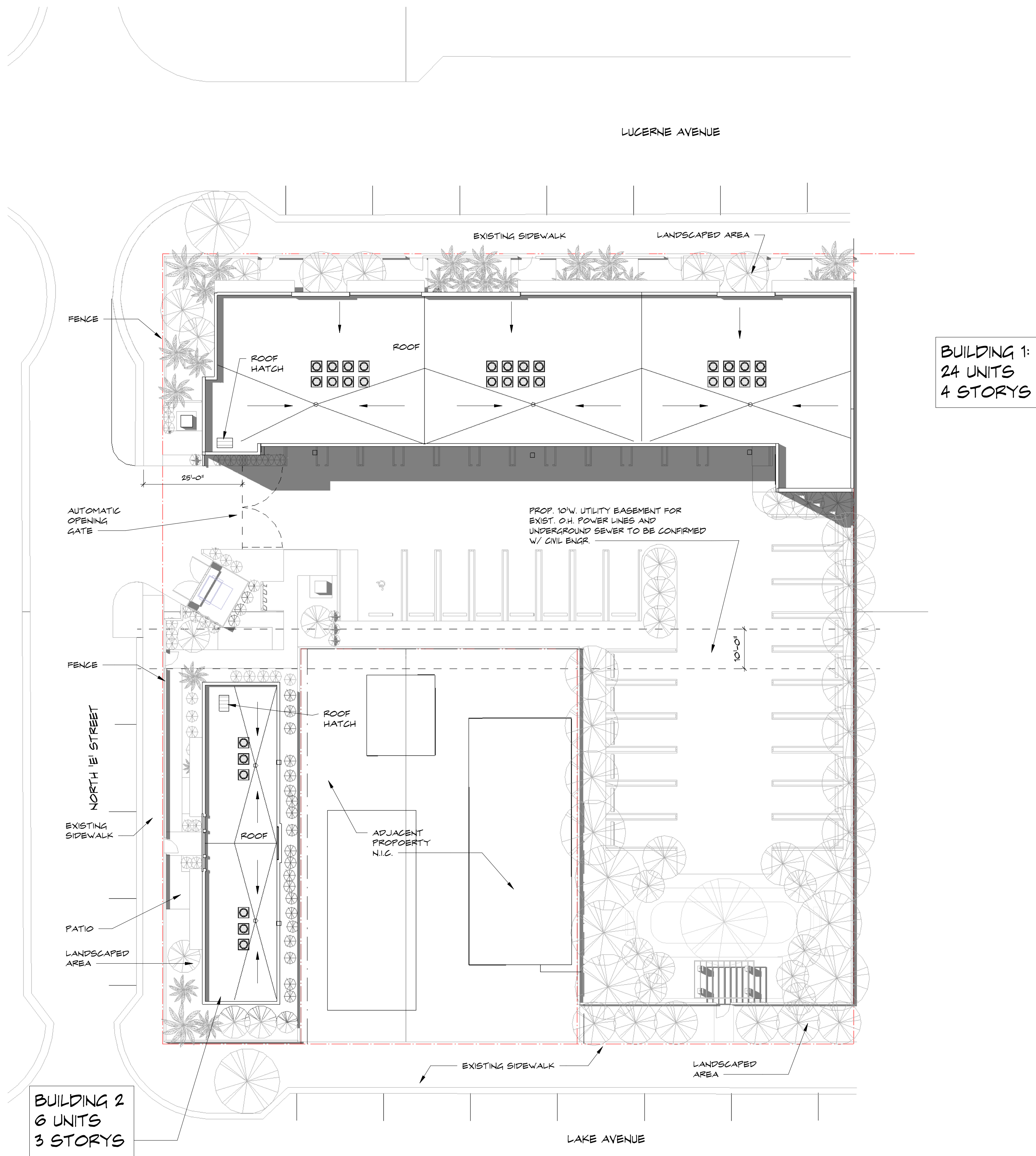
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Project no: 19125  
 Date: (07-31-20)  
 Drawn by: Author  
 Project Manager: Checker

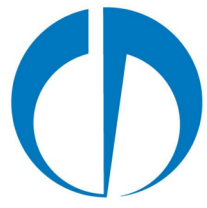


**A1.1.4.**  
 SITE PLAN SUBMITTAL

FOURTH FLOOR PLAN - PHASE 1



1 ROOF PLAN - PHASE 1  
A1.1.5 Scale: 1/16" = 1'-0"



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+ PARTNERS

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Tel: 561.684.6844 Fax: 561.684.6594  
spinaorourke.com  
FL LIC # A26202399

Architecture • Interior Design  
Keith M. Spina # A013419

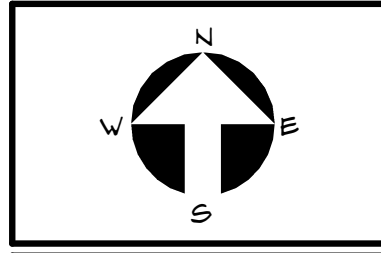
**SITE PLAN APPLICATION  
VILLAGE FLATS**  
Lake & Lucerne  
Lake Worth Beach, FL 33460

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Revisions:

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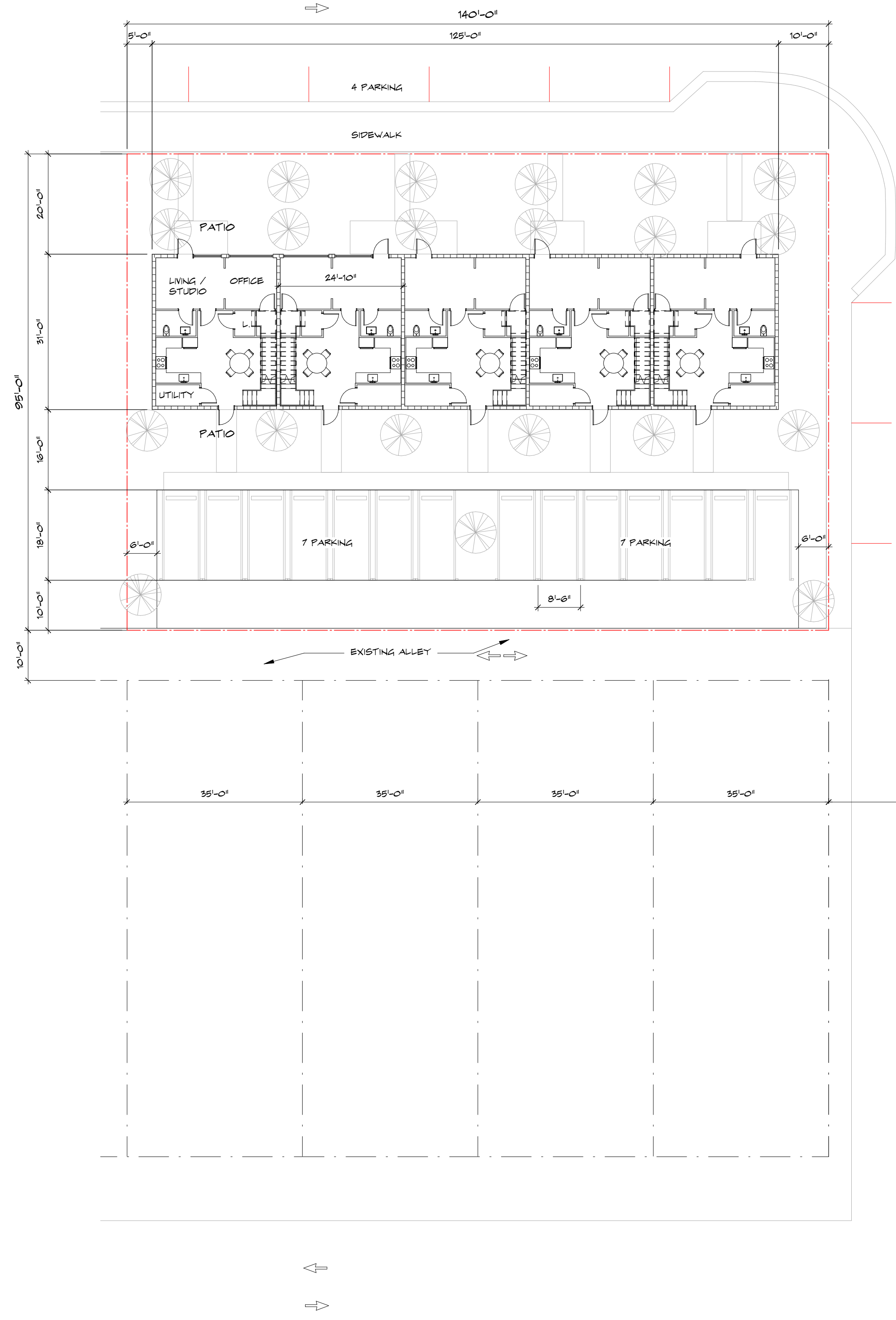
Project no: 19125  
Date: (07-31-20)  
Drawn by: Author  
Project Manager: Checker



**A1.1.5.**  
SITE PLAN SUBMITTAL

ROOF PLAN PHASE 1

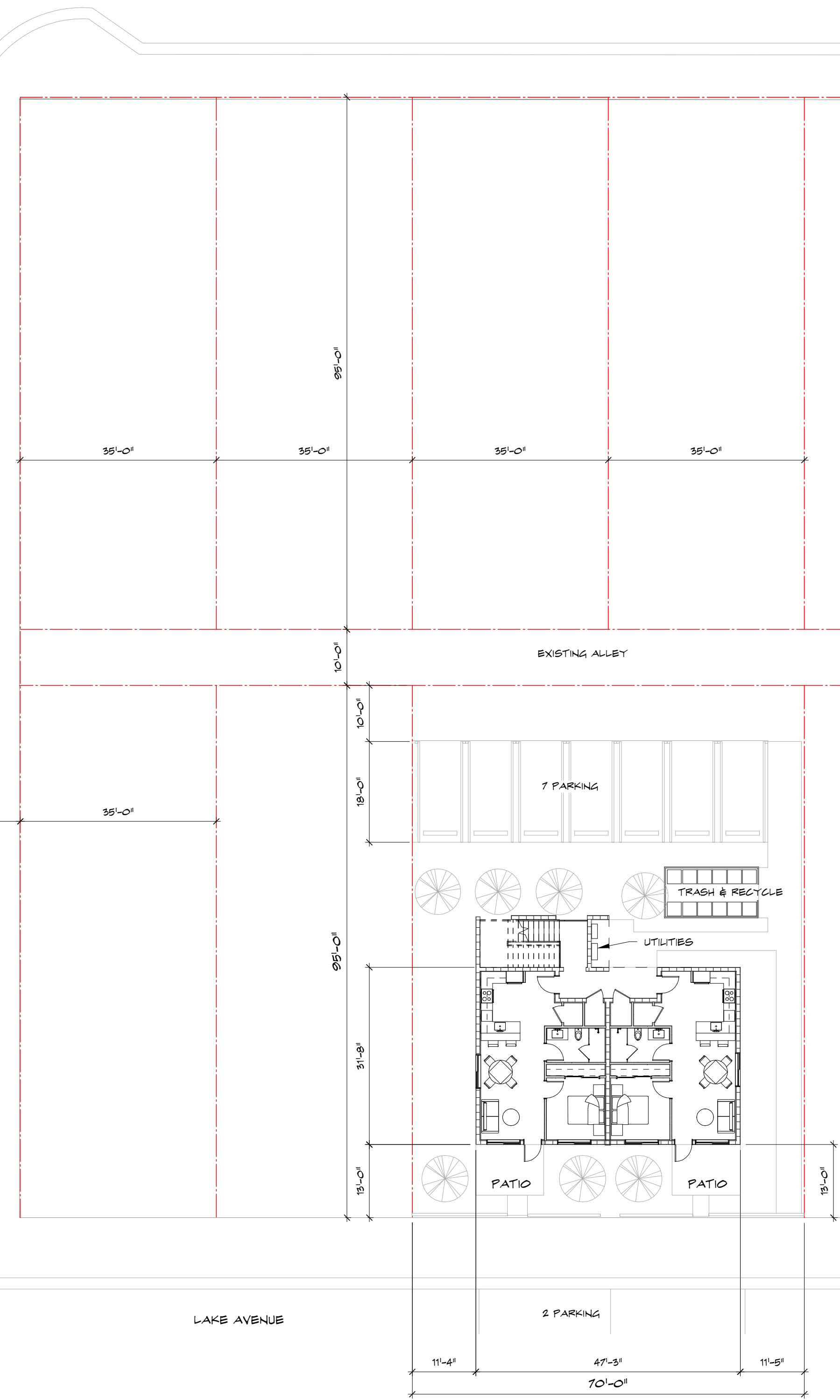
**PHASE 2 - BUILDING 4**  
 5 UNITS  
 2 STORIES  
 3 BEDROOMS / UNIT  
 1550 G.S.F. / UNIT  
 14 PARKING SPACES OFF STREET  
 6 PARKING SPACES PARALLEL ON STREET  
 TOTAL PARKING: 20 SPACES  
 GROUND FLOOR BUILDING COVERAGE: 3,875 SF  
 TOTAL BUILDING AREA: 7,750 GSF



LUCERNE AVENUE

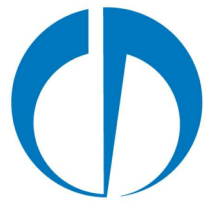
NORTH D STREET

LAKE AVENUE



**PHASE 2 - BUILDING 3**  
 (6) 1 BEDROOM UNITS  
 3 STORIES  
 700 G.S.F. / UNIT  
 7 PARKING SPACES OFF STREET  
 2 PARKING SPACES PARALLEL ON STREET  
 TOTAL PARKING: 9 SPACES  
 1684 GROUND FLOOR BUILDING COVERAGE  
 5052 G.S.F. TOTAL INCLUDING NON-AC STAIR

1 GROUND FLOOR PLAN - PHASE 2  
 A2.1.1 Scale: 1/16" = 1'-0"



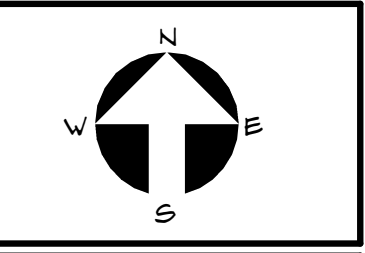
**SITE PLAN APPLICATION**  
**VILLAGE FLATS**

Lake & Lucerne  
 Lake Worth Beach, FL 33460

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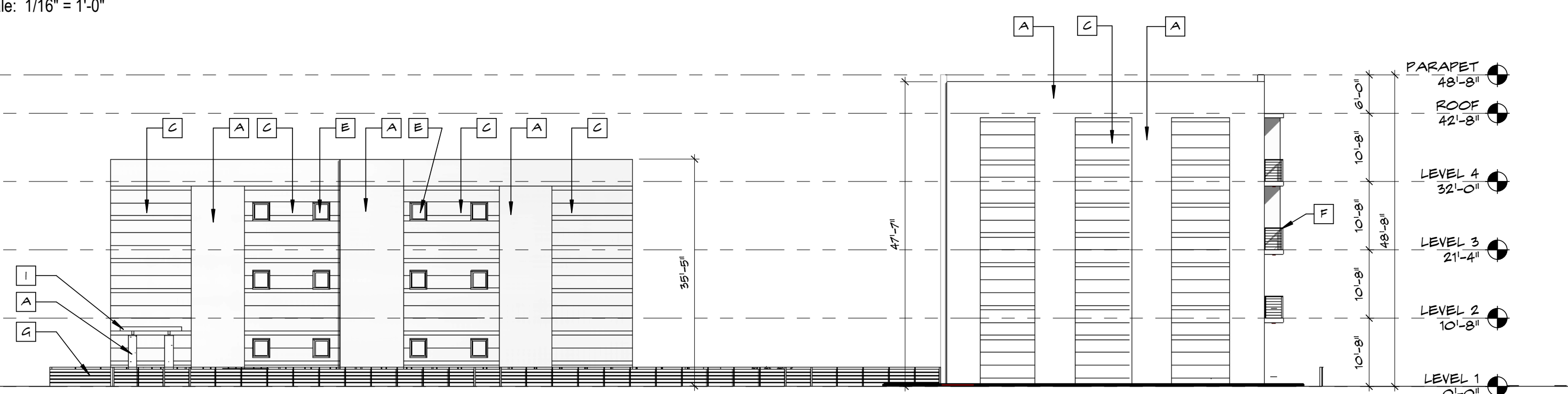
Revisions:


Project no: 19125  
 Date: (07-31-20)  
 Drawn by: Author  
 Project Manager: Checker





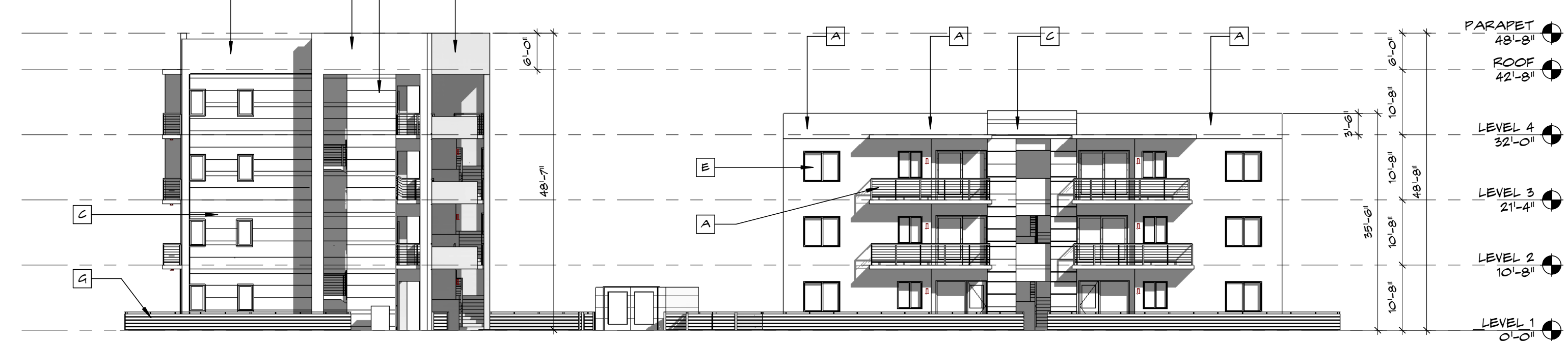
1 NORTH ELEVATION - BUILDING 1 LUCERNE AVENUE  
A3.0.0 Scale: 1/16" = 1'-0"



2 EAST ELEVATION - BUILDING 1 & 2  
A3.0.0 Scale: 1/16" = 1'-0"



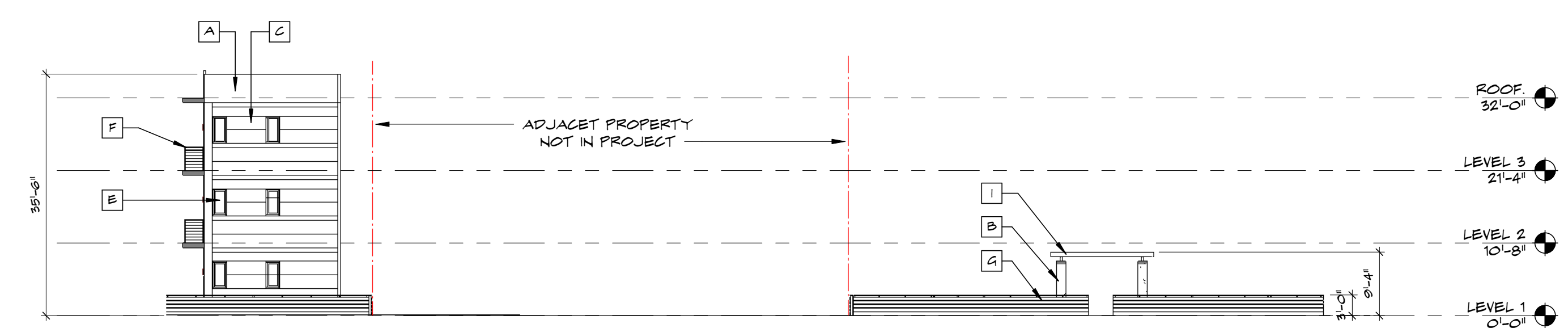
3 SOUTH ELEVATION - BUILDING 1  
A3.0.0 Scale: 1/16" = 1'-0"



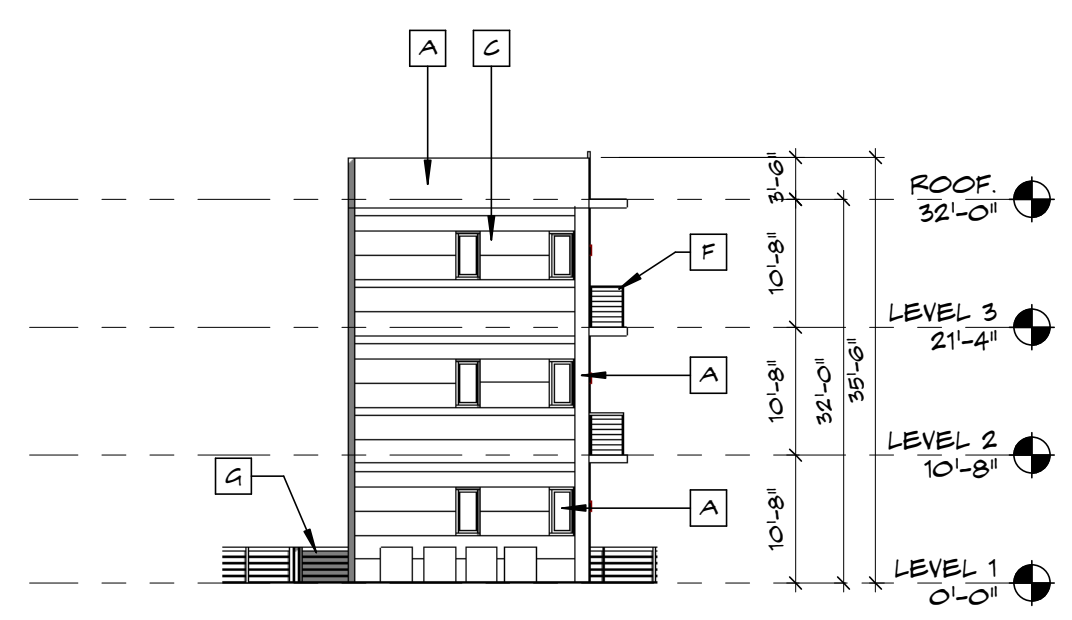
4 WEST ELEVATION - BUILDING A  
A3.0.0 Scale: 1/16" = 1'-0"

**MATERIAL NOTES**

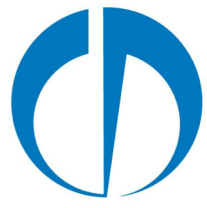
- A FINISH: SMOOTH STUCCO, COLOR: HIGH REFLECTIVE WHITE SW7757
- B FINISH: SMOOTH STUCCO, COLOR: MOONLIT ORCHID SW 9153
- C FINISH: SMOOTH STUCCO WITH REVEAL PATTERN, COLOR: FLEUR DE SEL SW7668
- D FINISH: ANODIZED ALUM. COLOR: GRAY (DOOR/WINDOW FRAME)
- E FINISH: LAMINATED GLASS, LT GREY TINT
- F FINISH: ALUM. RAILINGS, COLOR: GRAY
- G FINISH: WOOD FENCE, COLOR: NATURAL WOOD - PRESSURE TREATED
- H FINISH: SMOOTH STUCCO, YELLOW COLOR
- I FINISH: ALUMINUM TRELLIS STRUCTURE PAINTED GREY



5 Z BUILDING B-SOUTH ELEVATION Copy 1  
A3.0.0 Scale: 1/16" = 1'-0"



6 Z BUILDING B- NORTH ELEVATION Copy 1  
A3.0.0 Scale: 1/16" = 1'-0"

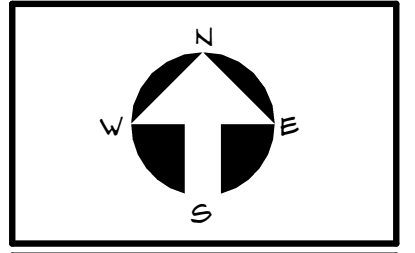


SITE PLAN APPLICATION  
**VILLAGE FLATS**  
Lake & Lucerne  
Lake Worth Beach, FL 33460

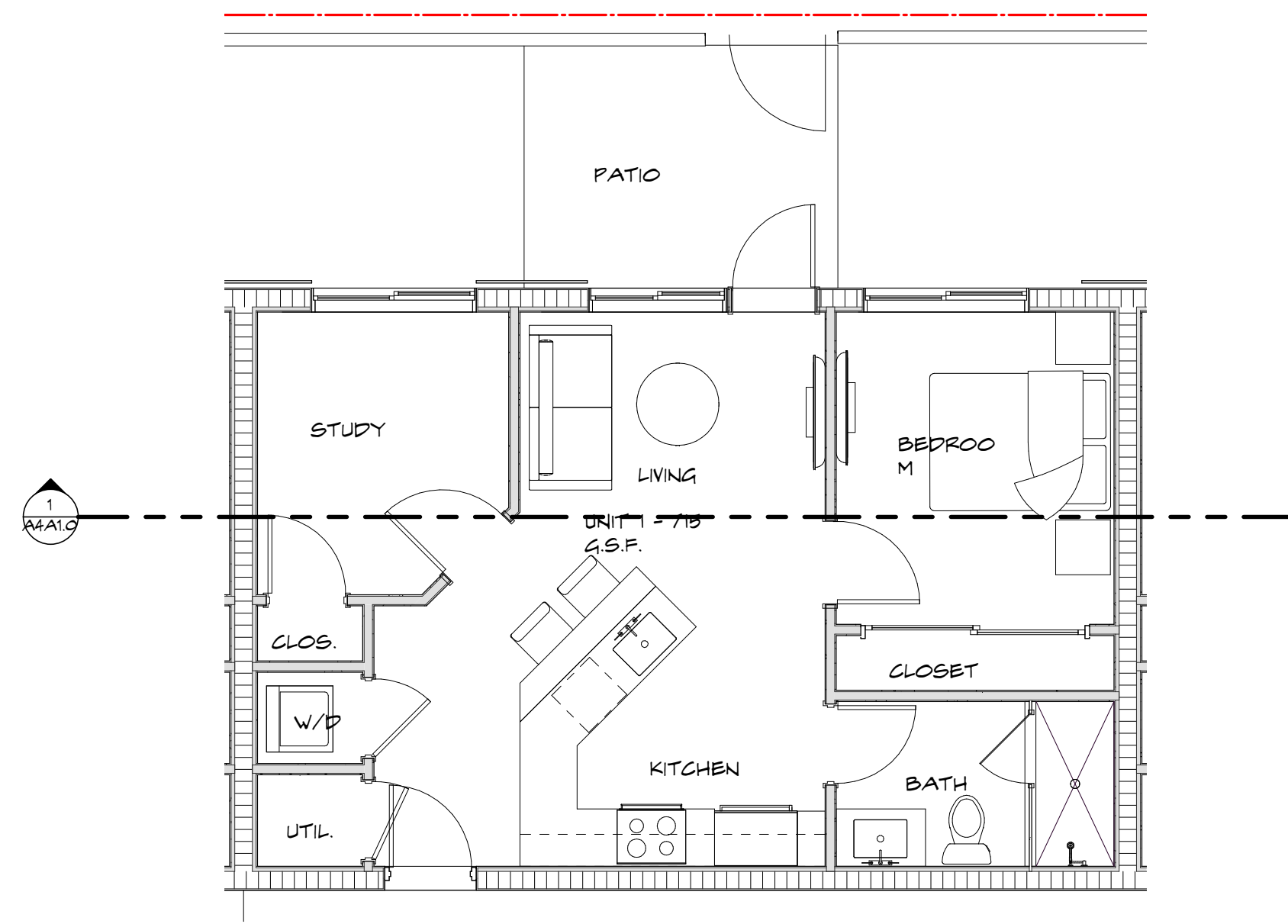
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Revisions:

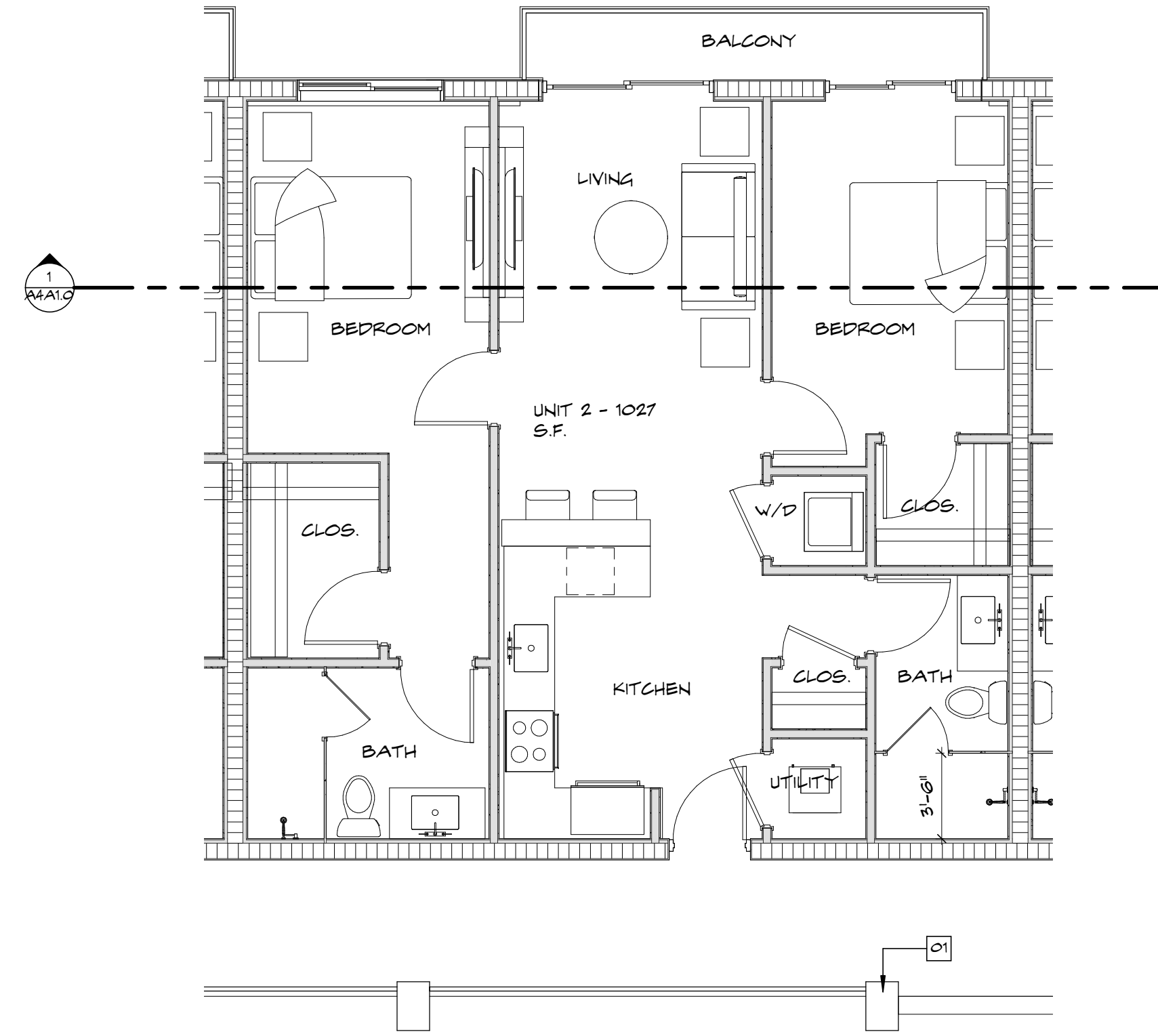

Project no: 19125  
Date: (07-31-20)  
Drawn by: Author  
Project Manager: Checker



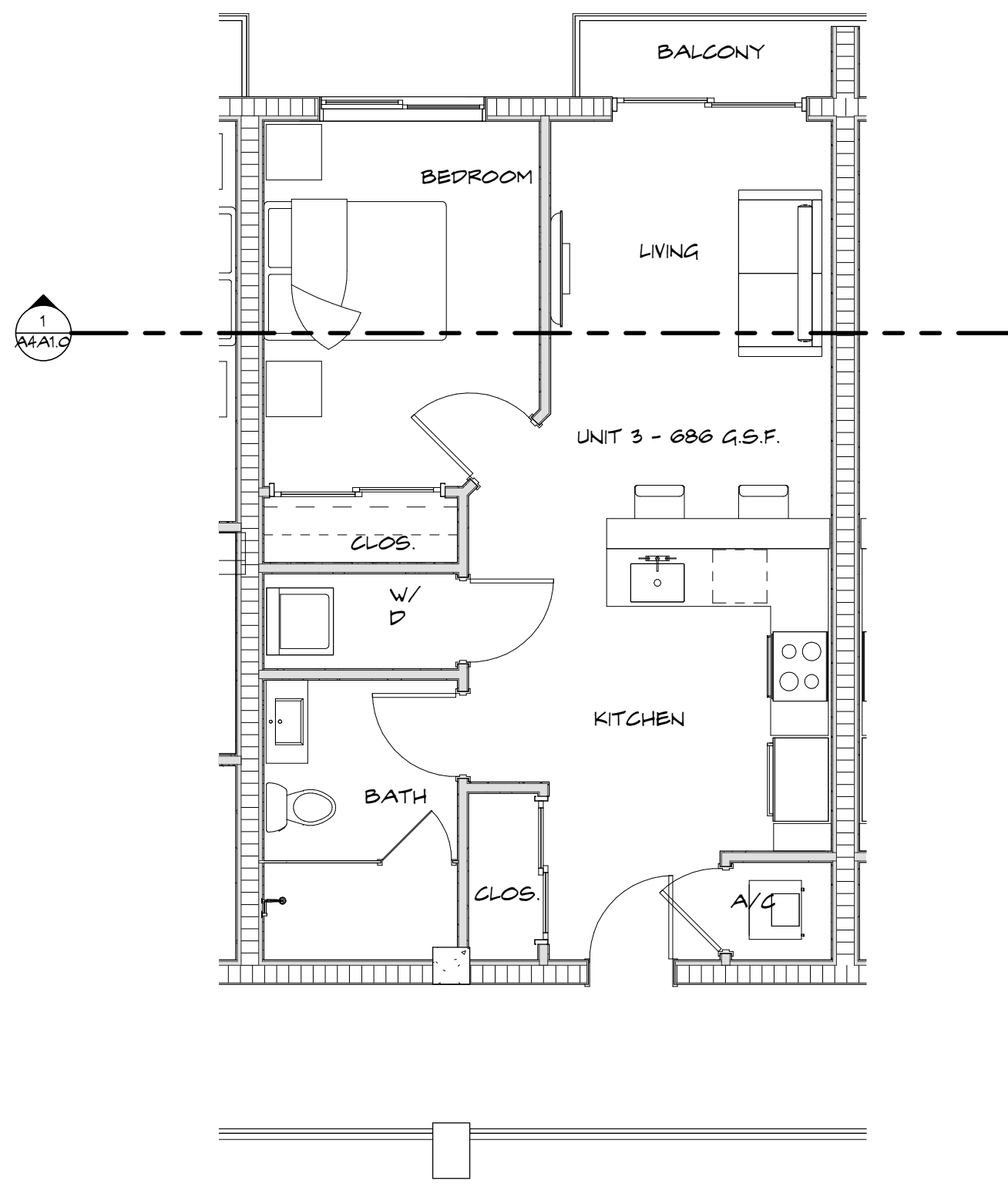
**A3.0.0.**  
SITE PLAN SUBMITTAL



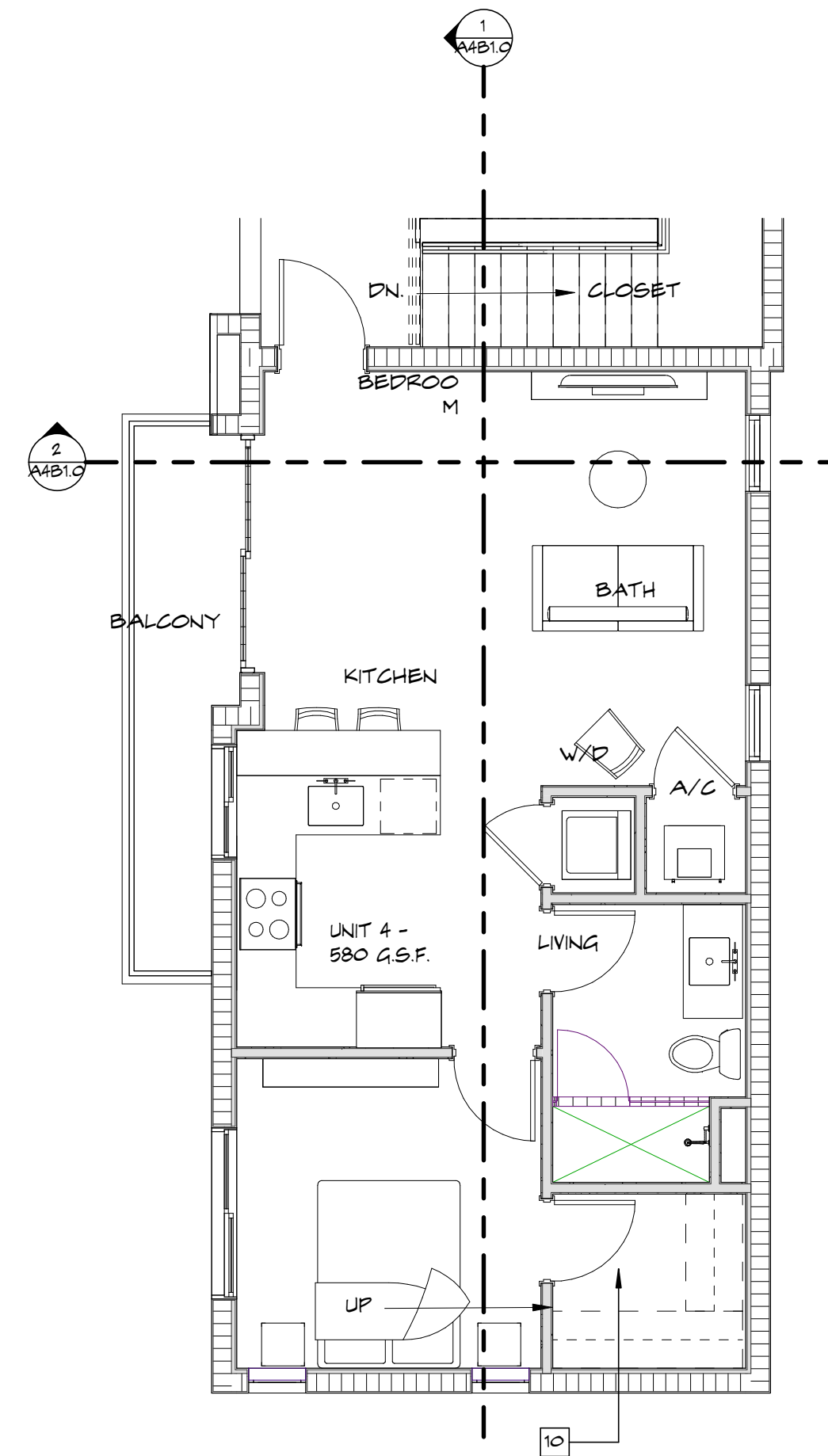
1 UNIT PLANS - UNIT 1 - BUILDING 1 - FIRST FLOOR  
AS0.1 Scale: 3/16" = 1'-0"



2 UNIT PLANS - UNIT 2 - SECOND FLOOR - BUILDING 1  
AS0.1 Scale: 3/16" = 1'-0"



3 UNIT PLANS - UNIT 3 - THIRD FLOOR - BUILDING 1  
AS0.1 Scale: 3/16" = 1'-0"



4 UNIT PLANS - UNIT 4 - BUILDING 2  
AS0.1 Scale: 3/16" = 1'-0"



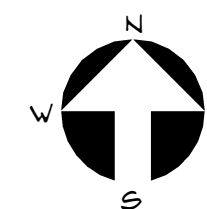
SITE PLAN APPLICATION  
**VILLAGE FLATS**

Lake & Lucerne  
Lake Worth Beach, FL 33460

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Revisions:


Project no: 19125  
Date: (07-31-20)  
Drawn by: Author  
Project Manager: Checker



**A9.0.1.**  
SITE PLAN SUBMITTAL



VIEW LOOKING SOUTHEAST ON LUCERNE AVENUE

**SITE PLAN APPLICATION**  
**VILLAGE FLATS**  
Lake & Lucerne  
Lake Worth Beach, FL 33460

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Revisions:

Project no: Project Number  
Date: (07-31-20)  
Drawn by: Author  
Project Manager: Checker

**R-1**  
SITE PLAN APPLICATION





VIEW LOOKING SOUTHEAST ON LUCERNE AVENUE

285 Banyan Blvd  
West Palm Beach, Florida 33401  
561.684.6844 • Fax: 561.684.6594  
spinaorourke.com  
FL LIC # A42602289



Architecture • Interior Design  
Keith M. Spina # A413419

SITE PLAN APPLICATION  
**VILLAGE FLATS**

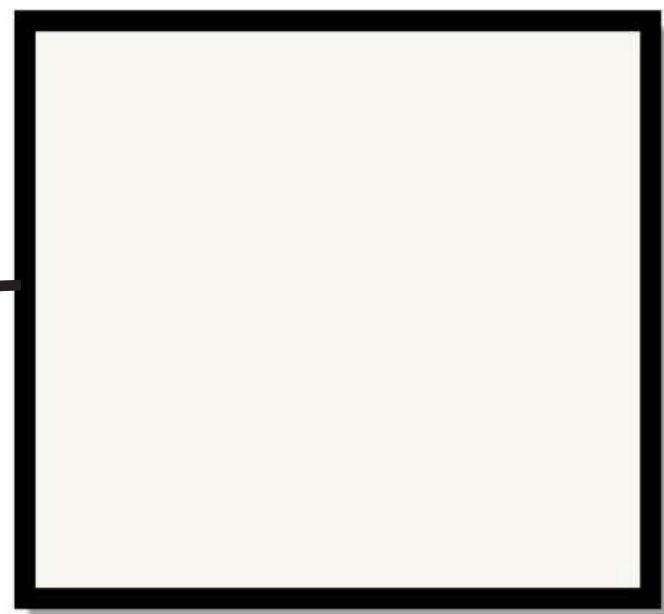
Lake & Lucerne  
Lake Worth Beach, FL 33460

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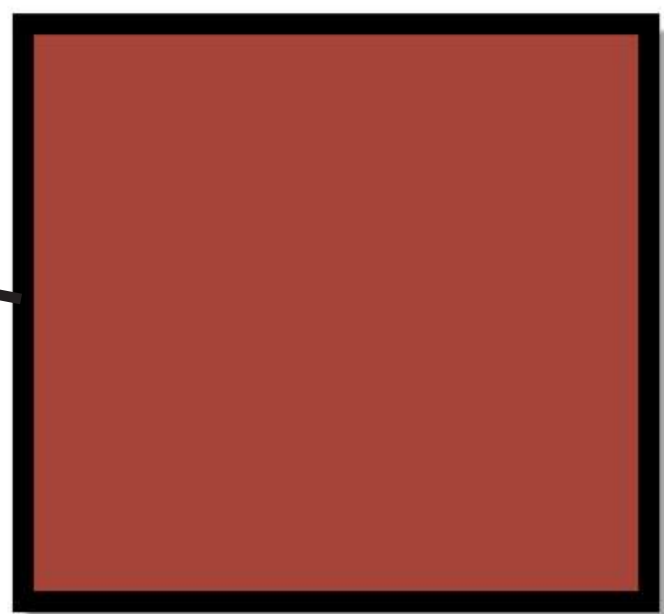
Revisions:

Project no: Project Number  
Date: (07-31-20)  
Drawn by: Author  
Project Manager: Checker

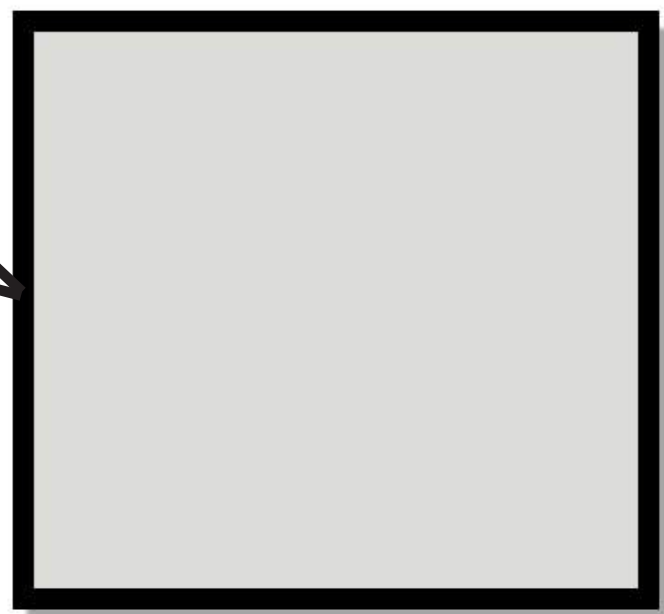
RENDERING ALTERNATE  
**R-1A**  
SITE PLAN APPLICATION



**COLOR A**  
**MAIN WALL COLOR**  
 (SMOOTH STUCCO FINISH)  
 Sherwin Williams  
 SW 7757 'High Reflective White'



**COLOR H**  
**ACCENT WALL COLOR**  
 (SMOOTH STUCCO FINISH)  
 Benjamin Moore Color Preview  
 2006-20 'Sangria'



**COLOR C**  
**ACCENT WALL COLOR**  
 (SMOOTH STUCCO FINISH)  
 Sherwin Williams  
 SW 7666 'Fleur de Sel'



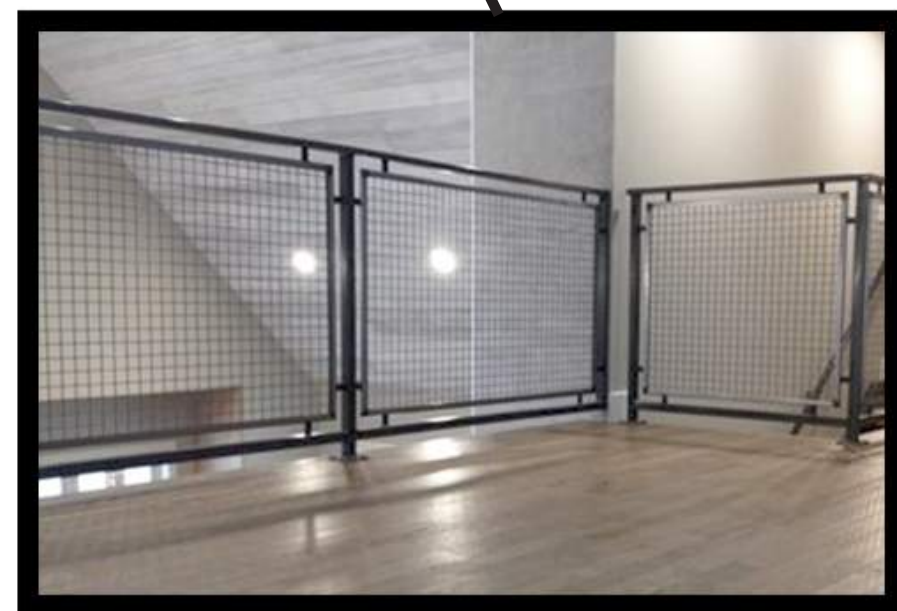
**WINDOW FRAMES**  
 Silver



**WINDOWS**  
 Clear Tinted Glass



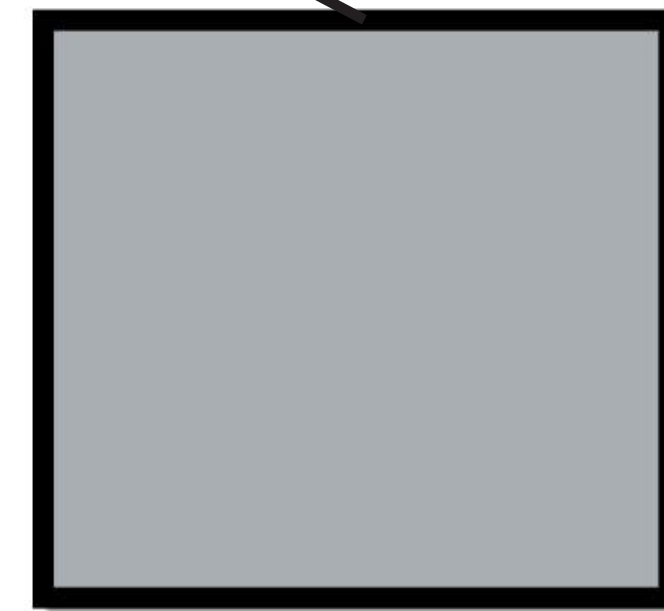
**COLOR G**  
**WOOD FENCE**  
 Vintage Wood; Color: Ash



**RAILINGS**  
 Aluminum Railings  
 Color: Silver



**WALL SCONCE**  
 Modern Decorative Outdoor Sconce  
 Color: Gray Metal



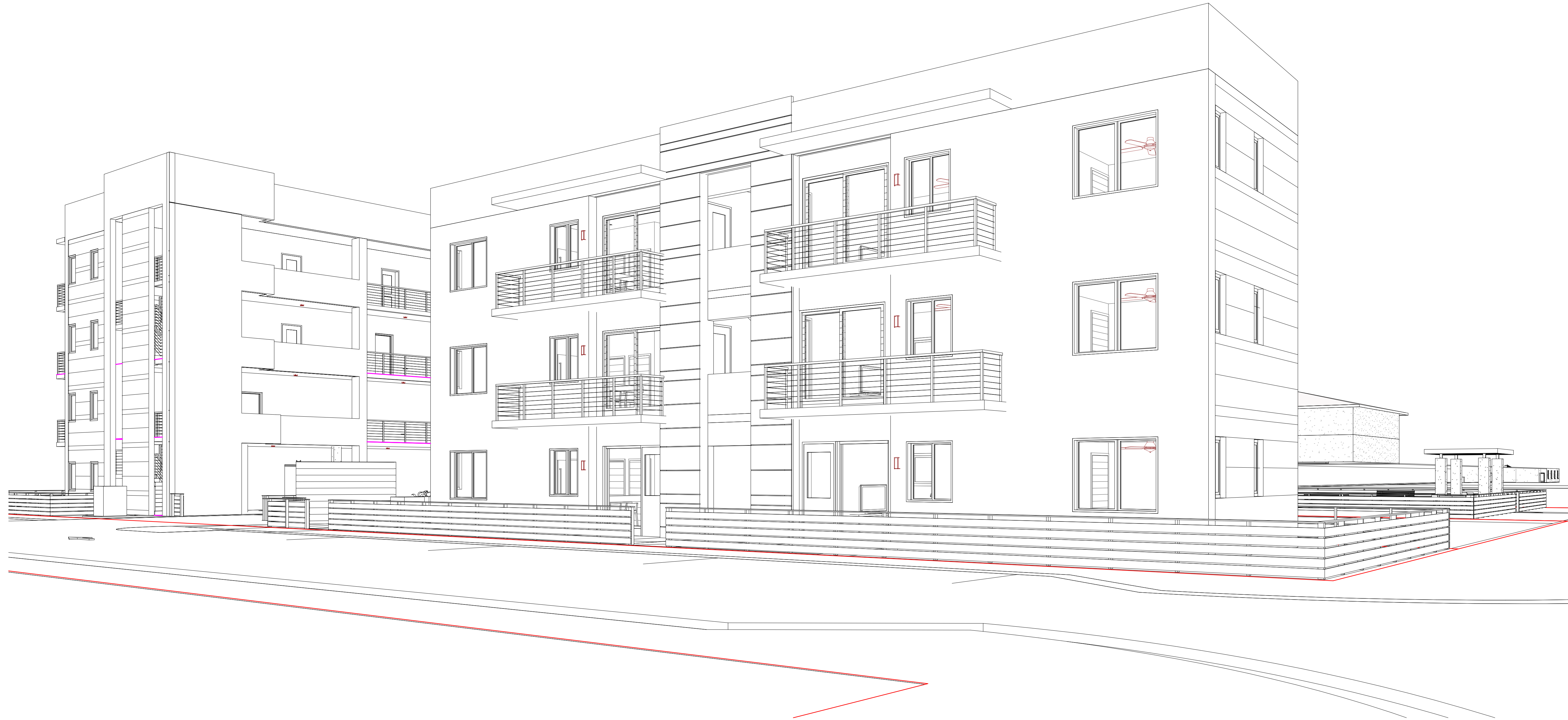
**COLOR B**  
**ACCENT WALL COLOR**  
 (SMOOTH STUCCO FINISH)  
 Sherwin Williams  
 SW 9153 'Moonlit Orchid'



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Revisions:

Project no: Project Number  
 Date: (07-31-20)  
 Drawn by: Author  
 Project Manager: Checker



VIEW LOOKING NORTHEAST ON LAKE AVENUE & NORTH 'E' STREET



**SPINAOROURKE**  
+ PARTNERS

Architecture • Interior Design  
Keith M. Spina # A013419

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West Palm Beach Florida 33401  
561.684.6844 • info@spinaorourke.com  
FL LIC # AA2002399

SITE PLAN APPLICATION  
**VILLAGE FLATS**

Lake & Lucerne  
Lake Worth Beach, FL 33460

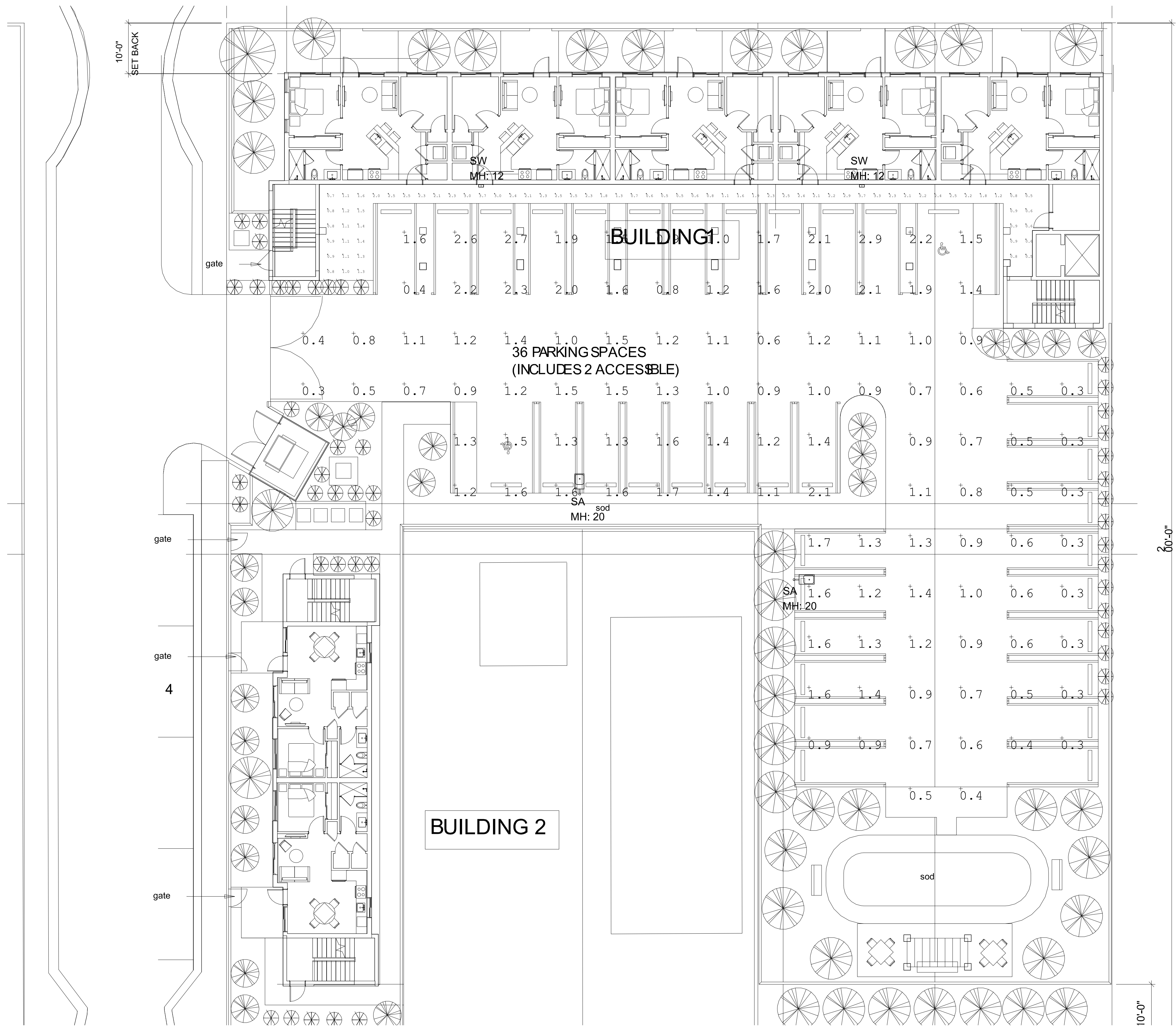
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Revisions:

Project no: 19125  
Date: (07-31-20)  
Drawn by: MR  
Project Manager: CS, EL

**R-2.**  
SITE PLAN SUBMITTAL

RENDERING 2



Based on the information provided, all dimensions and luminaire locations shown represent recommended positions. The engineer and/or architect must determine applicability of the layout to existing or future field conditions. This lighting pattern represents illumination levels calculated from laboratory data taken under controlled conditions utilizing current industry standard lamp ratings in accordance with Illuminating Engineering Society approved methods. Actual performance of any manufacturer's luminaire may vary due to variation in electrical voltage, tolerance in lamps and other variable field conditions.

NOTES:

1	PHOTOMETRIC STUDY	07/23/20
No.	Revision/Issue	Date

**LIGHTING DYNAMICS, INC.**  
 7835 West Commercial Blvd.  
 Tamarac, FL 33351  
 (954) 944-0286  
[www.lightingdynamics.com](http://www.lightingdynamics.com)

Project Name and Address  
**VILLAGE FLATS**  
 Exterior lighting layout  
 Lake Worth Beach, FL

FILE P:\PROJECTS\2020\JULY  
 CLIENT GliddenSpina + Partners

Project	Poinciana Point	Sheet	<b>LO</b>
Date	07/23/2020	DRAWN BY	
Scale	3/32" = 1'-0"	E. MONTERO	

POINCIANA POINT LIGHTING FIXTURE SCHEDULE									
TYPE	DESCRIPTION	MFR	CATALOG NUMBER	VOLTS	LAMPS	INPUT WATTS	MOUNTING	DIMMING (If Req)	REMARKS
SA	LED SITE LUMINAIRE	LUMARK	PRV-C15-D-UNV-T4-XX-FINISH / MA1017-XX	UNV	LED	52W	POLE	0-10V	NOTE 1, 2
SW	LED WALL PACK	MCGRAW-EDISON	GWC-AF-01-LED-E1-T4W-FINISH-600	UNV	LED	34W	WALL	0-10V	NOTE 1

FIXTURE SCHEDULE NOTES  
 NOTE 1: ADVISE FINISH  
 NOTE 2: FIXTURE MOUNTED ON 22FT ROUND TAPERED EMBEDDED (DIRECT BURIAL) ALUMINUM POLE VALMONT® 190830505EP2-FINISH  
 FOR QUESTIONS PERTAINING TO THIS FIXTURE SCHEDULE PLEASE CONTACT RYAN HUFF @ LIGHTING DYNAMICS (772) 285-7169; RHUFF@LIGHTINGDYNAMICS.COM

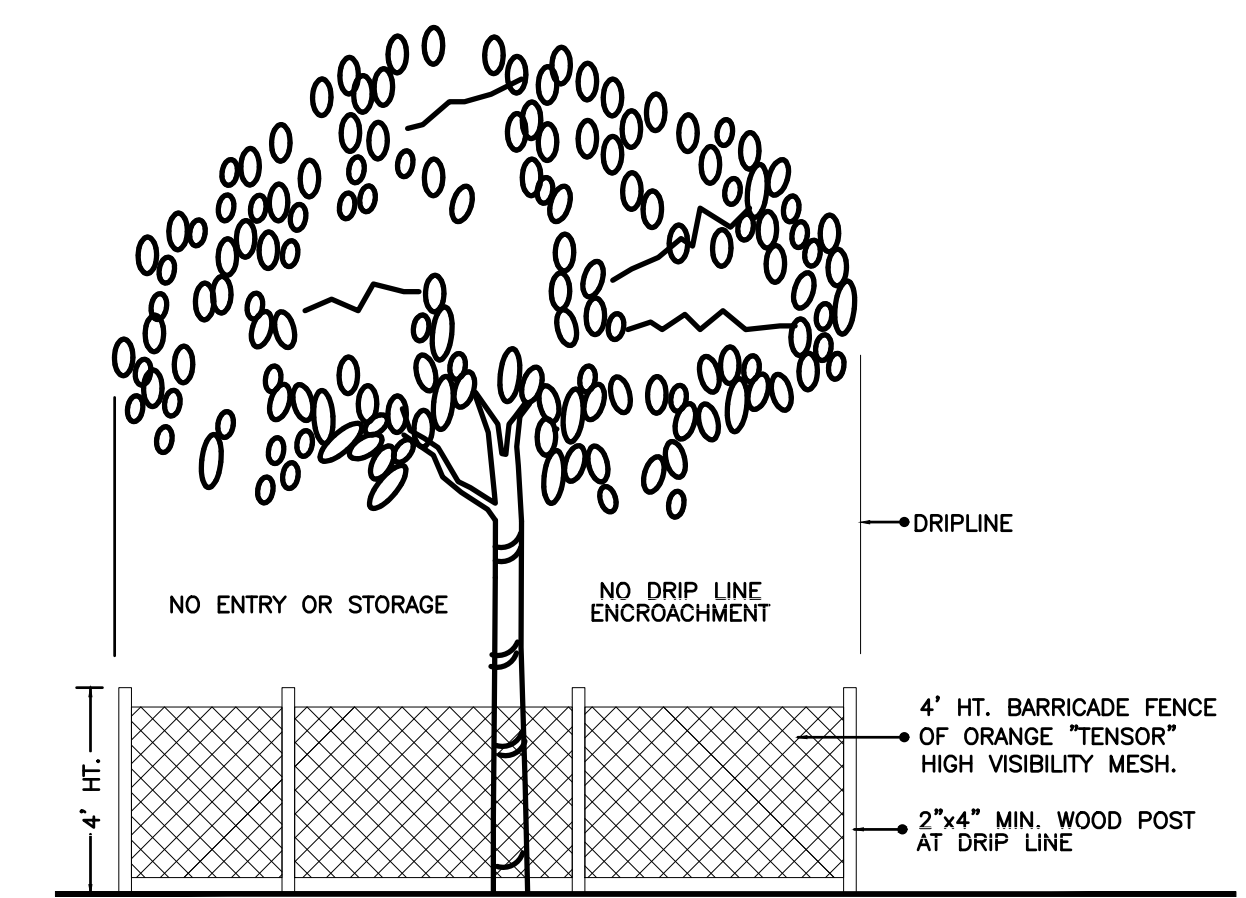
Photometrics Calculation Software Generated Luminaire Schedule									
Symbol	Qty	Label	Arrangement	Lum. Lumens	Arr. Lum. Lumens	LLF	Lum. Watts	Arr. Watts	
SA	2	SA	SINGLE	7088	7088	0.900	52	52	
SW	2	SW	SINGLE	4255	4255	0.900	34	34	

Calculation Summary									
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min		
PARKING AREA	Illuminance	Fc	1.15	2.9	0.3	3.83	9.67		
WALKWAY	Illuminance	Fc	1.63	3.7	0.5	3.26	7.40		

**EXISTING TREE DISPOSITION CHART**

TREE NO.	BOTANICAL NAME	COMMON NAME	DBH (ins)	HT (feet)	SPR (feet)	CONDITION	COMMENTS	DISPOSITION
1	<i>Quercus virginiana</i>	Live Oak	8	25	25	65%		REMAIN
2	<i>Cocos nucifera</i>	Coconut Palm	6	20'ct		75%		Relocate
3	<i>Mangifera indica</i>	Mango	10	25	20	45%	trunk damage; uneven canopy	remove
4	<i>Quercus virginiana</i>	Live Oak	8	20	20	65%		REMAIN

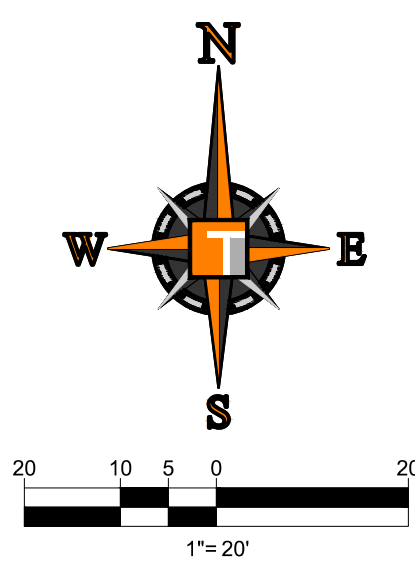
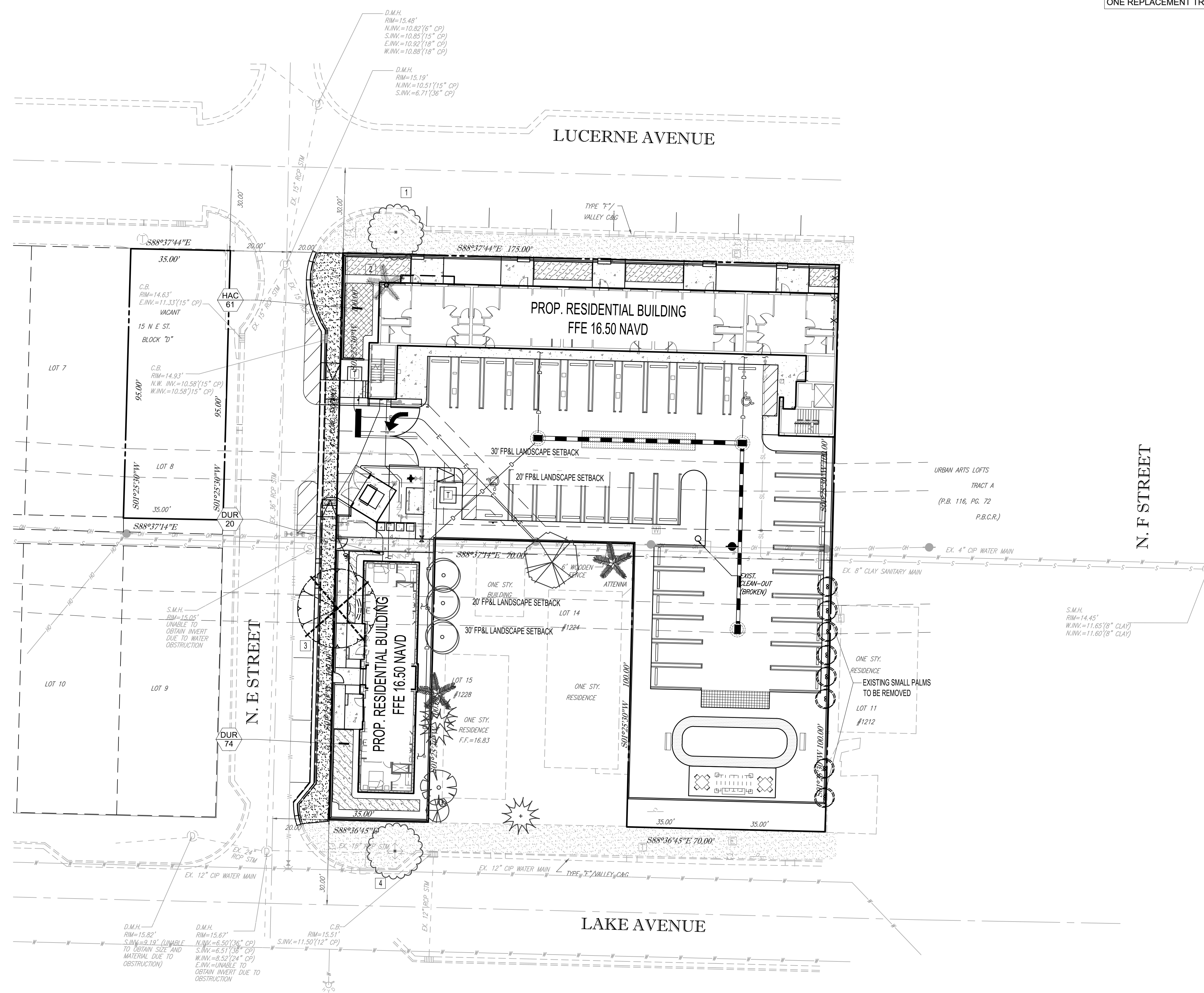
ONE REPLACEMENT TREE REQUIRED FOR TREE #3 (LESS THAN 50% CONDITION RATING)



**TREE PRESERVATION BARRICADE FENCING DETAIL**  
NTS.

**GENERAL NOTES:**

- Contractor is responsible for determining all utility locations and installing facilities so as to not conflict. All damage to existing utilities or improvements caused by Contractor shall be repaired at no additional cost to the Owner.
- Contractor to notify "Sunshine State One Call of Florida, Inc." at 1-800-432-4770 Two Full Business Days prior to digging for underground utility locations.
- Contractor shall be responsible for providing final grading of all associated planting areas.
- After final grade, area to be raked to 6" depth and all rock and foreign inorganic materials removed and disposed of properly off-site.
- All planting holes to be hand dug except where machine dug holes will not adversely affect or damage utilities or improvements (see note 2).
- No plunging of any tree or palm will be accepted. All plants to be planted at the nursery grade or slightly higher.
- Contractor shall stake 4 guy all trees and palms at time of planting as per the appropriate detail. Contractor is responsible for the maintenance and/or repair of all staking and guying during warranty period and removal 4 disposal of staking after establishment period.
- WATERING:** All plant material shall be watered in at time of planting in accordance with standard nursery practices. In addition, Contractor will continue watering of plant material until substantial completion and as needed thereafter for a period of 2 months.
- No plant material will be accepted showing evidence of cable, chain marks, equipment scars, or otherwise damaged.
- Plant material will not be accepted when the ball of earth surrounding its roots has been cracked, broken or otherwise damaged.
- Root-prune all trees a minimum of (8) weeks prior to planting.
- Tree protection barricades shall be provided by Landscape Contractor around existing trees that may be impacted by the proposed construction. Prior to any construction a tree protection barricade inspection shall be conducted by the landscape architect, owner or governing municipality. Refer to Landscape detail for tree preservation barricade fencing.



**THOMAS ENGINEERING GROUP**  
 CIVIL ENGINEERS - PROJECT MANAGERS - LAND PLANNING - LANDSCAPE ARCHITECTS  
 6300 NW 31ST AVENUE  
 FORT LAUDERDALE, FL 33309  
 P: (561) 202-7000  
 F: (561) 202-7070  
 www.ThomasEngineeringGroup.com

REV.	DATE	REVISIONS	COMMENT	BY

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**SITE PLAN SUBMITTAL**  
 PROJECT No.: F200053  
 DRAWN BY: JVF  
 CHECKED BY: MTK  
 DATE: 07-24-2020  
 CAD I.D.: F200053 LANDSCAPE

**VILLAGE FLATS**  
 FOR  
**INHABIT LAKE WORTH BEACH, LLC**  
 LAKE WORTH BEACH, FL

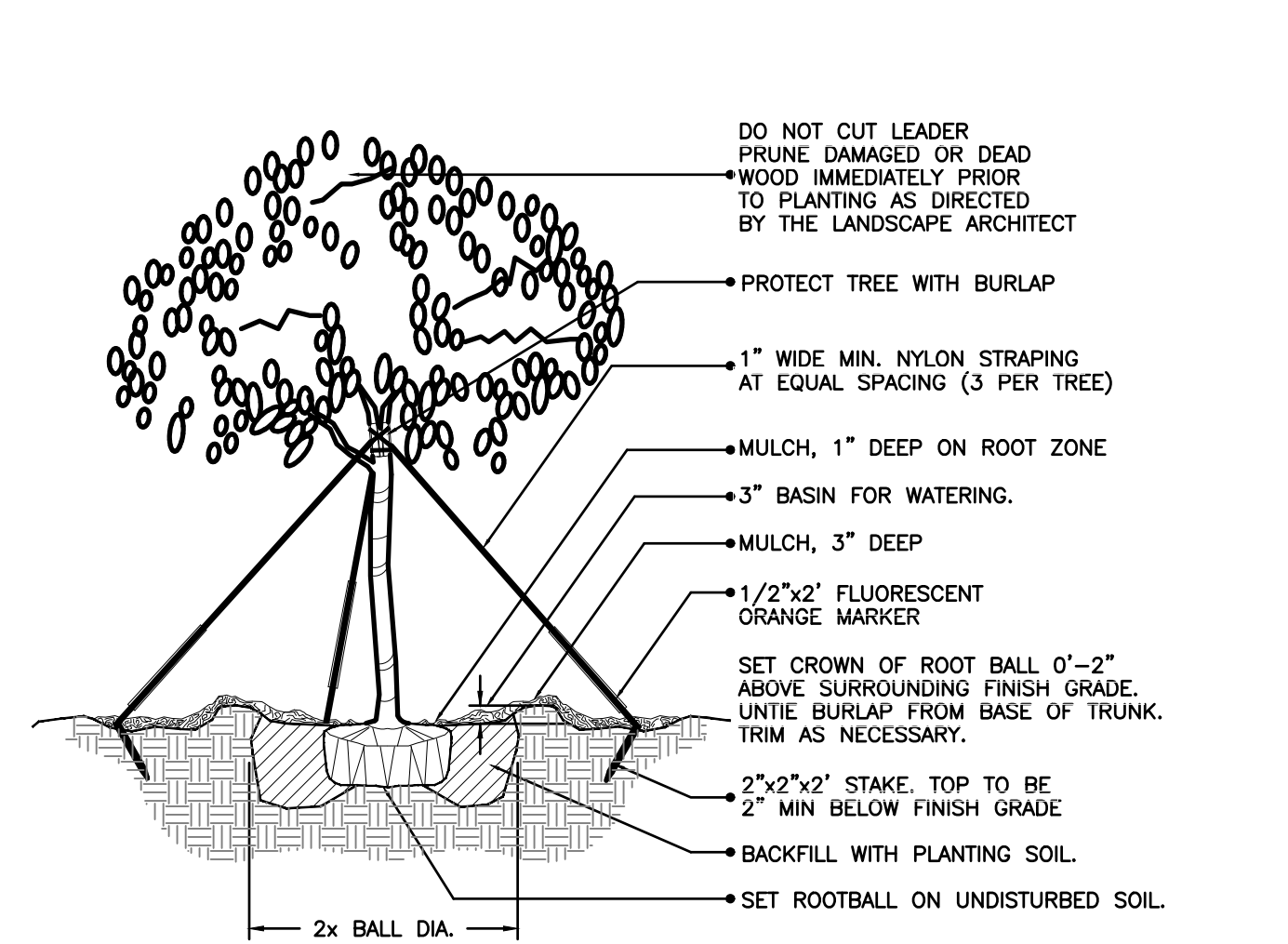
**THOMAS ENGINEERING GROUP**  
 6300 NW 31ST AVENUE  
 FORT LAUDERDALE, FL 33309  
 PH: (561) 202-7000  
 FX: (561) 202-7070  
 www.ThomasEngineeringGroup.com

**MICHAEL D. GROSSWIRTH**  
 REGISTERED LANDSCAPE ARCHITECT  
 FLORIDA LICENSE No. 6666871  
 September 21, 2020  
 FLORIDA BUSINESS CERT. OF AUTH. No. 27528

SHEET TITLE:  
**TREE DISPOSITION PLAN**  
 SHEET NUMBER:  
**L-1.0**

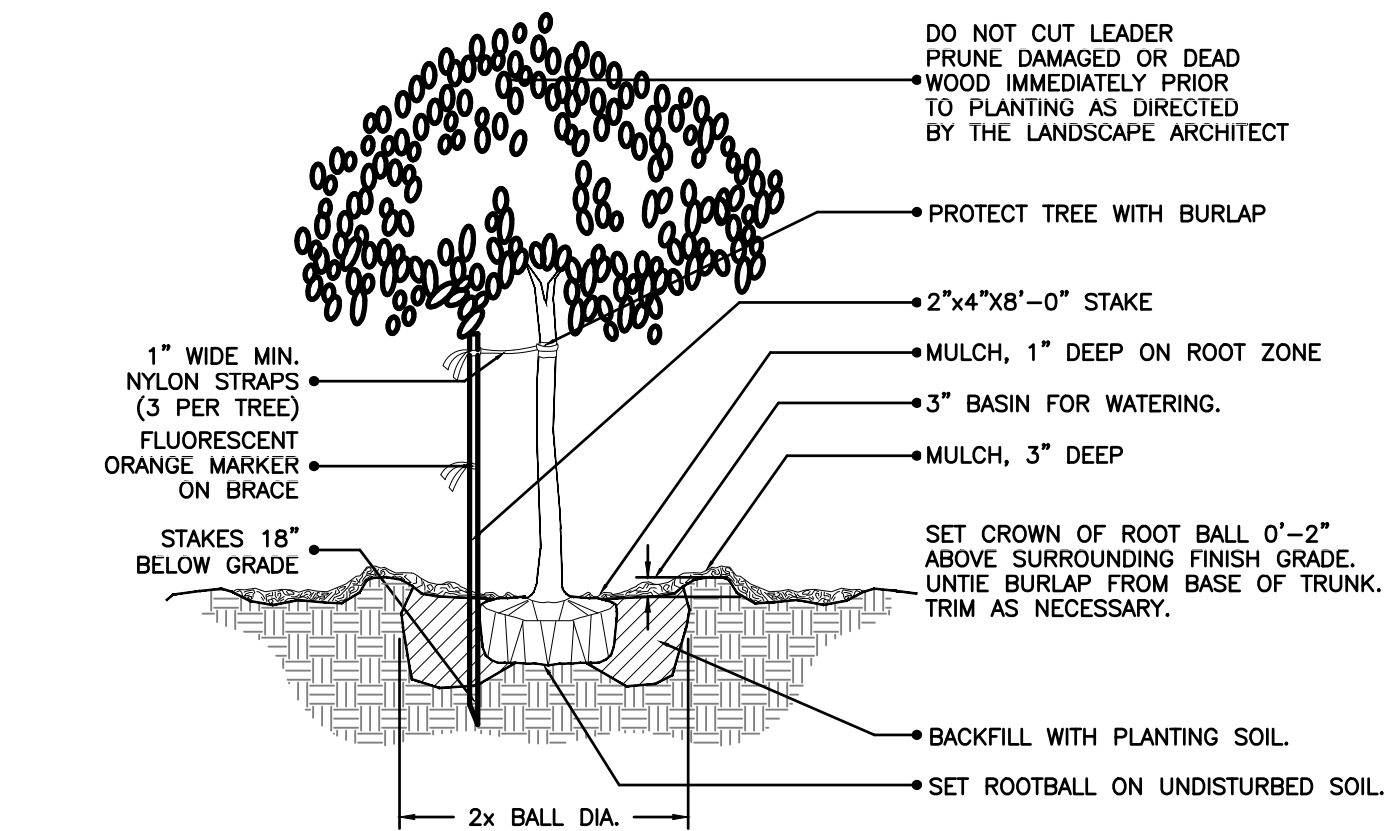


PLANT SCHEDULE											
TREES	CODE	QTY	COMMON NAME	BOTANICAL NAME	SPECIFICATIONS	CAL/DBH	HEIGHT	SPREAD	NATIVE	XERIC	REMARKS
+	CE-S	14	Silver Button Wood	Comocarpus erectus sericeus	45 gal	3" Cal	12' Ht	3-4'	Yes	High	6 CT
+	CS	3	Orange Geiger Tree	Cordia sebestena	45 gal	3" Cal	12' Ht	3-4'	Yes	High	5 CT
+	DR	1	Royal Poinciana	Delonix regia	45 gal	3" Cal	12' Ht	3-4'	No	Medium	
+	IC	5	Dahoon Holly	Ilex cassine	45 gal	3" Cal	12' Ht	3-4'	Yes	High	6 CT
+	LM	12	Muskogee Crape Myrtle	Lagerstroemia indica 'Muskogee'	45 gal	3" Cal	12' Ht	3-4'	No	High	5 CT, Standard
+	MC	7	Wax Myrtle	Myrica cerifera	25 gal	multi-trunk, 3" Min.	6-10' Ht	3-4'	Yes	High	4 CT, MULTI
+	QV	7	Southern Live Oak	Quercus virginiana	45 gal	3" Cal	12' Ht	4-5'	Yes	High	6 CT
PALM TREES	CODE	QTY	COMMON NAME	BOTANICAL NAME	SPECIFICATIONS	CAL/DBH	HEIGHT	SPREAD	NATIVE	XERIC	REMARKS
o	SP	33	Cabbage Palmetto	Sabal palmetto	B & B		10-18' c.t.	10'	Yes	High	Hurricane cut, Counted @3:1
RELOCATED TREES	CODE	QTY	COMMON NAME	BOTANICAL NAME	SPECIFICATIONS	CAL/DBH	HEIGHT	SPREAD	NATIVE	XERIC	REMARKS
o	CNR	1	Coconut Palm	Cocos nucifera	NA		As Noted on Sheet L-1.0		No	Medium	RELOCATED PALM #2
SHRUBS	CODE	QTY	COMMON NAME	BOTANICAL NAME	SPECIFICATIONS	SPACING	HEIGHT	SPREAD	NATIVE	XERIC	REMARKS
o	CAP	13	Jamaica Caper	Capparis cynophallophora	15 gal	As Shown	4-5' Ht	2-3'	Yes	High	
o	CES	15	Silver Button Wood	Comocarpus erectus sericeus	NA	30"	30"	24"	Yes	High	full to base
o	CHH	254	Red Tip Coccoloba	Chrysobalanus icaco 'Red Tip'	NA	30"	30"	24"	Yes	High	Full to base; Maintain at 3' Ht. Min up to 5-6' Ht. Max. Vary Maximum Ht. w/ Owner.
o	COT	10	Black Magic Ti Plant	Cordyline terminalis 'Black Magic'	7 gal	As Shown	30"	24"	No	Medium	3 ppp
o	DRM	2	Red Edged Dracaena	Dracaena marginata	10 gal	As Shown	5-6' Ht	2-3'	No	High	5 canes min.
o	POD	43	Shrubby Yew	Podocarpus macrophyllus maki	NA	24"	30"	24"	No	Medium	full to base
o	VIB	61	Walter's Viburnum	Viburnum obovatum	-	24"	24"	18-24"	Yes	High	Full to base
SHRUB AREAS	CODE	QTY	COMMON NAME	BOTANICAL NAME	SPECIFICATIONS	SPACING	HEIGHT	SPREAD	NATIVE	XERIC	REMARKS
o	DUR	94	Sky Flower	Duranta repens 'Dwarf Golden'	n/a	24"	14-16"	16-18"	Yes	High	Full
o	HAC	61	Dwarf Fire Bush	Hamelia patens 'compacta'	n/a	24"	18-24"	18-24"	Yes	High	Full to base
o	NEB	216	Boston Fern	Nephtolepis exaltata 'Bostoniensis'	n/a	24"	18"	18"	Yes	High	
GROUND COVERS	CODE	QTY	COMMON NAME	BOTANICAL NAME	SPECIFICATIONS	SPACING	HEIGHT	SPREAD	NATIVE	XERIC	REMARKS
o	CAM	14	Dwarf Natal Plum	Carissa macrocarpa	n/a	18"	14-16"	10-12"	No	Medium	
o	ILX	113	Dwarf Schilling's Holly	Ilex vomitoria 'Schilling's Dwarf'	n/a	18"	14-16"	14-16"	Yes	High	
o	IVC	51	Southern Blue Flag Iris	Iris virginica 'Contraband Girl'	n/a	12"	14-16"	10-12"	No	Medium	
o	TRA	101	Asian Jasmine	Trachelospermum asiaticum	n/a	12"	16"	16"	No	Medium	Dwarf; Full to base



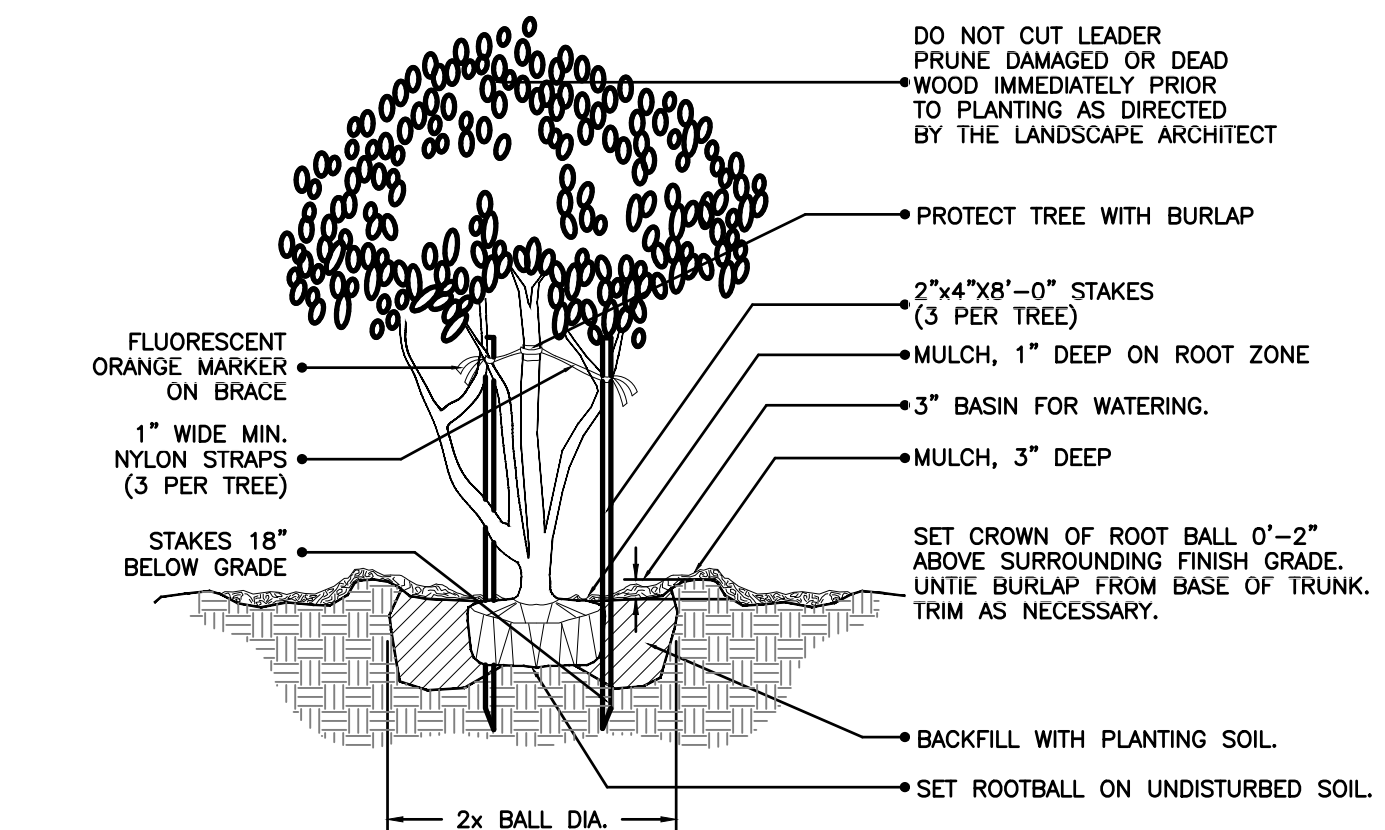
(2" cal. and over)  
LARGE TREE PLANTING DETAIL

NTS.



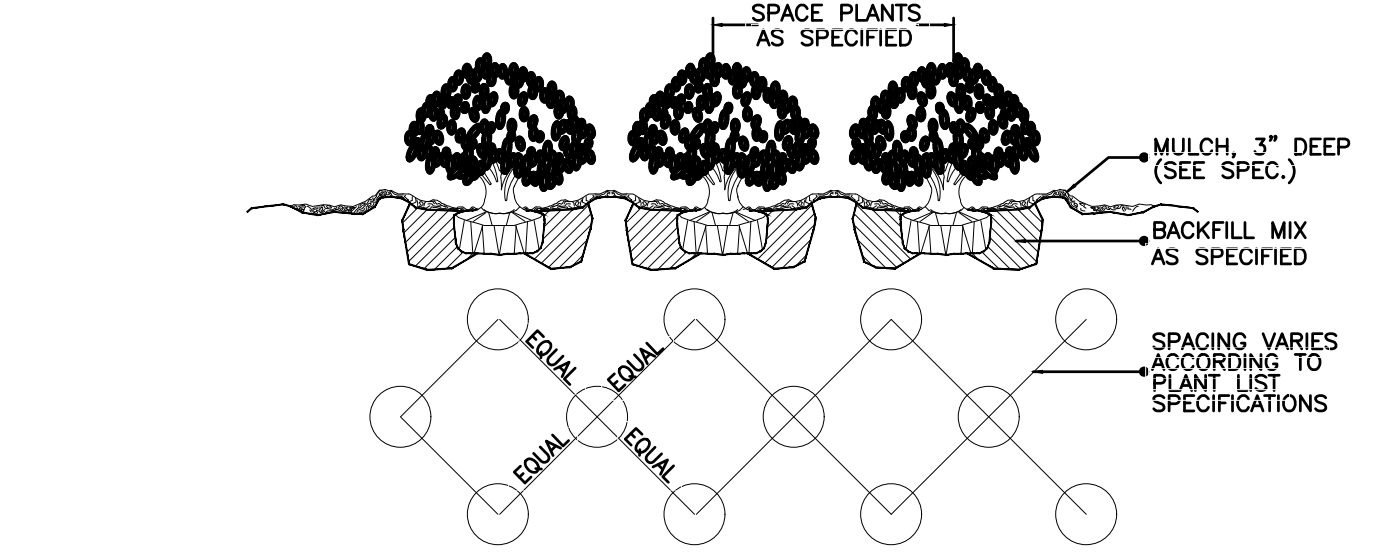
(2" cal. and under)  
SMALL TREE PLANTING DETAIL

NTS.



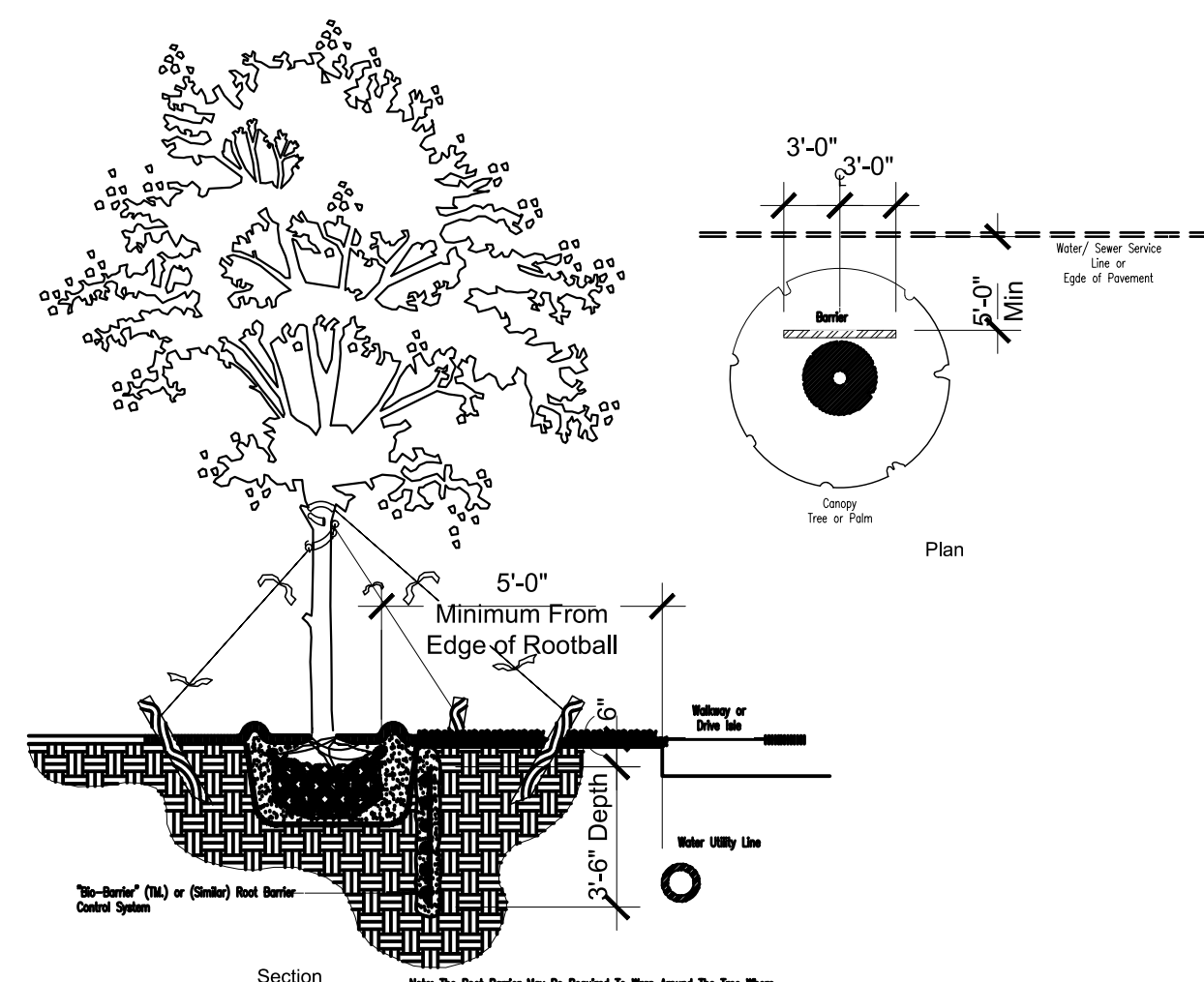
MULTI-TRUNK AND SMALL TREE  
(2" cal. and under) PLANTING DETAIL

NTS.



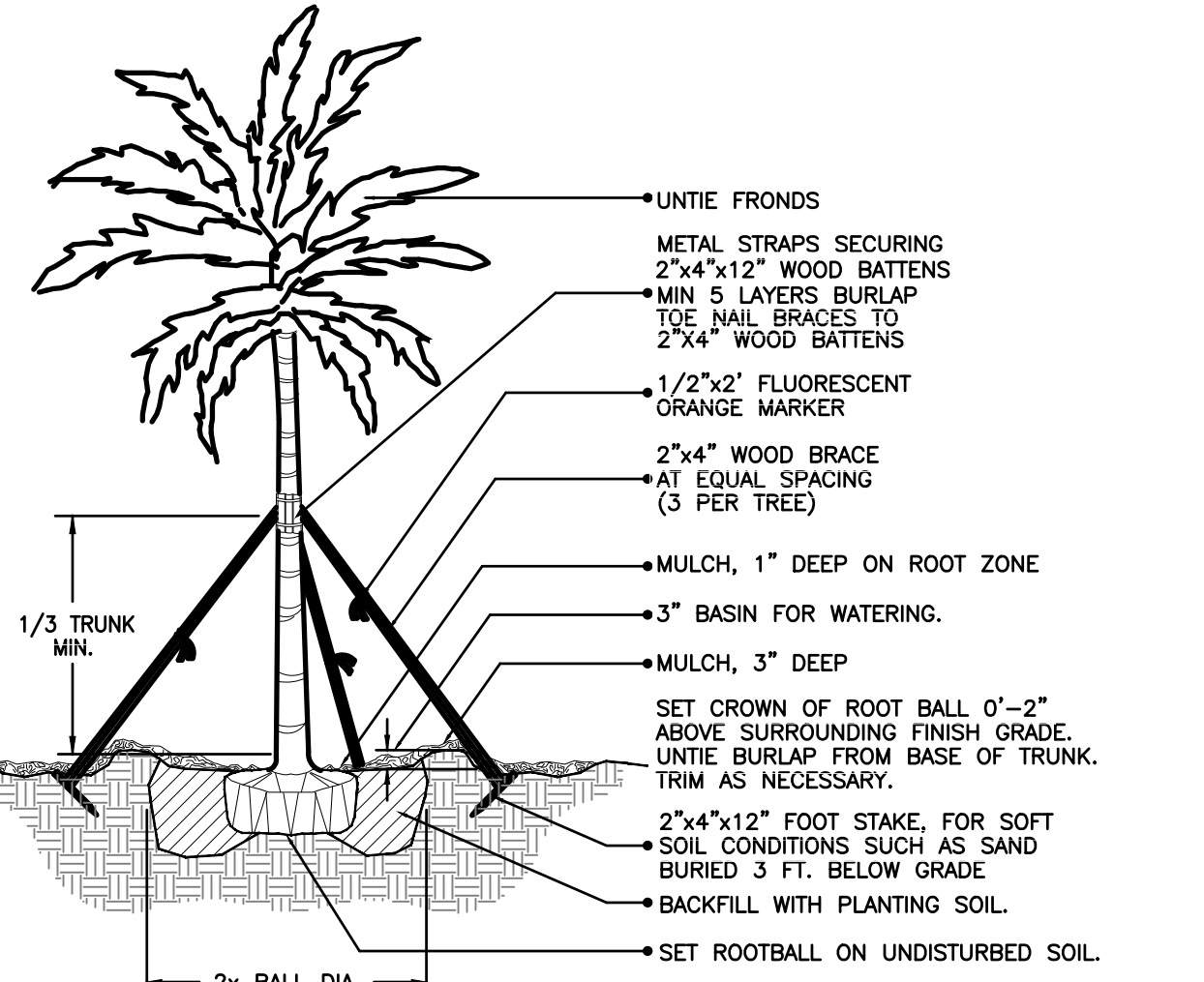
SHRUB / GROUNDCOVER  
SPACING / PLANTING DETAIL

NTS.



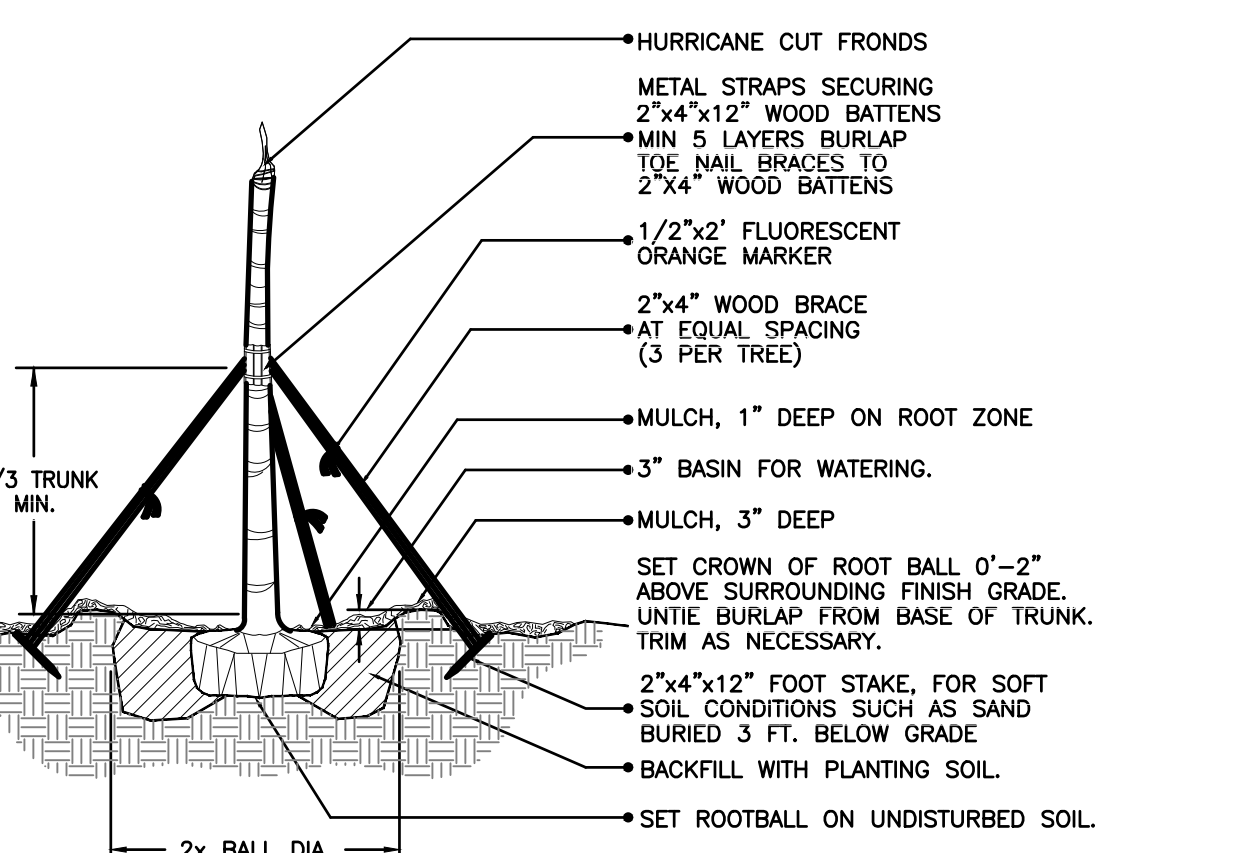
TYPICAL ROOT BARRIER APPLICATION DETAIL

\*OR APPROVED EQUAL



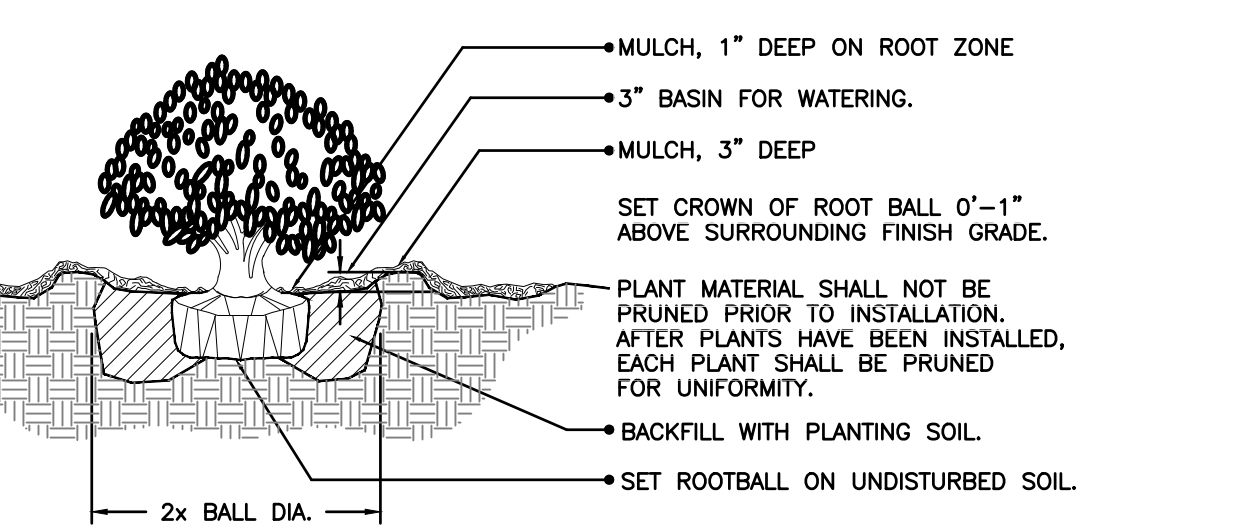
LARGE PALM PLANTING DETAIL

NTS.



CIGARED SABAL  
PALM PLANTING DETAIL

NTS.



SHRUB & PALM PLANTING DETAIL

NTS.

CITY OF LAKE WORTH BEACH, FLORIDA - LANDSCAPE CODE COMPLIANCE CHART  
CH 23; ARTICLE 6. Environmental Regulations

PLANT MATERIAL STANDARDS	REQUIRED	PROVIDED
Plant materials shall be Florida No. 1 or better Trees: 12' ht., 4" ct., 3" Cal.; 50% Native Min.; Existing trees may be credited toward min. tree planting requirements Small Tree: Less than 20' ht. @ Maturity; Medium Tree: 20'-30' ht. @ Maturity; Large Tree: Greater than 30' ht. @ Maturity		
<b>Sec 23.6-1.(C).2. NEW MULTI-FAMILY/COMMERCIAL DEVELOPMENT</b>		
b) 10' wide landscape strip between off-street parking/VUA and R/O/W; 5' wide landscape strip between alleys and off-street parking/VUA (1) Small Tree / 15 LF; (1) Medium Tree / 20 LF; OR (1) Large Tree / 25 LF	9 MEDIUM TREES 8 MEDIUM TREES 7 SMALL TREES	9 MEDIUM TREES 8 MEDIUM TREES 7 Small Trees Continuous Hedge 2.5' Ht.
Lucerne Ave 175.0 LF (175.0 LF/20) N.E Street 177.00 LF - 22.0 LF of Refuse Storage/Structure = (155.0 LF/20) Lake Ave 105.00 LF = (105.0 LF/15) Hedge, wall or durable landscape area along interior perimeter or landscape strip		
c) 5' wide landscape strip between common lot line & VUA of abutting properties Not applicable where a proposed parking area or other vehicular use area abuts an existing hedge or established tree line (1) Shade Tree / 20 LF East Pk: 80 LF (80 LF/20)	4 SHADE TREES	4 SHADE TREES
d) Interior Landscaping of All pervious areas of a Site (exclusive of VUA/ bldg footprints) not associated with required water retention (1) Small Tree / 225 SF; (1) Medium Tree / 400 SF; OR (1) Large Tree / 625 SF 1,440.18 SF Interior Landscape Area exclusive of VUA or Bldgs (1,440.18 SF/225)	7 SMALL TREES	7 SMALL TREES
A 5' wide building landscape area adjacent to bldg perimeters (1) Shrub / 5 SF of Bldg Foundation Landscape Area required (670LF *5 ft/15 ft)	670 SHRUBS	EXCEEDS
<b>Sec 23.6-1.(C).3. INTERIOR LANDSCAPE REQUIREMENT FOR PARKING/OTHER VUA</b>		
a. The amount of interior landscaping within off-street parking areas shall be 20% of the total area used for parking & accessways (1,377.39SF *20%)	2,275.5 SF 18 TREES	2,275.5 SF 18 TREES
b. A group of palms or shade tree / 125 SF of required [VUA] interior landscaping Includes: (1) Shade Tree shall be planted in every interior island (20% Max Palms)		Complies
c. Interior Landscape Islands (8' minimum interior dimension) @ 1/10 Parking Spaces with 1 Tree/Island	0 Islands 5 Islands	NA 5 TREES
d. Terminal Parking Islands (8' minimum interior dimension) 1 Tree/Island		
<b>Sec 23.6-1.(J).6. INTERIOR LANDSCAPE REQUIREMENT FOR PARKING/OTHER VUA</b> Minimum 75% of all Plants Shall be Florida Native	59 Trees 789 Shrubs	47 TREES (79.6%) 734 SHRUBS (93%)
<b>Sec 23.6-1.(K).7. INTERIOR LANDSCAPE REQUIREMENT FOR PARKING/OTHER VUA</b> Palms Shall Contribute no more than 20% of Required Trees	59 Req. Trees	11 TREES (18.6%) (33 PALMS)
<b>Sec 23.6-7.(c).4. MITIGATION</b> TREES AND PALMS WITH A CONDITION RATING LESS THAN 50% ARE EXEMPT FROM DBH INCH-FOR-INCH REQUIREMENT, BUT ARE REQUIRED TO BE MITIGATED ON A TREE-FOR-TREE OR PALM-FOR-PALM BASIS (1 TREE <50% REMOVED)		
	1 Replacement Tree	1 Replacement Tree
<b>TOTALS</b>	59 TREES	59 TREES*

\* INCLUDES (48) PROPOSED TREES, (1) RELOCATED COCONUT PALM, & (11) TREES FROM [34] PALMS @3:1

**THOMAS ENGINEERING GROUP**  
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REVISIONS			
REV.	DATE	COMMENT	BY

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SITE PLAN SUBMITTAL

PROJECT No.:	F200053
DRAWN BY:	JFV
CHECKED BY:	MTK
DATE:	07-24-2020
CAD I.D.:	F200053 LANDSCAPE

PROJECT: **VILLAGE FLATS**  
FOR **INHABIT LAKE WORTH BEACH, LLC**  
LAKE WORTH BEACH, FL

**THOMAS ENGINEERING GROUP**  
6300 NW 31ST AVENUE  
FORT LAUDERDALE, FL 33309  
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REGISTERED LANDSCAPE ARCHITECT  
FLORIDA LICENSE No. 6666871  
September 21, 2020  
FLORIDA BUSINESS CERT. OF AUTH. No. 27528

SHEET TITLE: **PLANT SCHEDULE, NOTES & DETAILS**  
SHEET NUMBER: **L-2.1**

**LANDSCAPE GENERAL NOTES**

**A. SCOPE OF WORK**

1. THE WORK CONSISTS OF FURNISHING ALL LABOR, MATERIALS, EQUIPMENT, TOOLS, TRANSPORTATION, AND ANY OTHER APPURTENANCES NECESSARY FOR THE COMPLETION OF THIS PROJECT AS SHOWN ON THE DRAWINGS, AS INCLUDED IN THE PLANT LIST, AND AS HEREBY SPECIFIED.

2. WORK SHALL INCLUDE MAINTENANCE AND WATERING OF ALL PLANTING AREAS OF THIS CONTRACT UNTIL CERTIFICATION OF ACCEPTABILITY BY THE OWNER.

**B. PROTECTION OF EXISTING STRUCTURES**

1. ALL EXISTING BUILDINGS, WALKS, WALLS, PAVING, PIPING, AND OTHER ITEMS OF CONSTRUCTION AND PLANTING ALREADY COMPLETED OR ESTABLISHED SHALL BE PROTECTED FROM DAMAGE BY THIS CONTRACTOR UNLESS OTHERWISE SPECIFIED. ALL DAMAGE RESULTING FROM NEGLIGENCE SHALL BE REPAIRED OR REPLACED BY THE CONTRACTOR TO THE SATISFACTION OF THE OWNER.

**C. PROTECTION OF EXISTING PLANT MATERIALS OUTSIDE LIMIT OF WORK**

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL UNAUTHORIZED CUTTING OR DAMAGE TO TREES AND SHRUBS, EXISTING OR OTHERWISE, CAUSED BY CARELESS OPERATION OF EQUIPMENT, STOCKPILING OF MATERIALS, ETC. THIS SHALL INCLUDE COMPACTION BY DRIVING OR PARKING INSIDE THE DRIP - LINE OR THE SPILLING OF OIL, GASOLINE, OR OTHER DELETERIOUS MATERIALS WITHIN THE DRIP - LINE.

2. NO MATERIALS SHALL BE BURNED WHERE THE HEAT WILL DAMAGE ANY PLANT, TREES KILLED OR DAMAGED SO THAT THEY ARE MISSHAPEN AND/OR UNSIGHTLY SHALL BE REPLACED AT THE COST TO THE CONTRACTOR OF ONE HUNDRED DOLLARS (\$100) PER CALIPER INCH ON AN ESCALATING SCALE WHICH ADDS AN ADDITIONAL TWENTY PERCENT (20%) PER EACH OVER FOUR INCHES (4") CALIPER AS FIXED AND AGREED LIQUIDATED DAMAGES, OR AS MAY BE REQUIRED BY THE REGULATING GOVERNMENT AGENCY, WHICHEVER IS GREATER. CALIPER SHALL BE MEASURED AT BREAST HEIGHT OR FOUR FEET (4') ABOVE SURROUNDING GROUND.

**D. MATERIALS**

1. SUBMITTALS: GENERAL SAMPLES OF PLANTING MATERIALS AS LISTED BELOW SHALL BE SUBMITTED FOR APPROVAL. ON THE SITE OR AS OTHERWISE DETERMINED BY THE OWNER. UPON APPROVAL OF SAMPLES, DELIVERY OF MATERIALS MAY BEGIN.

**MATERIALS SAMPLE SUBMITTALS**

MULCH ONE (1) CUBIC FOOT  
TOPSOIL ONE (1) CUBIC FOOT  
PLANTS ONE (1) REPRESENTATIVE SAMPLE OF EACH VARIETY

**2. PLANT MATERIALS**

A) GENERAL: PLANT SPECIES, SIZES, & QUANTITIES SHALL, AT A MINIMUM, CONFORM TO THOSE INDICATED ON THE DRAWINGS. NOMENCLATURE SHALL CONFORM TO STANDARDIZED PLANT NAMES, 1942 EDITION. ALL NURSERY STOCK SHALL BE IN ACCORDANCE WITH "GRADES AND STANDARDS FOR NURSERY PLANTS" PARTS I AND II, LATEST EDITION PUBLISHED BY THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES. ALL PLANTS SHALL BE FLORIDA NO. 1, AS AN ABSOLUTE MINIMUM UNLESS OTHERWISE SUPERSEDED BY A FLORIDA FANCY DESIGNATION, AS DETERMINED BY THE FLORIDA DIVISION OF PLANT INDUSTRY. ALL PLANTS SHALL BE FRESHLY DIG, SOUND, HEALTHY, VIGOROUS, WELL-BRANCHED AND FREE OF DISEASE AND INSECTS, INFEST EGGS AND LARVAE, AND SHALL HAVE ADEQUATE ROOT SYSTEMS. TREES FOR PLANTING IN ROWS SHALL BE UNIFORM IN SIZE AND SHAPE. ALL MATERIALS SHALL BE SUBJECT TO APPROVAL BY THE OWNER. WHERE ANY REQUIREMENTS ARE OMITTED FROM THE PLANT LIST, THE PLANTS FURNISHED SHALL BE NORMAL FOR THE VARIETY. PLANTS SHALL BE PRUNED PRIOR TO DELIVERY ONLY UPON THE APPROVAL OF THE OWNER.

B) MEASUREMENTS: THE HEIGHT AND/OR WIDTH OF TREES SHALL BE MEASURED FROM THE TOP OF ROOT BALL (TRUNK FLARE) AND/OR ACROSS THE AVERAGE SPREAD OF BRANCHES WITH THE PLANTS IN THEIR NORMAL POSITION. THIS MEASUREMENT SHALL NOT INCLUDE THE IMMEDIATE TERMINAL GROWTH. PLANTS LARGER IN SIZE THAN THOSE SPECIFIED IN THE PLANT LIST MAY BE USED IF APPROVED BY THE OWNER. IF THE USE OF LARGER PLANTS IS APPROVED, THE BALL OF EARTH OR SPREAD OF ROOTS SHALL BE INCREASED IN PROPORTION TO THE SIZE OF THE PLANT.

C) INSPECTION: PLANTS SHALL BE SUBJECT TO INSPECTION AND APPROVAL AT THE PLACE OF GROWTH, OR UPON DELIVERY TO THE SITE, AS DETERMINED BY THE OWNER. FOR QUALITY, SIZE, AND VARIETY; SUCH PRELIMINARY APPROVAL SHALL NOT SUPERSEDE THE RIGHT OF INSPECTION AND REJECTION AT THE SITE DURING PROGRESS OF THE WORK OR AFTER COMPLETION FOR SIZE AND CONDITION OF BALLS OR ROOTS, LATENT DEFECTS OR INJURIES, PRESENCE OF INSECTS, AND OTHER CONDITIONS THAT MAY HAVE OCCURRED SINCE THE NURSERY INSPECTION. REJECTED PLANTS SHALL BE REMOVED IMMEDIATELY FROM THE SITE. NOTICE REQUIRING INSPECTION SHALL BE SUBMITTED IN WRITING BY THE CONTRACTOR AT LEAST ONE (1) WEEK PRIOR TO ANTICIPATED DATE.

D) AMENDED PLANTING SOIL: PLANTING SOIL FOR USE IN BACK FILLING PLANTING HOLES SHALL BE FORTY PERCENT (40%) TOPSOIL AND SIXTY PERCENT (60%) SAND AND BE FERTILE, FRIABLE, AND OF A LOAMY CHARACTER, WITHOUT MIXTURE OF ROCKS, MATERIALS, AND OBTAINED FROM A WELL-DRAINED, ARABLE SITE. IT SHALL CONTAIN THREE (3) TO FIVE (5) PERCENT DECOMPOSED ORGANIC MATTER AND SHALL BE FREE FROM HEAVY CLAY, COARSE SAND, STONES, LIMES, LUMPS, PLANTS, ROOTS OR OTHER FOREIGN MATERIALS, OR NOXIOUS WEEDS. IT SHALL NOT CONTAIN TOXIC SUBSTANCES WHICH MAY BE HARMFUL TO PLANT GROWTH. PH RANGE SHALL BE 5.0 TO 7.0 INCLUSIVE.

E) SAND SHALL BE CLEAN, WELL DRAINING NATIVE SAND. IF REQUESTED, CONTRACTOR SHALL AT ANY TIME AND AT NO COST TO OWNER, SUBMIT RESULTS OF SOIL TESTS FOR TOPSOIL AND SAND PROPOSED FOR USE UNDER THIS CONTRACT FOR APPROVAL BY OWNER.

**E. WATER**

1. WATER NECESSARY FOR PLANTING AND MAINTENANCE SHALL BE OF SATISFACTORY QUALITY TO SUSTAIN AN ADEQUATE GROWTH OF PLANTS AND SHALL NOT CONTAIN HARMFUL NATURAL OR MAN-MADE ELEMENTS DETRIMENTAL TO PLANTS. WATER MEETING THE ABOVE STANDARD SHALL BE OBTAINED ON THE SITE FROM THE OWNER, IF AVAILABLE, AND THE CONTRACTOR SHALL BE RESPONSIBLE TO MAKE ARRANGEMENTS FOR ITS USE BY HIS TANKS, HOSES, SPRINKLERS, ETC. IF SUCH WATER IS NOT AVAILABLE AT THE SITE, THE CONTRACTOR SHALL PROVIDE SUCH SATISFACTORY WATER FROM SOURCES OFF THE SITE AT NO ADDITIONAL COST TO THE OWNER.

**F. COMMERCIAL FERTILIZER**

1. COMMERCIAL FERTILIZER SHALL BE A COMPLETE FORMULA; IT SHALL BE UNIFORM IN COMPOSITION, DRY AND FREE FLOWING. THIS FERTILIZER SHALL BE DELIVERED TO THE SITE IN THE ORIGINAL UNOPENED CONTAINERS, EACH BEARING THE MANUFACTURER'S GUARANTEED STATEMENT OF ANALYSIS.

2. FIFTY PERCENT (50%) OF THE NITROGEN SHALL BE DELIVERED FROM NATURAL ORGANIC SOURCES. THE FOLLOWING FERTILIZERS SHALL BE USED AND APPLIED AT RATES AS SUGGESTED BY MANUFACTURER'S SPECIFICATIONS:  
1. SHRUBS AND TREES - MILORGANITE, OR APPROVED EQUAL  
2. ANNUALS AND GROUNDCOVERS - OSMOCOTE/SIERRA BLEND 14 - 14 - 14  
3. SOD - 8 - 8 - 8  
IN ADDITION TO SURFACE APPLIED FERTILIZERS, ALL CONTAINER GROWN AND FIELD GROWN PLANT MATERIAL SHALL RECEIVE "AGRIFORM" PLANTING TABLETS 24 - 10 - 5 FORMULA, 21 GRAM OR EQUAL. THESE TABLETS SHALL BE PLACED AT THE RATE AND DEPTH SPECIFIED BY MANUFACTURER.

**G. MULCH**

1. MULCH SHALL BE FROM SHREDDED WOOD DERIVED FROM MELALEUCA OR OTHER INVASIVE TREE SPECIES AND SHALL BE STERILIZED TO EFFECTIVELY ELIMINATE ALL SEEDS, SPORES, ETC. AND RENDER THEM BARREN.

2. MULCH MATERIAL SHALL BE MOISTENED AT THE TIME OF APPLICATION TO PREVENT WIND DISPLACEMENT AND APPLIED AT A DEPTH OF THREE INCHES (3"). MULCH IS TO BE KEPT 2-3" FROM THE STEM OF ALL GROUNDCOVERS & 3-6" FROM THE TRUNK OF ALL TREES & PALMS.

3. MULCH SHALL BE GRADE "B" SHREDDED, AND SHALL BE APPLIED EVENLY AND SMOOTH TO PLANTING AREAS.

4. NO RED OR COLORED MULCH SHALL BE ACCEPTED UNLESS SPECIFIED ACCORDINGLY. NO CYPRESS MULCH OR PINE BARK SHALL BE USED.

**H. DIGGING AND HANDLING**

1. PROTECT ROOT SYSTEMS OR ROOT BALLS OF PLANTS AT ALL TIMES FROM SUN AND DRYING WINDS, WATER EROSION, AND OTHER HARMFUL CRITERIA AS NECESSARY UNTIL PLANTING. PLANT MATERIALS SHALL BE ADEQUATELY PACKED TO PREVENT BREAKING AND DRYING OUT DURING LOADING, TRANSIT, AND UNLOADING/PLANTING. TREES TRANSPORTED MORE THAN TEN (10) MILES OR WHICH ARE NOT PLANTED WITHIN THREE (3) DAYS OF DELIVERY TO SITE SHALL BE SPRAYED WITH AN ANTITRANSPIRANT PRODUCT ("WILTPROLIF" OR EQUAL) TO MINIMIZE TRANSPIRATIONAL WATER LOSS.

2. BALLED AND BURLAPPED PLANTS (B&B) SHALL BE DUG WITH FIRM, NATURAL BALLS OF SOIL SUFFICIENT SIZE TO ENCOMPASS THE FIBROUS AND FEEDING ROOTS OF THE PLANTS, AND IN ACCORDANCE WITH "GRADES AND STANDARDS FOR NURSERY PLANTS" FLORIDA PUBLICATION. NO PLANT WITH A ROOTBALL SHALL BE PLANTED IF

THE BALL IS CRACKED OR BROKEN. PLANTS BALLED AND BURLAPPED OR CONTAINER GROWN SHALL NOT BE HANDLED BY STEMS.

3. PLANTS MARKED "B" IN THE PLANT LIST SHALL BE DUG WITH BARE ROOTS. THE ROOTS SHALL NOT BE CUT WITHIN THE MINIMUM SPREAD SPECIFIED IN THE PLANT LIST. CARE SHALL BE EXERCISED THAT THE ROOTS DO NOT DRY OUT IN MOVING AND PRIOR TO PLANTING.

4. PROTECTION OF PALMS (IF APPLICABLE): ONLY A MINIMUM OF FRONDS SHALL BE REMOVED FROM THE CROWN OF THE PALM TREES TO FACILITATE MOVING AND HANDLING. CLEAR TRUNK (CT) SHALL BE OBTAINED BY "GRADES AND STANDARDS FOR NURSERY PLANTS" FLORIDA PUBLICATION. PRUNING PRACTICED OTHER THAN MINIMAL PRUNING OF FRONDS, PRIMARILY TO REACH A "CLEAR TRUNK" SPECIFICATION, MAY CONSTITUTE REJECTION. OF ALL PALMS SUBJECTED TO SUCH PRACTICE. LIKEWISE, EXCESSIVE PRUNING OR "SHAVING" OF ROOT BALLS TO MEET "CLEAR TRUNK" CRITERIA MAY CONSTITUTE REJECTION ONSITE. ALL PALMS SHALL BE BRACED PER PALM PLANTING DETAIL ON THE PLANTING DETAILS SHEET.

5. EXCAVATION OF PLANTING HOLES SHALL BE DONE USING EXTREME CARE TO AVOID DAMAGE TO SURFACE AND SUBSURFACE ELEMENTS SUCH AS UTILITIES OR HARDSCAPE ELEMENTS, FOOTERS, AND PREPARED SUB-BASES.

**I. CONTAINER GROWN STOCK**

1. ALL CONTAINER GROWN MATERIAL SHALL BE HEALTHY, VIGOROUS, WELL - ROOTED PLANTS AND ESTABLISHED IN THE CONTAINER IN WHICH THEY ARE SOLD. THE PLANTS SHALL HAVE TOPS WHICH ARE OF GOOD QUALITY AND ARE IN A HEALTHY GROWING CONDITION, AND SHALL MEET MINIMUM SPECIFICATIONS IN THE PLANT LIST.

2. AN ESTABLISHED CONTAINER GROWN PLANT SHALL BE TRANSPLANTED INTO A CONTAINER AND GROWN IN THAT CONTAINER SUFFICIENTLY LONG FOR THE NEW FIBROUS ROOTS TO HAVE DEVELOPED SO THAT THE ROOT MASS WILL RETAIN ITS SHAPE AND HOLD TOGETHER WHEN REMOVED FROM THE CONTAINER. CONTAINER GROWN STOCK SHALL NOT BE HANDLED BY THEIR STEMS.

3. PLANT ROOTS BOUND IN CONTAINERS OR WITH CIRCLING ROOTS SHALL NOT BE ACCEPTABLE.

4. SUBSTITUTION OF NON-CONTAINER GROWN MATERIAL FOR MATERIAL EXPLICITLY SPECIFIED TO BE CONTAINER GROWN WILL NEED AUTHORIZATION FROM THE OWNER. LIKEWISE, SUBSTITUTION OF CONTAINER GROWN MATERIAL FOR MATERIAL EXPLICITLY SPECIFIED TO BE BALLED AND BURLAPPED/FIELD GROWN WILL NEED AUTHORIZATION FROM THE OWNER AND LA OF RECORD PRIOR TO THE ORDERING OF ANY MATERIALS.

5. ALL PLANT MATERIALS SHALL MEET THE MINIMUM SPECIFICATIONS LISTED IN THE PLANT SCHEDULE, SIZE (HEIGHT/SPREAD) SPECIFICATIONS TAKE PRECEDENCE OVER GALLON SIZES (IF GALLON SIZES ARE SPECIFIED).

**J. COLLECTED STOCK**

1. WHEN THE USE OF COLLECTED STOCK IS PERMITTED AS INDICATED ON THE PLANT LIST SCHEDULE, THE MINIMUM SIZES OF ROOT BALLS SHALL BE EQUAL TO THAT SPECIFIED FOR THE NEXT LARGER SIZE OF NURSERY GROWN STOCK OF THE SAME VARIETY.

**K. NATIVE STOCK**

1. PLANTS COLLECTED FROM WILD OR NATIVE STAND SHALL BE CONSIDERED GROWN WHEN THEY HAVE BEEN SUCCESSFULLY REESTABLISHED IN A NURSERY ROW AND GROWN UNDER REGULAR NURSERY CULTURAL PRACTICES FOR A MINIMUM OF TWO (2) GROWING SEASONS AND HAVE ATTAINED ADEQUATE ROOT AND TOP GROWTH TO INDICATE FULL RECOVERY FROM TRANSPLANTING INTO THE NURSERY ROW.

**L. MATERIALS LIST**

1. QUANTITIES NECESSARY TO COMPLETE THE WORK ON THE DRAWINGS SHALL BE FURNISHED. QUANTITY ESTIMATES HAVE BEEN MADE CAREFULLY, BUT THE CONTRACTOR SHALL BE RESPONSIBLE FOR NO LIABILITY FOR OMISSIONS OR ERRORS. SHOULD A DISCREPANCY OCCUR BETWEEN A BIDDER'S TAKE OFF AND THE PLANT LIST QUANTITY, THE LANDSCAPE ARCHITECT SHALL BE NOTIFIED FOR CLARIFICATION PRIOR TO THE SUBMISSION OF BIDS. DRAWING SHALL TAKE PRECEDENCE. ALL DIMENSIONS AND/OR SIZES SPECIFIED SHALL BE THE MINIMUM ACCEPTABLE SIZE. WHERE NO GALLON SIZE IS SPECIFIED ON CONTAINERIZED SHRUBS OR GROUNDCOVERS, THE HEIGHT & SPREAD SPECIFICATIONS SHALL PREVAIL.

**M. FINE GRADING**

1. FINE GRADING UNDER THIS CONTRACT SHALL CONSIST OF FINAL FINISHED GRADING OF LAWN AND PLANTING AREAS THAT HAVE BEEN ROUGH GRADED BY OTHERS. BERMING AS SHOWN ON THE DRAWINGS SHALL BE THE RESPONSIBILITY OF THE LANDSCAPE CONTRACTOR, UNLESS OTHERWISE NOTED.

2. THE CONTRACTOR SHALL FINE GRADE THE LAWN AND PLANTING AREAS TO BRING THE ROUGH GRADE UP TO FINISHED GRADE ALLOWING FOR THE THICKNESS OF SOD AND/OR MULCH DEPTH. THIS CONTRACTOR SHALL FINE GRADE BY HAND AND/OR WITH ALL EQUIPMENT NECESSARY INCLUDING A GRADING TRACTOR WITH FRONT-LOADER FOR TRANSPORTING SOIL WITHIN THE SITE.

3. ALL PLANTING AREAS SHALL BE GRADED AND MAINTAINED TO ALLOW FREE FLOW OF SURFACE WATER. AREAS ADJACENT TO BUILDINGS SHALL SLOPE AWAY FROM THE BUILDINGS.

**N. PLANTING PROCEDURES**

1. CLEANING UP BEFORE COMMENCING WORK: THE CONTRACTOR SHALL CLEAN UP WORK AND SURROUNDING AREAS OF ALL RUBBISH OR OBJECTIONABLE MATTER, ALL MORTAR, CEMENT, AND TOXIC MATERIAL SHALL BE COMPLETELY REMOVED FROM THE SITE. THESE MATERIALS SHALL NOT BE MIXED WITH THE SOIL. SHOULD THE CONTRACTOR FIND SUCH SOIL CONDITIONS BENEATH THE SOIL WHICH WILL IN ANY WAY AFFECT THE VIABILITY OF THE PLANTS TO BE INSTALLED, HE/SHE SHALL IMMEDIATELY CALL IT TO THE ATTENTION OF THE OWNER'S CONSTRUCTION MANAGER OR DESIGNER.

2. DURING LAND ALTERATION AND CONSTRUCTION ACTIVITIES, IT SHALL BE PROHIBITED TO REMOVE ADEQUATE QUANTITY OF RUBBISH OR TO PLACE SOIL DEPOSITS, DEBRIS, SOLVENTS, CONSTRUCTION MATERIAL, MACHINERY OR OTHER EQUIPMENT OF ANY KIND WITHIN THE DRUPLINE OF A TREE TO REMAIN ON THE SITE UNLESS OTHERWISE APPROVED BY THE JURISDICTIONAL MUNICIPALITY.

3. VERIFY LOCATIONS OF ALL UTILITIES, CONDUITS, SUPPLY LINES AND CABLES. INCLUDING BUT NOT LIMITED TO: ELECTRIC, GAS LINES AND TANKS), WATER, SANITARY SEWER, STORM WATER LINES, CABLE AND TELEPHONE. PROPERLY MAINTAIN AND PROTECT EXISTING UTILITIES.

4. SUBGRADE EXCAVATION: CONTRACTOR IS RESPONSIBLE TO REMOVE ALL EXISTING AND IMPORTED LIMEROCK AND LIMEROCK SUB-BASE FROM ALL LANDSCAPE PLANTING AREAS TO MINIMUM DEPTH OF APPROXIMATELY 20% GREATER THAN THE RECOMMENDED PLANTING SOIL DEPTH - UNLESS OTHERWISE SPECIFIED BY JURISDICTIONAL CODE. CONTRACTOR IS RESPONSIBLE TO BACKFILL THESE PLANTING AREAS TO ROUGH FINISHED GRADE WITH CLEAN TOPSOIL FROM AN ONSITE SOURCE OR AN IMPORTED SOURCE. IF LIMEROCK CONDITIONS OCCUR IN PLANTED AREAS AFTER 36" DEEP EXCAVATION BY THE CONTRACTOR, AND POSITIVE DRAINAGE CAN NOT BE ACHIEVED, CONTRACTOR SHALL UTILIZE PLANTING DETAIL THAT ADDRESSES POOR DRAINAGE OR CONTACT OWNER'S CONSTRUCTION MANAGER OR DESIGNER FOR RESOLUTION.

CONTRACTOR IS TO INSURE THAT ALL COMPACTED SOIL, ROAD RAKE, & EXCESS DEBRIS SHALL BE REMOVED & A 24" LAYER OF NON-LIMEROCK PLANTING SOIL FAVORABLE TO SHRUB GROWTH & SUSTAINABILITY EXISTED OVER ALL PLANTING AREAS. TREE PITS SHALL BE EXCAVATED & BACKFILLED WITH PLANTING SOIL TO A MINIMUM DEPTH OF 30".

5. RECOMMENDED PLANTING SOIL DEPTH IS GENERALLY AS FOLLOWS:  
ALL TREES AND TALL SHRUBS (INDICATED AS "SHRUBS" & "SHRUBS AREAS" ON THE PLANT SCHEDULE) SHALL BE PLANTED WITH A MINIMUM OF 12" TOPSOIL AROUND AND BENEATH THE ROOTBALL; MINIMUM TOPSOIL SHALL BE 6" FOR LOW SHRUBS/GROUNDCOVER AREAS AND 2" FOR SODDED GRASS AREAS.

THE MINIMUM TOPSOIL DEPTHS ARE IN ADDITION TO A MINIMUM NON-LIMEROCK SOIL DEPTH OF 12"-30", CONSISTING OF EXISTING UNDISTURBED OR NATIVE SOIL THAT WAS STORED/STOCKPILED ON SITE AND REUSED, OR CLEAN IMPORTED PLANTING SOIL WITH A RANGE OF ORGANIC MATTER BETWEEN 3-5% CONTAINING NO STONES GREATER THAN AN INCH AND A HALF IN DIAMETER IN ANY DIRECTION. TOPSOIL DEPTHS PLUS PLANTING SOIL/EXISTING NATIVE SOIL MINIMUM DEPTHS ARE IN ADDITION TO ANY LIMESTONE/LIMEROCK SUBGRADE, & IN ADDITION TO EXCAVATION WIDTHS REQUIRED FOR TREE PITS AS SHOWN ON THE PLANTING DETAILS.

IT IS THE CONTRACTOR'S RESPONSIBILITY TO VISIT THE SITE & TAKE REASONABLE MEASURES AS PART OF DUE DILIGENCE TO DETERMINE THE EXTENT OF EXCAVATION REQUIRED & TO DETERMINE THE AMOUNT OF PLANTING SOIL NECESSARY TO ENSURE LONG-TERM SUSTAINABILITY & SURVIVAL OF THE PLANT MATERIALS IN ACCORDANCE WITH THIS CONTRACT.

6. FURNISH NURSERY'S CERTIFICATE OF COMPLIANCE WITH ALL REQUIREMENTS AS HEREBY SPECIFIED AND REQUIRED. INSPECT AND SELECT PLANT MATERIALS BEFORE PLANTS ARE DUG AT NURSERY OR GROWING SITE.

7. GENERAL: COMPLY WITH FEDERAL, STATE, COUNTY AND LOCAL REGULATIONS GOVERNING LANDSCAPE MATERIALS AND WORK. CONFORM TO ACCEPTED HORTICULTURAL PRACTICES AS USED IN THE TRADE. PLANTS SHALL BE PROTECTED UPON ARRIVAL AT THE SITE BY REMAINING THOROUGHLY WATERED AND PROPERLY MAINTAINED UNTIL PLANTED. PLANTS SHALL NOT BE KEPT UNPROTECTED FOR A PERIOD EXCEEDING TWENTY-FOUR (24) HOURS. AT ALL TIMES WORKMANLIKE METHODS CUSTOMARY IN GOOD HORTICULTURAL PRACTICES SHALL BE EXERCISED.

8. THE WORK SHALL BE COORDINATED WITH OTHER TRADES TO PREVENT CONFLICTS. COORDINATE THE PLANTING WITH THE IRRIGATION WORK TO ASSURE AVAILABILITY OF WATER AND PROPER LOCATION OF IRRIGATION ITEMS AND PLANTS.

9. ALL PLANTING HOLES SHALL BE EXCAVATED TO SIZE AND DEPTH IN ACCORDANCE WITH THE USA STANDARD TO NURSERY STOCK 280.1, UNLESS SHOWN OTHERWISE ON THE DRAWINGS, AND BACKFILLED WITH THE PREPARED

PLANTING SOIL AS SPECIFIED HEREIN BEFORE (SEE MATERIALS, SECTION D). TEST ALL TREE PITS WITH WATER BEFORE PLANTING TO ASSURE PROPER DRAINAGE PERCOLATION IS AVAILABLE. NO ALLOWANCE WILL BE MADE FOR MOST PLANTS DUE TO IMPROPER DRAINAGE. IF POOR DRAINAGE EXISTS, UTILIZE PLANTING DETAIL THAT ADDRESSES THIS CONDITION. POOR DRAINAGE CONDITIONS TYPICALLY HAVE A PERCOLATION RATE OF 4" OR LESS PER HOUR, AS DETERMINED BY THE GEOTECHNICAL ENGINEER. TREES SHALL BE SET PLUMBS AND HELD IN POSITION UNTIL THE PLANTING MIXTURE HAS BEEN FLUSHED INTO PLACE WITH A SLOW, FULL HOSE STREAM. ALL PLANTING SHALL BE PERFORMED BY PERSONNEL FAMILIAR WITH PLANTING PROCEDURE AND UNDER THE SUPERVISION OF A QUALIFIED PLANTING FOREMAN. PROPER "JETTING IN" SHALL BE ASSURED TO ELIMINATE AIR POCKETS AROUND THE ROOTS. "JET STICK" OR EQUAL RECOMMENDED.

10. TAKE ALL NECESSARY PRECAUTIONS TO AVOID DAMAGE TO BUILDINGS, CURBS, PAVING, AND OTHER HARDSCAPE MATERIALS WHILE INSTALLING TREES.

11. SOIL MIXTURE SHALL BE AS SPECIFIED IN SECTION D (MATERIALS) OF THESE SPECIFICATIONS. IN ADDITION, EACH PLANTING HOLE SHALL RECEIVE 21-GRAM "AGRIFORM" PLANTING TABLETS PER MANUFACTURER'S SPECIFICATIONS OR AS FOLLOWS:  
- TWO (2) TABLETS PER 1 GAL PLANT  
- THREE (3) TABLETS PER 3 GAL PLANT  
- FOUR (4) TABLETS PER 10 GAL PLANT LARGER MATERIAL  
- TWO (2) TABLETS PER HALF INCH (1/2") OF TRUNK CALIPER

12. TREES AND SHRUBS SHALL BE SET STRAIGHT AND AT SUCH A LEVEL THAT AFTER SETTLEMENT, THE TOP OF THE ROOT SYSTEM (FOR SHRUBS AND GROUNDCOVER) OR TRUNK FLARE (TREES AND PALMS) WILL STAND ONE (1) TO TWO (2) INCHES ABOVE FINAL GRADE. EACH PLANT SHALL BE SET IN THE CENTER OF THE PLANTING HOLE. PLANTING SOIL MIXTURE SHALL BE BACKFILLED AND THOROUGHLY TAMPED AROUND THE BALL AND SHALL BE SETTLED BY WATER AFTER TAMPING.

13. FILL HOLE WITH SOIL MIXTURE, MAKING CERTAIN ALL SOIL IS SATURATED. TO DO THIS, FILL HOLE WITH WATER AND ALLOW TO SOAK MINIMUM TWENTY (20) MINUTES, TURNING SOIL IF NECESSARY TO GET SOIL THOROUGHLY WET. PACK LIGHTLY WITH FEET OR OTHER TAMPING DEVICES. ADD MORE WET SOIL MIXTURE. DO NOT COVER TOP OF BALL WITH SOIL MIXTURE, ONLY WITH MULCH. ALL BURLAP, ROPE, WIRES, ETC., SHALL BE PULLED FROM UNDERNEATH.

14. PRUNING: FOR DAMAGED OR BROKEN LIMBS, EACH TREE SHALL BE PRUNED TO PRESERVE THE NATURAL CHARACTER OF THE SPECIES. ALL SUCKER GROWTH SHALL BE COMPLETELY REMOVED PRIOR TO DIGGING.

15. SHRUBS AND GROUNDCOVER PLANTS SHALL BE EVENLY SPACED IN ACCORDANCE WITH THE DRAWINGS AND AS INDICATED IN THE PLANT LIST. CULTIVATE ALL MASS PLANTING AREAS TO A MINIMUM DEPTH OF 6", REMOVE AND DISPOSE OF ALL DEBRIS, TILL 4" OF PLANTING SOIL MIX INTO THE NEWLY TILLED PLANTING BED FOR GENERAL NUTRIENT DISBURSEMENT. MASS PLANTING BED IS NOW READY TO RECEIVE HOLES FOR NEW PLANTS. THOROUGHLY WATER ALL PLANTS AFTER INSTALLATION.

16. TREE GUYING AND BRACING SHALL BE INSTALLED BY THE LANDSCAPE CONTRACTOR IN ACCORDANCE WITH THE PLANS TO ENSURE STABILITY AND MAINTAIN TREES IN AN UPRIGHT POSITION. TREES SHALL USE ARBORITE AS PER DETAIL SHEET. PALMS SHALL USE WOOD BRACING PER DETAIL SHEET.

17. MULCHING: PROVIDE A THREE INCH (3") MINIMUM LAYER OF SPECIFIED MULCH OVER THE ENTIRE AREA OF EACH SHRUB BED, GROUNDCOVER AND VINE BED AND TREE PIT (FOR TREES AND PALMS, MIN. THREE INCH (3") FROM EDGE OF TRUNKS), - UNLESS OTHERWISE REQUIRED BY LOCAL CODES AND SPECIFIED AS SUCH.

18. SYSTEMIC HERBICIDE WEED CONTROL: ALL PLANT BEDS SHALL BE KEPT FREE OF NOXIOUS WEEDS UNTIL FINAL ACCEPTANCE OF WORK. IF DIRECTED BY THE OWNER OR THEIR DESIGNER, A SYSTEMIC HERBICIDE SHALL BE APPLIED FOR WEED CONTROL. BY QUALIFIED PERSONNEL. TO ALL PLANTING AREAS IN SPOT APPLICATIONS PER MANUFACTURER'S DIRECTIONS AND SPECIFICATIONS. AFTER MULCH HAS BEEN APPLIED TO PLANTING BEDS AND TREE RINGS, TREAT ALL MULCHED AREAS WITH AN APPROVED PRE-EMERGENT HERBICIDE AT AN APPLICATION RATE RECOMMENDED BY THE MANUFACTURER.

**O. LAWN SODDING**

STENOZYPHUM SECUNDATUM, V. FLORISANT" UNLESS OTHERWISE NOTED, (ST. AUGUSTINE SOLID SOD).

1. THE WORK CONSISTS OF LAWN BED PREPARATION, SOIL PREPARATION, AND SODDING; COMPLETE IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND THE APPLICABLE DRAWINGS TO PRODUCE A GRASS LAWN ACCEPTABLE TO THE OWNER AND GOVERNING AGENCIES.

**P. FINE GRADING**

1. LAWN BED PREPARATION: ALL AREAS THAT ARE TO BE SODDED SHALL BE CLEARED OF ANY ROUGH GRASS, WEEDS, AND OTHER DEBRIS, AND THE SOIL BROUGHT TO AN EVEN PREPARED GRADE TO ALLOW FOR SOIL PREPARATION BELOW.

2. SOIL PREPARATION: PREPARE LOOSE BED FOUR INCHES (4") DEEP. APPLY FERTILIZER AT A RATE OF TWENTY (20) POUNDS PER ONE THOUSAND (1000) SQUARE FEET. APPLICATION SHALL BE UNIFORM, UTILIZING COMMERCIAL BROADCAST SPREADERS. MIX FERTILIZER THOROUGHLY WITH THE SOIL TO A DEPTH OF THREE INCHES (3"). HAND RAKE UNTIL ALL BUMPS AND DEPRESSIONS ARE REMOVED. WET PREPARED AREA THOROUGHLY TO PREPARE FOR SOD INSTALLATION.

3. SODDING: THE CONTRACTOR SHALL SOD ALL THE PERVIOUS AREAS THAT ARE NOT PAVED OR PLANTED AS DESIGNATED ON THE DRAWINGS WITHIN THE CONTRACT LIMITS TO CREATE A UNIFORM, NEW TURF BLANKET FOR THE SITE. ALL PERVIOUS AREAS TO REMAIN THAT ARE DISTURBED BY CONSTRUCTION & NOT SHOWN TO HAVE SHRUBS OR GROUNDCOVER ON THE LANDSCAPE PLAN SHALL BE SODDED BY CONTRACTOR. ALL SOD OFF-SITE OR IN THE RIGHT-OF-WAY (DEDICATED OR OTHERWISE) SHALL BE BAHIA 'ARGENTINE' SOLID SOD UNLESS OTHERWISE NOTED.

A) THE SOD SHALL BE CERTIFIED TO MEET FLORIDA STATE BOARD SPECIFICATIONS, ABSOLUTELY TRUE TO VARIETY TYPE, AND FREE FROM WEEDS, FUNGUS, INSECTS, AND DISEASE OF ANY KIND. SOD PANELS SHALL BE LAID TIGHTLY TOGETHER TO MAKE A SOLID, SODDED LAWN AREA.

B) SOD SHALL BE LAID IN ROWS WITH EVERY OTHER ROW STAGGERED HALFWAY BETWEEN THE NEXT TO INSURE NO CONTINUOUS STAINED JOINTS. SEW JOINTS OF SOD TO INSURE A TIGHT FIT AT JOINTS, WITH GAPS NO GREATER THAN 1/8" BETWEEN SOD PANELS.

C) SOD SHALL BE LAID UNIFORMLY AGAINST THE EDGES OF ALL CURBS AND OTHER HARDSCAPE ELEMENTS, PAVED AND PLANTED AREAS, ADJACENT TO BUILDINGS, A FOUR INCH (4") MULCH STRIP SHALL BE PROVIDED. IMMEDIATELY FOLLOWING SOD LAYING, THE LAWN AREAS SHALL BE ROLLED WITH A LAWN ROLLER CUSTOMARILY USED FOR SUCH PURPOSES, AND THEN THOROUGHLY IRRIGATED TO THOROUGHLY MOISTEN THE SOIL BENEATH. IF, IN THE OPINION OF THE OWNER, TOP-DRESSING IS NECESSARY AFTER ROLLING TO FILL THE VOIDS BETWEEN THE SOD PANELS AND TO EVEN OUT INCONSISTENCIES IN THE SOD, CLEAN SAND AS APPROVED BY THE LANDSCAPE ARCHITECT OR OWNER SHALL BE UNIFORMLY SPREAD OVER THE ENTIRE SURFACE OF THE SOD AND THOROUGHLY WATERED IN.

5. DURING DELIVERY, PRIOR TO AND DURING THE PLANTING OF THE LAWN AREAS, THE SOD PANELS SHALL AT ALL TIMES BE PROTECTED FROM EXCESSIVE DRYING AND UNNECESSARY EXPOSURE OF THE ROOTS TO THE SUN. ALL SOD SHALL BE INSTALLED DURING THE DAY OF ITS ARRIVAL.

6. LAWN MAINTENANCE:  
A) WITHIN THE SITE, THE CONTRACTOR SHALL PRODUCE A DENSE, WELL ESTABLISHED LAWN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REPAIR AND RE-SODDING OF ALL ERODED, SUNKEN OR BARE SPOTS UNTIL CERTIFICATION OF ACCEPTABILITY BY OWNER OR AS IN THE ORIGINAL WORK SCOPE AND SPECIFICATIONS (INCLUDING REGARDING RE NECESSARY).

B) WATER EVERY DAY FOR FOURTEEN (14) SUCCESSIVE DAYS, THEN WATER THREE (3) TIMES PER WEEK (AT EVEN INTERVALS) UNTIL FULLY ESTABLISHED OR UNTIL AUTOMATIC IRRIGATION SYSTEM IS FULLY OPERATIONAL AND PROGRAMMED ACCORDINGLY. COORDINATE WATERING SCHEDULE WITH NATURAL RAINFALL. RAINFALL EVENTS IN DURATION OF TWENTY (20) MINUTES OR MORE THAT PRODUCE MORE THAN A HALF INCH (1/2") OF PRECIPITATION WILL NEGATE THE NEED FOR WATERING OF THE FOLLOWING DAY IF PREVIOUSLY SCHEDULED. ALL WATERING SHALL BE OF SUFFICIENT QUANTITY TO WET OR RESTORE WATER TO A DEPTH OF FOUR INCHES (4").

**P. CLEANUP**

1. UPON COMPLETION OF ALL PLANTING WORK AND BEFORE FINAL ACCEPTANCE, THE CONTRACTOR SHALL REMOVE ALL MATERIAL, EQUIPMENT, AND DEBRIS RESULTING FROM HIS WORK. ALL PAVED AREAS SHALL BE BROOM CLEANED AND THE SITE LEFT IN A NEAT AND ACCEPTABLE CONDITION AS APPROVED BY THE OWNER'S AUTHORIZED REPRESENTATIVE.

**Q. PLANT MATERIAL MAINTENANCE**

1. ALL PLANTS AND PLANTING MATERIALS INCLUDED UNDER THIS CONTRACT SHALL BE MAINTAINED BY WATERING, CULTIVATING, SPRAYING, AND ALL OTHER OPERATIONS (SUCH AS RE-STAKING OR REPAIRING GUY SUPPORTS) NECESSARY TO INSURE A HEALTHY CONDITION BY THE CONTRACTOR UNTIL CERTIFICATION OF ACCEPTABILITY BY THE OWNER OR OWNER'S DESIGNER. MAINTENANCE AFTER THE CERTIFICATION OF AN ACCEPTABILITY SHALL BE IN ACCORDANCE WITH THE SPECIFICATIONS IN THIS SECTION. CONTRACTORS ARE REQUESTED TO PROVIDE A BID ESTIMATE TO COVER LANDSCAPE AND IRRIGATION MAINTENANCE FOR A PERIOD OF NINETY (90) CALENDAR DAYS COMMENCING AFTER ACCEPTANCE (SEE NEXT SECTION).

2. THE LIFE AND SATISFACTORY CONDITION OF ALL SOD INSTALLED BY THE CONTRACTOR SHALL BE GUARANTEED BY THE CONTRACTOR FOR A MINIMUM OF NINETY (90) CALENDAR DAYS, COMMENCING AT THE TIME OF CERTIFICATION OF ACCEPTABILITY BY THE OWNERS OR OWNER'S DESIGNER.

3. REPLACEMENT: ANY PLANT NOT IN A HEALTHY, THRIVING GROWING CONDITION SHALL BE REMOVED FROM THE SITE AND REPLACED AS SOON AS WEATHER CONDITIONS PERMIT. SHOULD THE OWNER ELECT, TREES AND PALMS MAY BE GIVEN A PERIOD OF NINETY (90) DAYS BEFORE REMOVAL TO ALLOW THE CONTRACTOR TO RESUBMIT THE TREE OR PALM IN QUESTION AND BRING IT TO A THRIVING, HEALTHY CONDITION. ALL REPLACEMENTS SHALL BE PLANTS OF LIKE KIND, CONDITION AND SIZE AS SPECIFIED IN THE PLANT LIST. THEY SHALL BE FURNISHED, PLANTED, AND MULCHED AS SPECIFIED WITH THESE SPECIFICATIONS, AT NO ADDITIONAL COST TO THE OWNER. ANY REPAIRS FROM THIS REPLACEMENT MATERIAL SHALL BE SOLELY THE CONTRACTOR'S RESPONSIBILITY. REPLACEMENT MATERIAL SHALL BE GUARANTEED TO A ONE (1) YEAR PERIOD FROM THE DAY OF REPLACEMENT ACCEPTANCE BY THE OWNER. SHOULD REPLACEMENT MATERIAL FAIL WITHIN THE GUARANTEE PERIOD, OWNER MAY OPT FOR A CREDIT OF THE MONETARY AMOUNT FOR THE REPLACEMENT MATERIALS AT A RATE OF THE ORIGINAL CONTRACT BID RATE, IN LIEU OF AN ADDITIONAL REPLACEMENT.

4. IN THE EVENT THE OWNER ELECTS NOT TO CONTRACT WITH THE CONTRACTOR FOR LANDSCAPE (AND IRRIGATION) MAINTENANCE, THE CONTRACTOR IS ENCOURAGED TO VISIT THE PROJECT SITE PERIODICALLY DURING THE ONE (1) YEAR WARRANTY PERIOD TO EVALUATE MAINTENANCE PROCEDURES BEING PERFORMED BY THE OWNER OR THEIR DESIGNER, AND SHALL NOTIFY THE OWNER IN WRITING OF MAINTENANCE PROCEDURES OR CONDITIONS WHICH THREATEN VIGOROUS AND HEALTHY PLANT GROWTH OF ITEMS UNDER REPLACEMENT WARRANTY. IT IS SUGGESTED SUCH SITE VISITS SHALL BE CONDUCTED A MINIMUM OF ONCE PER MONTH FOR A PERIOD OF TWELVE (12) MONTHS FROM THE DATE OF ACCEPTANCE.

**T. FINAL INSPECTION AND ACCEPTANCE OF WORK**

1. FINAL INSPECTION BY OWNER OR THEIR DESIGNER AT THE END OF THE GUARANTEE PERIOD SHALL INCLUDE PLANTING, CONSTRUCTION AND ALL OTHER INCIDENTAL WORK PERTAINING TO THIS CONTRACT. ANY PLANTS NOT MEETING THE CRITERIA OF HEALTHY, VIGOROUS, AND THRIVING AT THIS TIME, AND THAT HAVE NOT ALREADY BEEN REPLACED PREVIOUSLY UNDER SAID WARRANTY, SHALL BE SUBJECT TO THE SAME ONE (1) YEAR GUARANTEE 90R AS SPECIFIED BY THE OWNER IN WRITING) BEGINNING WITH THE TIME OF REPLACEMENT AND ENDING WITH THE SAME INSPECTION AND ACCEPTANCE HEREIN DESCRIBED.

**U. GRADING AND DRAINAGE NOTES**

1. PRIOR TO COMMENCING ANY EXCAVATION WORK, THE CONTRACTOR SHALL NOTIFY ALL UTILITY COMPANIES IN ACCORDANCE WITH THE "DIG SAFE" NOTIFICATION PROCEDURES PROMOTED BY THE RESPECTIVE UTILITY COMPANIES IN FLORIDA, CALL FLORIDA SUNSHINE AT 811.

2. CONTRACTOR SHALL BLEND NEW EARTHWORK SMOOTHLY INTO EXISTING, PROVIDING VERTICAL CURVES OR ROUNDINGS AT ALL TOP AND BOTTOM OF SLOPES.

3. PITCH EVENLY TO PROTECT SPOOT GRADES. ALL PAVED AREAS MUST PITCH TO DRAIN AT A MINIMUM SLOPE OF ONE EIGHTH INCH (1/8") PER FOOT. ANY DISCREPANCIES NOT ALLOWING THIS TO OCCUR SHALL BE REPORTED TO THE OWNER PRIOR TO CONTINUING WORK.

4. WHERE NEW PAVING OR EARTHWORK MEETS EXISTING PAVING OR EARTHWORK, SMOOTHLY BLEND LINE AND GRADE OF EXISTING WORK WITH EXISTING VEGETATION IS TO REMAIN, MEET EXISTING GRADES, DO NOT FILL ABOVE BASAL FLARE OF EXISTING TREES.

**R. MAINTENANCE (ALTERNATIVE BID ITEM)**

1. CONTRACTORS ARE REQUESTED TO PROVIDE A BID ESTIMATE FOR LANDSCAPE AND IRRIGATION MAINTENANCE FOLLOWING THE INITIAL 90-DAY MAINTENANCE PERIOD AT A COST PER MONTH BASIS.

**S. GUARANTEE**

1. THE LIFE AND SATISFACTORY CONDITION OF ALL PLANT MATERIAL INSTALLED BY THE CONTRACTOR SHALL BE GUARANTEED BY THE CONTRACTOR FOR A MINIMUM OF ONE (1) CALENDAR YEAR COMMENCING AT THE TIME OF CERTIFICATION OF ACCEPTABILITY BY THE OWNER OR OWNER'S DESIGNER. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR CARE & MAINTENANCE OF THE PLANT MATERIAL UNTIL THE END OF ESTABLISHMENT OR 60 DAYS AFTER FINAL LANDSCAPE CERTIFICATION BY THE LANDSCAPE ARCHITECT, WHICHEVER IS LATER, & SHALL COORDINATE WITH THE IRRIGATION CONTRACTOR AS NEEDED TO ENSURE ADEQUATE WATER IS SUPPLIED TO THE PLANT MATERIALS DURING ESTABLISHMENT. AT THE END OF THE ESTABLISHMENT PERIOD, THE LANDSCAPE CONTRACTOR SHALL ENSURE THAT THE IRRIGATION TIME/CLOCK IS ADJUSTED TO A NORMAL WATERING CYCLE PER THE IRRIGATION WATERING SCHEDULE SHOWN ON THE IRRIGATION PLANS.





# STORMWATER MANAGEMENT REPORT

*for*

## Village Flats

SEC of Lucerne Avenue & North E Street,  
Lake Worth Beach, FL

*Prepared by:*



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September 21, 2020

## **Introduction**

The site is generally located at the southeast corner of Lucerne Avenue and North E Street in the city of Lake Worth Beach. The existing site is currently vacant. This project proposes to construct two multi-story residential buildings with a total building footprint of 5,733 sq. ft. The site area is approximately 0.643 acres or 28,000 sq. ft. A detailed breakdown of the proposed land use is provided in Table 1 below.

**Table 1-Land Use Breakdown**

	<b>Square feet</b>	<b>Acres</b>
<b>Buildings</b>	5,774	0.133
<b>Paved/Garage Area</b>	14,743	0.338
<b>Pervious</b>	7,483	0.172
<b>Total Area</b>	28,000	0.643

The proposed drainage system to serve the development consists of catch basins, HDPE pipe and roof drains, and 40 linear feet of exfiltration trench. Runoff will be maintained on-site and there is no proposed off-site discharge.

## **Water Quality**

Calculations have been prepared to determine the required volume for water quality treatment for the proposed development. Based on the results of the calculations, 2.5-inches of runoff over the total impervious site area results in a larger volume than 1-inch of runoff over the entire site; therefore, 2.5-inches over the impervious area controls. The water quality volume required was calculated to be 0.09 ac.-ft.

The project proposed to utilize exfiltration trench for water quality treatment. A “k” value of 1.70 x 10<sup>-3</sup> cfs/ft<sup>2</sup>/ft-head average was used for the design of the exfiltration trench as obtained from the geotechnical investigation prepared by GFA International. A total of 11 linear feet of trench is required to meet the project’s water quality requirements. The project design proposes 40 linear feet of trench which will provide 0.36 ac.-ft. of volume. Detailed calculations are included in Appendix A.

**Water Quantity**

The water table elevation at the site is approximately 8.50 NAVD per geotechnical investigation findings provided by GFA International. The proposed drainage system for the development consists of a network of catch basins, drainage pipes and exfiltration trench designed to retain the 25-year 3-day storm event onsite.

A Stage-Storage zero discharge analysis has been prepared to determine the peak storm staging for the 100-year 3-day, 25-year 3-day, 5-year 1-hour and 3-year 1-hour storm events to determine the minimum elevations for the proposed finished floor, perimeter berm, and pavement areas. Table 2 below shows the resulting peak stages for each storm event.

**Table 2 - Flood Routing Results –Proposed Peak Stage Elevations**

	<b>Post-Development</b>	<b>Provided</b>
3-Year 1-Hour	8.89 NAVD	----
5-Year 1-Hour (Min. Pavement)	9.05 NAVD	15.00 NAVD
25-Year 3-Day (Min. Berm)	15.88 NAVD	15.90 NAVD
100-Year 3-Day (Min. F.F.E.)	16.46 NAVD	16.50 NAVD

The finished floor elevations of the buildings have been set at 16.50 NAVD which is above the 100-year 3-day peak stage and one (1) foot above the average adjacent crown of road elevation. The site is located within FEMA Flood Zone X with no Base Flood Elevation.

**Conclusion**

Based on the above, the water quality and quantity requirements are met by the proposed design and adhere to the design standards for the South Florida Water Management District and City of Lake Worth Beach. Therefore, it is recommended the project be approved for construction.

## PROPOSED DRAINAGE CALCULATIONS

### Design Criteria:

Estimated Seasonal High Water Level:

8.50 NAVD

### Proposed Acreages

Lake Areas ( $A_L$ ):	0 sf	or	0.000 ac
Roof Areas ( $A_R$ ):	5,774 sf	or	0.133 ac
Paved and Garage Areas ( $A_P$ ):	14,743 sf	or	0.338 ac
Green Areas ( $A_G$ ):	7,483 sf	or	0.172 ac
<u>Total (<math>A_T</math>):</u>	<u>28,000 sf</u>	or	<u>0.643 ac</u>

### Compute Required Water Quality Volume:

- 1) Provide at least 1 inch over the developed project:

$$\begin{aligned}
 V_{PRE} &= 1 \text{ inch} \times A_T \times 1 \text{ ft} / 12 \text{ inches} \\
 &= 1 \times 0.643 / 12 \\
 &= 0.05 \text{ ac-ft or } 0.60 \text{ ac-in}
 \end{aligned}$$

- 2) Provide 2.5" over % impervious area:

- a) Site Area for water quality pervious/impervious calculation:

$$\begin{aligned}
 A_S &= A_T - (A_L + A_R) \\
 &= 0.643 - (0 + 0.133) \\
 &= 0.51 \text{ ac of site area for water quality pervious/impervious}
 \end{aligned}$$

- b) Impervious area for water quality pervious/impervious calculation:

$$\begin{aligned}
 A_{IMP} &= A_S - A_G \\
 &= 0.51 - 0.172 \\
 &= 0.34 \text{ ac of impervious area for water quality pervious/impervious}
 \end{aligned}$$

- c) Percent of impervious for water quality calculation:

$$\begin{aligned}
 &= A_{IMP} / A_S \times 100\% \\
 &= 0.338 / 0.51 \times 100\% \\
 &= 66.3\% \text{ impervious}
 \end{aligned}$$

- d) For 2.5" times the percent impervious:

$$\begin{aligned}
 &= 2.5" \times \% \text{ impervious area} \\
 &= 2.5 \times 0.663 \\
 &= 1.66 \text{ inches to be treated}
 \end{aligned}$$

- e) Compute volume required volume for quality detention

$$\begin{aligned}
 V_{PRE} &= \text{inches to be treated} \times (A_T - A_L) \\
 &= 1.66 \times (0.643 - 0) \times 1 \text{ foot} / 12 \text{ inches} \\
 &= 0.09 \text{ ac-ft or } \boxed{1.07 \text{ ac-in}}
 \end{aligned}$$

- 3) Since the 1.07 ac-in is greater than the 0.6 ac-in computed for the first inch of runoff the volume of 1.07 ac-in controls.





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**DESIGN CRITERIA**

---



---

October Water Elevation ..... 8.50 NAVD  
 FEMA Elevation ..... N/A

---



---

**PROPOSED LAND USE SUMMARY**

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Areas:	Square Ft.	Acres	Percent
Lake	0	0.00	0.0%
Building	5,774	0.133	20.6%
Paved and Sidewalk	14,743	0.338	52.6%
Pervious	7,483	0.172	26.7%
Total Area:	28,000	0.643	100.0%

---



---

**STAGE\STORAGE AREA CALCULATION (NAVD)**

---



---

Stage	Site Stage-Storage (previous page) (ac.-ft.)	Exfiltration Trench Storage (ac.-ft.)	(ac.-ft.)	Total Storage Area (ac.-ft.)
8.50	0.00	0.00	0.00	0.00
9.50	0.00	0.15	0.00	0.15
10.50	0.00	0.34	0.00	0.34
11.50	0.00	0.56	0.00	0.56
12.50	0.00	1.54	0.00	1.54
13.50	0.00	0.36	0.00	0.36
14.50	0.00	0.36	0.00	0.36
15.50	0.04	0.36	0.00	0.40
16.50	0.40	0.36	0.00	0.76
17.50	0.91	0.36	0.00	1.27
18.50	1.42	0.36	0.00	1.78
19.50	1.93	0.36	0.00	2.29

Required Water Quality = 0.09 acre-ft.

Water Quality Elevation **9.09** NAVD



**Soil Storage**

Land Use Summary:

	Acres	Percent
Lake Areas (A <sub>L</sub> ):	0.000	0.0%
Roof Areas (A <sub>R</sub> ):	0.133	20.6%
Paved Areas (A <sub>P</sub> ):	0.338	52.6%
Green Areas (A <sub>G</sub> ):	0.172	26.7%
<b>Total (A<sub>T</sub>):</b>	<b>0.643</b>	<b>100.0%</b>

Compacted Soil Storage per  
SFWMMD Vol. IV Page C-III-1

Depth to Water Table (feet)	Water Storage (inches)
1	0.45
2	1.88
3	4.95
4	8.18

Average Pervious Grade (Elev.): 15.63  
 Depth to Water Table: 7.13 ft  
 Soil Storage at Average Depth (S<sub>S</sub>): 8.18 inches

Weighted S value:

= S<sub>S</sub> x % Pervious

= 8.18 x 0.267

= **2.18 inches**

**Rainfalls**

From Figure C-9, 100-Year 3-day Storm = 16.20 inches

From Figure C-8, 25-Year 3-day Storm = 12.30 inches

From Figure C-1, 5-Year 1-hour Storm = 3.20 inches

From LWB Eng, 3-Year 1-hour Storm = 2.60 inches

**Results from Flood Routings (zero discharge analysis)**

100-Year 3-Day

$$\begin{aligned} \text{Runoff (Q)} &= (P - 0.2S)^2 / (P + 0.8S) \\ &= (16.2 - (0.2 \times 2.18))^2 / (16.2 + (0.8 \times 2.18)) \\ &= 13.85 \text{ inches of total runoff} \\ \text{Runoff Volume} &= Q * \text{Project Area} \\ &= 13.85 \times 0.643 = 8.91 \text{ acre-inches} = 0.74 \text{ acre-ft.} \end{aligned}$$

25-Year 3-Day

$$\begin{aligned} \text{Runoff (Q)} &= (P - 0.2S)^2 / (P + 0.8S) \\ &= (12.3 - (0.2 \times 2.18))^2 / (12.3 + (0.8 \times 2.18)) \\ &= 10.02 \text{ inches of total runoff} \\ \text{Runoff Volume} &= Q * \text{Project Area} \\ &= 10.02 \times 0.643 = 6.44 \text{ acre-inches} = 0.54 \text{ acre-ft.} \end{aligned}$$

5-Year 1-Hour

$$\begin{aligned} \text{Runoff (Q)} &= (P - 0.2S)^2 / (P + 0.8S) \\ &= (3.2 - (0.2 \times 2.18))^2 / (3.2 + (0.8 \times 2.18)) \\ &= 1.55 \text{ inches of total runoff} \\ \text{Runoff Volume} &= Q * \text{Project Area} \\ &= 1.55 \times 0.643 = 1.00 \text{ acre-inches} = 0.08 \text{ acre-ft.} \end{aligned}$$

3-Year 1-Hour

$$\begin{aligned} \text{Runoff (Q)} &= (P - 0.2S)^2 / (P + 0.8S) \\ &= (2.6 - (0.2 \times 2.18))^2 / (2.6 + (0.8 \times 2.18)) \\ &= 1.08 \text{ inches of total runoff} \\ \text{Runoff Volume} &= Q * \text{Project Area} \\ &= 1.08 \times 0.643 = 0.69 \text{ acre-inches} = 0.06 \text{ acre-ft.} \end{aligned}$$

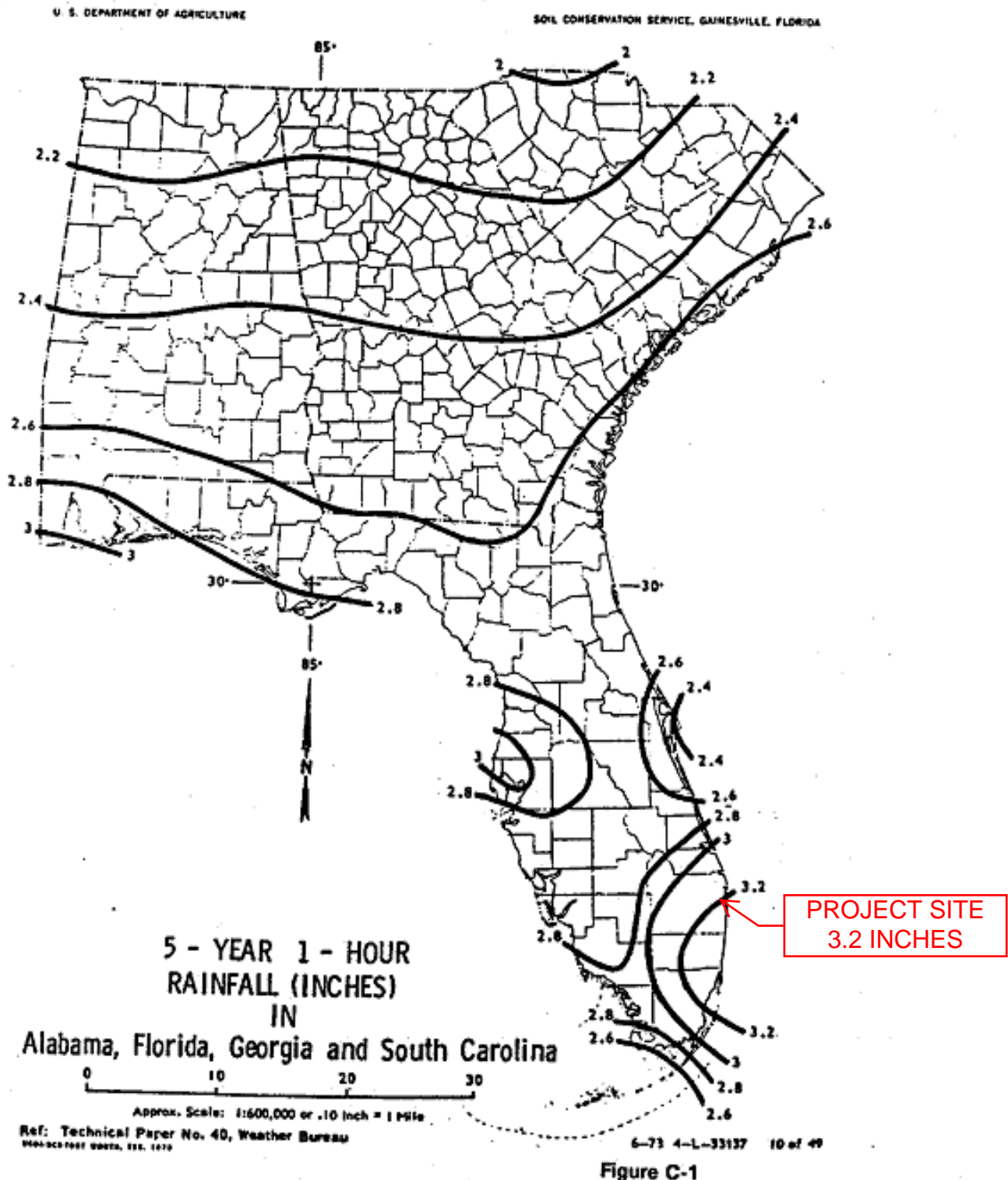
Maximum Stage for 100-Year 3-Day Storm (no discharge) **16.46** NAVD

Maximum Stage for 25-Year 3-Day Storm (no discharge) **15.88** NAVD

Maximum Stage for 5-Year 1-Hour Storm (no discharge) **9.05** NAVD

Maximum Stage for 3-Year 1-Hour Storm (no discharge) **8.89** NAVD

Appendix C: Isohyetal Maps  
from SFWMD Technical Memorandum, *Frequency Analysis of One and Three Day  
Rainfall Maxima for central and southern Florida, Paul Trimble, October 1990.*



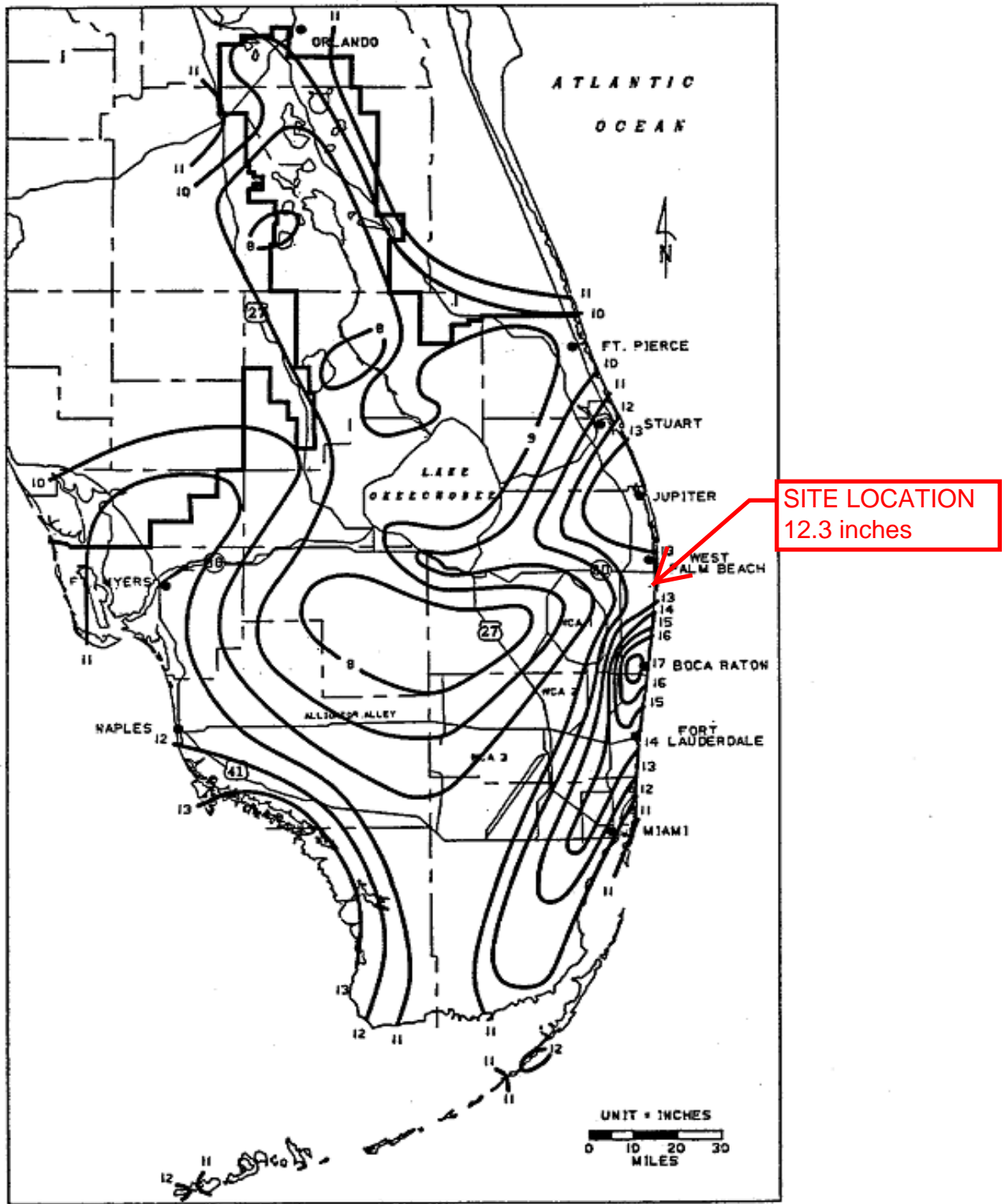


FIGURE C-8. 3-DAY RAINFALL: 25-YEAR RETURN PERIOD

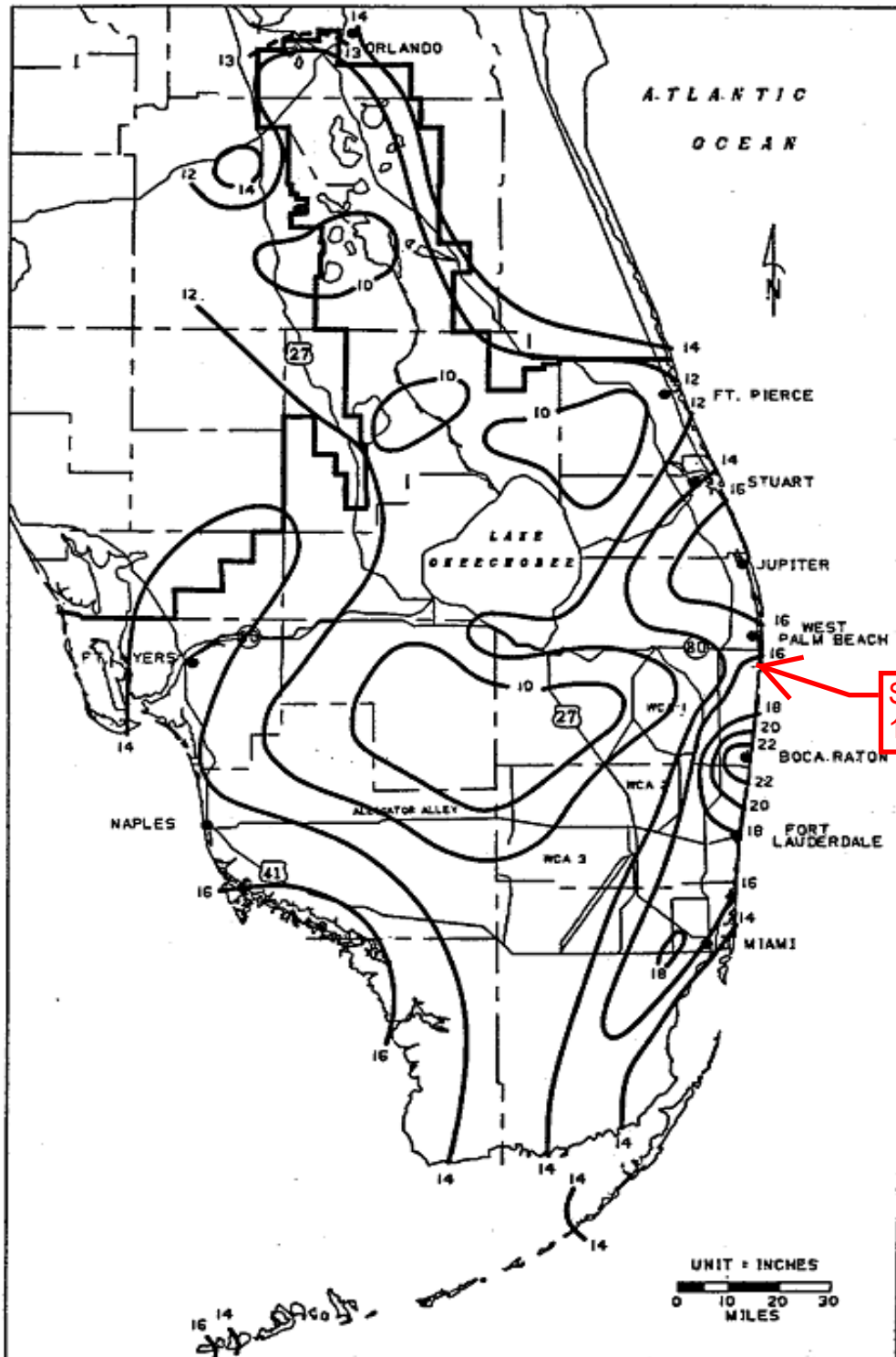
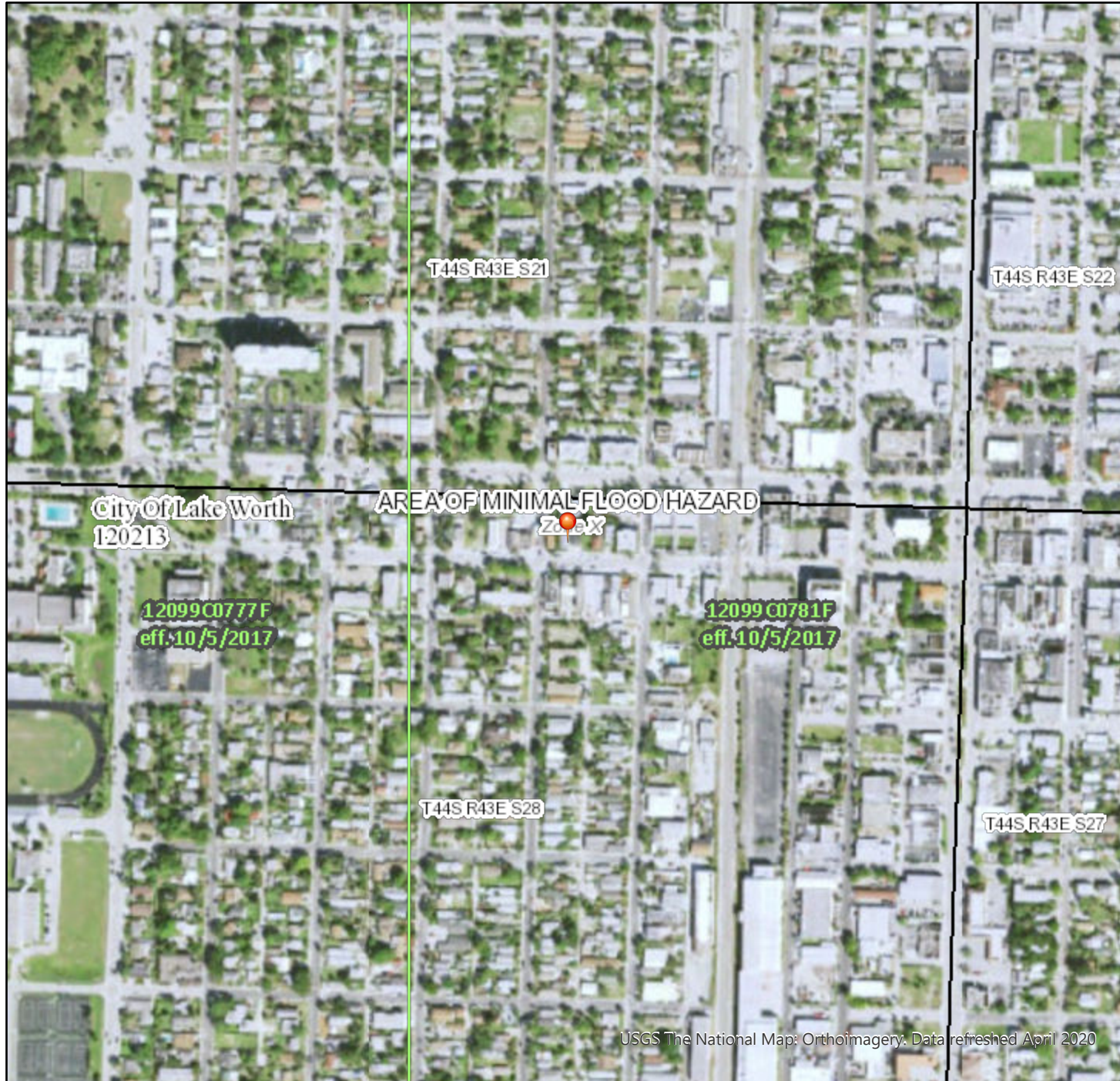


FIGURE C-9. 3-DAY RAINFALL: 100-YEAR RETURN PERIOD

# National Flood Hazard Layer FIRMette



80°3'58"W 26°37'14"N



## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance
		17.5 Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
MAP PANELS		Jurisdiction Boundary
		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		Digital Data Available
		No Digital Data Available
		Unmapped



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

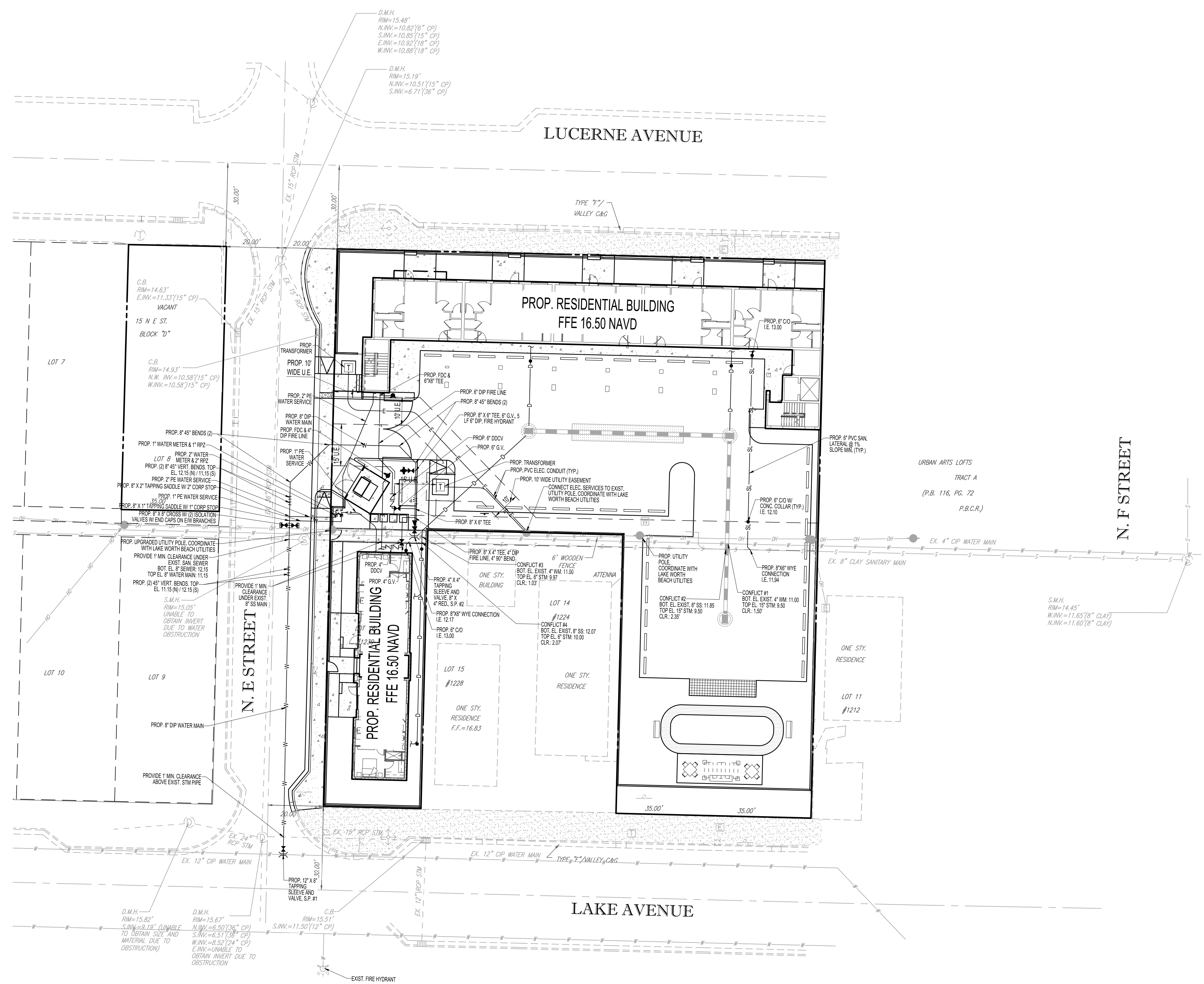
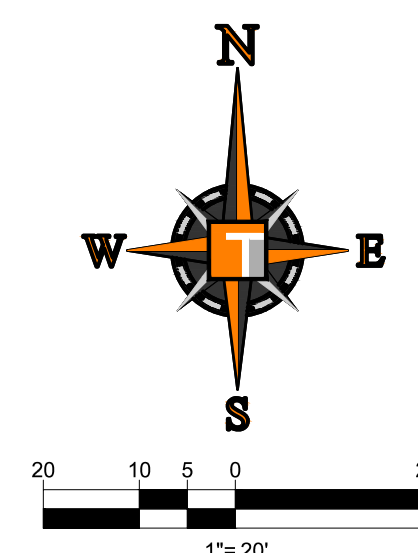
The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 9/4/2020 at 1:59 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

USGS The National Map: Orthoimagery. Data refreshed April 2020

0 250 500 1,000 1,500 2,000 Feet 1:6,000

80°3'21"W 26°36'42"N



EXISTING NOTE	TYPICAL NOTE TEXT	PROPOSED NOTE
---	SANITARY SEWER LATERAL	---
---	UNDERGROUND WATER LINE	---
---	UNDERGROUND ELECTRIC LINE	---
---	UNDERGROUND FIRE LINE	---
---	UNDERGROUND GAS LINE	---
---	OVERHEAD WIRE	---
---	UNDERGROUND TELEPHONE LINE	---
---	UNDERGROUND CABLE LINE	---
---	STORM SEWER	---
---	SANITARY SEWER MAIN	---
+	HYDRANT	+
⊙	SANITARY MANHOLE	⊙
⊙	STORM MANHOLE	⊙
⊙	CATCH BASIN	⊙
⊙	YARD INLET	⊙
⊙	WATER VALVE	⊙
⊙	BACKFLOW PREVENTER	⊙
⊙	WATER METER	⊙
⊙	CLEAN OUT	⊙

- NOTES**
- CONTRACTOR IS RESPONSIBLE FOR FIELD VERIFYING ALL EXISTING SITE IMPROVEMENTS AND UTILITIES. ALL DISCREPANCIES SHALL BE IDENTIFIED TO THE ENGINEER IN WRITING.
  - ALL EXISTING UTILITIES SHALL BE REMOVED BY CONTRACTOR IN ACCORDANCE WITH CITY OF LAKE WORTH BEACH AND LOCAL UTILITY COMPANY REQUIREMENTS.
  - ALL DEMOLITION DEBRIS TO BE REMOVED BY CONTRACTOR IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS.
  - ALL HYDRANTS SHALL FALL WITHIN 4' OF THE CURB.
  - MINIMUM 7.5' CLEARANCE AROUND THE HYDRANT CIRCUMFERENCE. THE 4 1/2" CAP SHALL FACE THE ROADWAY.
  - ALL FIRE HYDRANTS SHOULD HAVE BLUE REFLECTIVE MARKERS.
  - WATER SHALL BE ON SITE BEFORE CONSTRUCTION BEGINS.
  - CLEAN OUTS INSTALLED IN ASPHALT MUST BE INSTALLED IN A CITY BOX MARKED SEWER.
  - ANY TREES OR SHRUBS PLACED WITHIN WATER, SEWER OR DRAINAGE EASEMENTS SHALL CONFORM TO THE CITY REQUIREMENTS.
  - NO PROPOSED IMPROVEMENTS, BUILDINGS OR ANY KIND OF CONSTRUCTION CAN BE PLACED ON OR WITHIN ANY WATER, SEWER OR DRAINAGE EASEMENTS, UNLESS APPROVED BY THE CITY ENGINEER.
  - NO PROPOSED STRUCTURES SHALL BE INSTALLED WITHIN A HORIZONTAL DISTANCE OF 10-FEET FROM ANY EXISTING OR PROPOSED WATER, SEWER OR DRAINAGE FACILITIES, UNLESS APPROVED BY THE CITY ENGINEER.
  - WATER METER SIZES SHALL BE DESIGNED BY ENGINEER OF RECORD AND SHALL BE CHECKED AND AUTHORIZED BY CITY UTILITIES DIVISION.
  - ALL NEW CONNECTIONS TO THE EXISTING WATER MAIN SHALL BE CUT-IN.

**DATUM NOTE:**  
ELEVATIONS SHOWN HEREON ARE IN FEET AND BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)

**THOMAS ENGINEERING GROUP**  
 CIVIL ENGINEERS - PROJECT MANAGERS - LAND PLANNING - LANDSCAPE ARCHITECTS  
 6300 NW 31ST AVENUE  
 FORT LAUDERDALE, FL 33309  
 PH: (954) 202-7000  
 FX: (954) 202-7070  
 www.ThomasEngineeringGroup.com

**REVISIONS**

REV.	DATE	COMMENT	BY

**811** KNOW WHAT'S BELOW  
 ALWAYS CALL 811 BEFORE YOU DIG  
 It's fast. It's free. It's the law.  
 www.callsunshine.com

**SITE PLAN SUBMITTAL**

PROJECT No.: F200053  
 DRAWN BY: JFV  
 CHECKED BY: MTK  
 DATE: 07-24-2020  
 CAD I.D.: F200053 UTILITY PLAN

**VILLAGE FLATS**  
 FOR  
**INHABIT LAKE WORTH BEACH, LLC**  
 LAKE WORTH BEACH, FL

**THOMAS ENGINEERING GROUP**  
 6300 NW 31ST AVENUE  
 FORT LAUDERDALE, FL 33309  
 PH: (954) 202-7000  
 FX: (954) 202-7070  
 www.ThomasEngineeringGroup.com

**MAXWELL T. KAPLAN**  
 PROFESSIONAL ENGINEER  
 FLORIDA LICENSE No. 83366

September 21, 2020  
 FLORIDA BUSINESS CERT. OF AUTH. No. 27528

SHEET TITLE:  
**PRELIMINARY UTILITY PLAN**

SHEET NUMBER:  
**C-02**

## **October 20, 2020 Resubmission and Revised Plans**

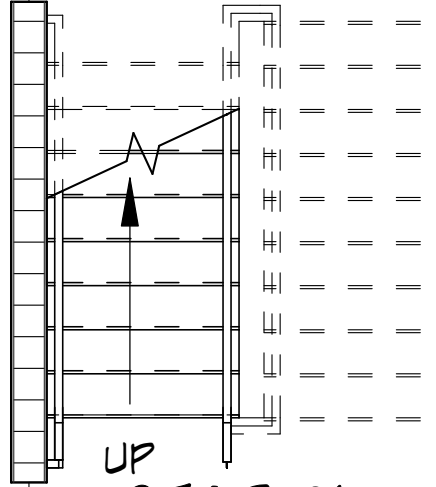
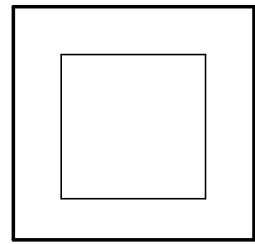
Mailroom

Sign Plan

Renderings

2  
A3A1.2

2

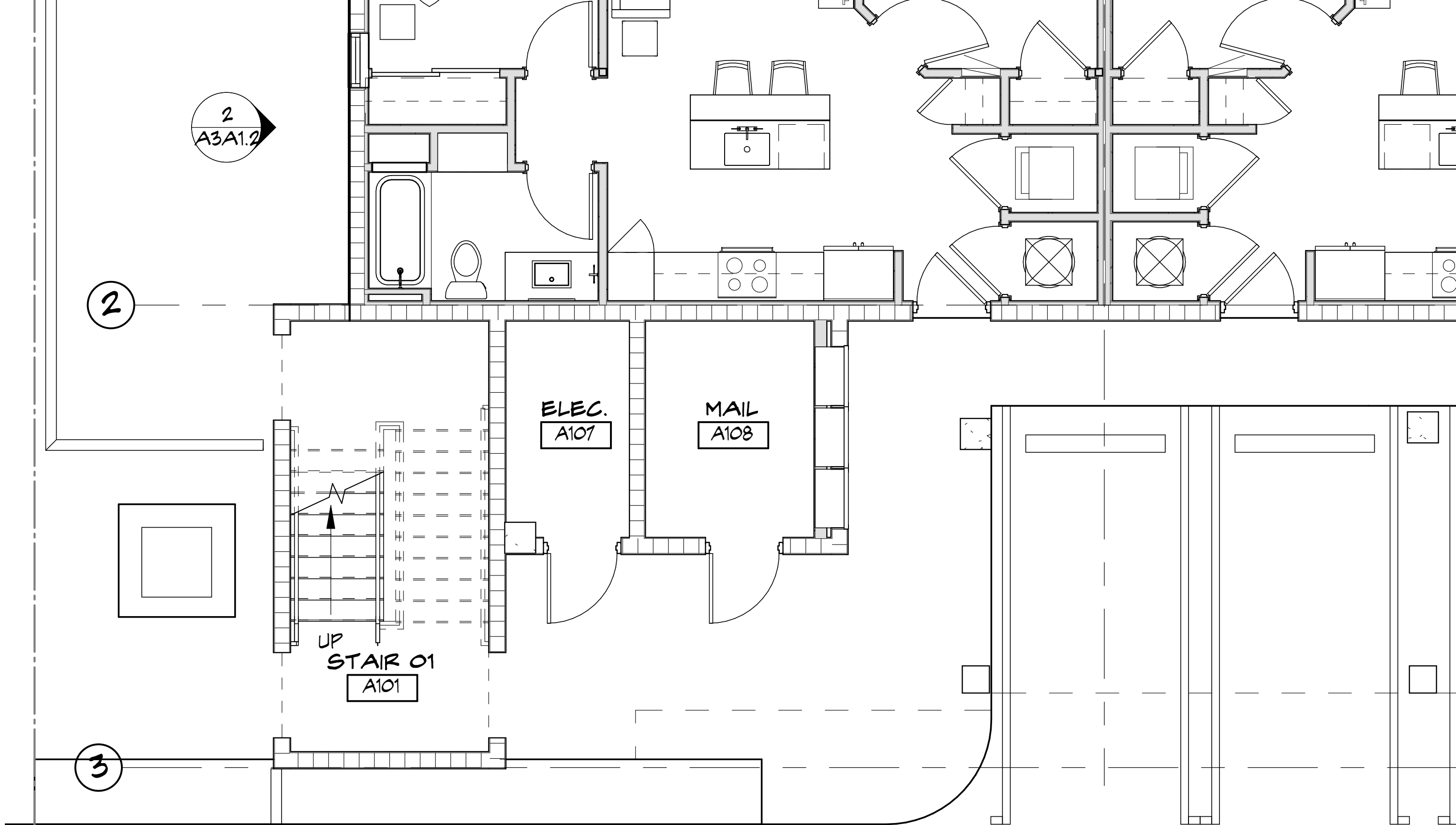


UP  
STAIR 01  
A101

ELEC.  
A107

MAIL  
A108

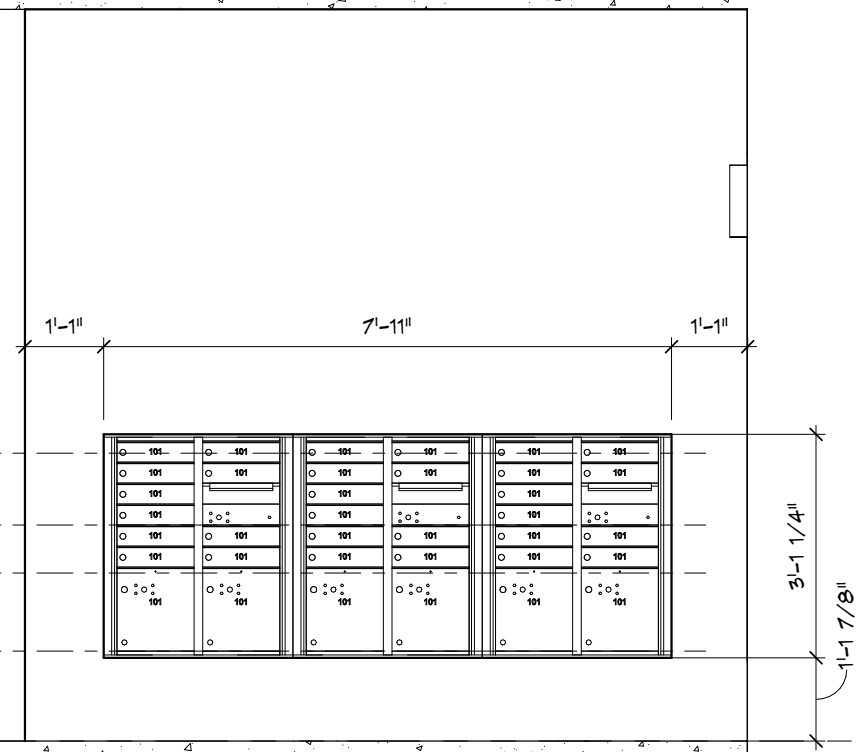
3





10'-8"  
2ND FL. FIN.

48" MAX ADA HEIGHT  
36" MIN USPS ACCESS  
28" MIN TENANT MAILBOX  
15" MIN TENANT PARCEL BOX



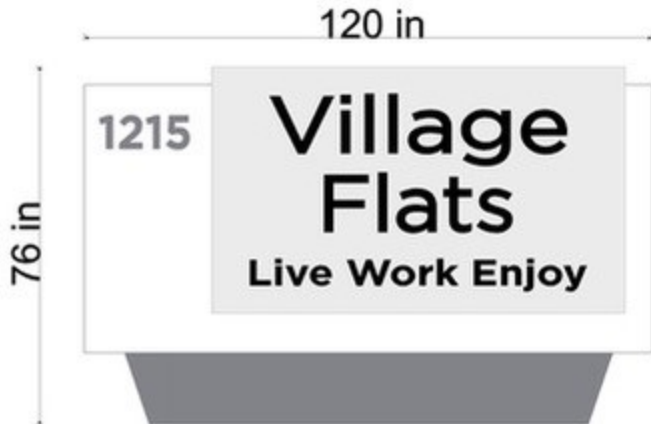
0'-0"  
1ST FL. FIN.

1 MAILBOX PER UNIT = 30 MAILBOXES REQUIRED  
1:5 PARCEL BOXES PER UNIT = 6 PARCEL BOXES REQUIRED

PROVIDED:  
30 MAILBOXES  
6 PARCEL BOXES



# MONUMENT SIGN



**NON-ILLUMINATED MONUMENT SIGN  
SINGLE SIDED - NORTH ELEVATION**

4  
4

Prepared By:  
**Signarama**  
2005 E. Congress Ave  
Bellaire, TX

Project:  
Date:  
Approved:  
Date:  
Site:  
10.11.2020

**VILLAGE FLATS**

Lucerne Ave & E Steet  
Lake Worth, FL

Builder  
**InHabit Property Group**

# PROPOSED SIGN PLAN VILLAGE FLATS

## NORTH ELEVATION



**A** TENANT SIGNAGE

**B** WAYFINDING SIGNAGE

**C** MONUMENT SIGN

1  
of 4

Prepared By:  
**Signarama**  
2000 E. Congress Ave  
Delray Beach, FL

Design:  
Dave S.  
Approved By:  
Dave S.  
Date:  
10.11.2020

**VILLAGE FLATS**

Lucerne Ave & E Steet  
Lake Worth, FL

Builder  
**InHabit Property Group**

# **A** TENANT SIGNAGE



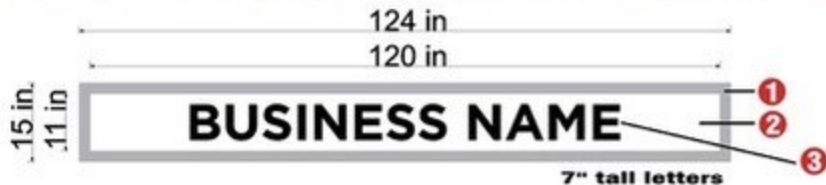
## Colors & Finishes

ALL FINISHES - MATHEWS ACRYLIC POLYURETHANE

- 1 ● GREY TO MATCH BUILDING
- 2 ○ WHITE
- 3 ● BLACK

## Construction Specifications

- 1 RAISED 2"x2" ALUMINUM FRAME WELDED CONSTRUCTION
- 2 1/8" THICK ALUMINUM BACKER PANEL
- 3 1/4" THICK ALUMINUM LETTERS



2  
4

Prepared By:  
**Signarama**  
200 E. Congress Ave  
Delray Beach, FL

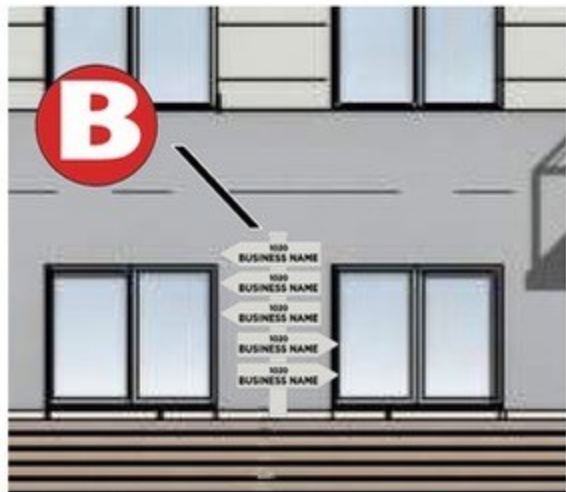
Design:  
Dave S.  
Approved:  
Dave S.  
Date:  
11.11.2019

**VILLAGE FLATS**

Lucerne Ave & E Steet  
Lake Worth, FL

Builder  
**InHabit Property Group**

# **B** WAYFINDING SIGNAGE



## Colors & Finishes

- 1**  GREY TO MATCH BUILDING  
MATHews ACRYLIC POLYURETHANE
- 2**  GREY TO MATCH BUILDING  
MATHews ACRYLIC POLYURETHANE
- 3**  BLACK

## Construction Specifications

- 1** 6" x 6" ALUMINUM POLE WITH  
FINAL CAP
- 2** 1/4" THICK ALUMINUM PANEL WELDED TO POLE
- 3** BLACK CUT VINYL LETTERS
- 4** POLE INSTALLED IN CONCRETE FOOTING

**3**  
of 4

Prepared By:  
 **Signarama**  
A Division of Sign-A-Rama, Inc.  
2901 S. Congress Ave  
Delray Beach, FL

Design:  
Dave S.  
Approved:  
Dave S.  
Date:  
10.13.2020

**VILLAGE FLATS**

Lucerne Ave & E Steet  
Lake Worth, FL

Builder  
**InHabit Property Group**



intermex









# Universal Development Application



This application is required for ALL applications submitted to the Planning, Zoning and Historic Preservation Division. If you have questions regarding this application, please make an appointment with planning staff.

## 1. Application Type (select all that apply)

- a. Site Plan:  Minor  Major  Planned Development  Sustainable Bonus
- b. Use:  Administrative  Conditional
- c. Proximity Waiver:  Alcoholic Beverage  Community Residence  Gaming Establishment  
 Adult Use
- d. Approvals:  Variance  Mural  Cert. of Appropriateness  Adjustment
- e. Amendments:  Rezoning / Map  Text
- f. Other:  Subdivision/Plat  Annexation  Zoning Letter  
 ABT Signoff  \_\_\_\_\_

## 2. Project Information

- a. Project Name: Village Flats
- b. Project Location / Address: See Exhibit "A"
- c. Legal Description: See Exhibit "B"
- d. Property Control Number (PCN): 38-43-44- See Exhibit "A"
- e. Zoning: Existing: Mixed-Use East Proposed: N/A
- f. Future Land Use: Existing: Mixed-Use East Proposed: N/A
- g. Proposed Use:  Residential; Units 41  Commercial; \_\_\_\_\_ S.F.  Industrial; \_\_\_\_\_ S.F.
- h. Total Estimated Project Cost: TBD
- i. Description of Work: Construction of 41 residential units in two phases. Phase 1 is 30 units in two buildings, and Phase 2 is 11 units in two buildings

## 3. Contact Information

- a. Project Manager / Contact Person: Corey W. O'Gorman/Jeff Costello  
Company: PLACE Planning & Design, Inc. / JC Planning Solutions LLC  
Address: 700 US Highway One, Suite C City: North Palm Beach St: FL Zip: 33408  
Phone Number: 561-801-2461 / 561-573-1486 E-Mail Address: corey@placepnd.com / jcostello@jcplanningsolutions.com
- b. Applicant Name (if different from Project Manager): Mr. Timothy J. Carey  
Company: InHabit Property Group  
Address: 2200 Butts Road, Suite 300 City: Boca Raton St: FL Zip: 33431  
Phone Number: (561) 488-5117 E-Mail Address: tjcarey227@gmail.com
- c. Owner Name: Ms. Joan Oliva, Executive Director  
Company: Lake Worth Beach CRA  
Address: 1121 Lucerne Avenue City: Lake Worth Beach St: FL Zip: 33460  
Phone Number: (561) 493-2550 E-Mail Address: joliva@lakeworthbeachfl.gov

4. Owner's Consent

Ms Joan Oliva, Executive Director, Lake Worth Beach CRA (Owner) certifies that it is the owner of the property located at See Exhibit "B" ("Subject Property") and expressly consents to the use of the Subject Property as described in this application and to all conditions that may be agreed to as a part of the approval of this application, which may be imposed by the decision making board. Owner hereby authorizes, Mr. Corey W. O'Gorman, AICP as agent, to file this application and to represent Owner at any and all meetings and hearings required for the approval of this application

Owner's Signature \* [Signature] Date: 7-9-20

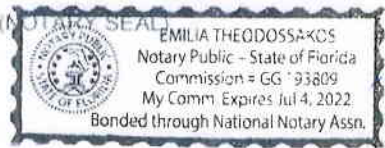
Name/Title of Signatory Ms. Joan Oliva, Executive Director, Lake Worth Beach CRA

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 9 day of July, 2020 by JOAN OLIVA

who is personally known to me or who produced a [Signature] as identification. He/she did not take an oath



[Signature] (Signature of Notary Public) EMILIA THEODOSSAKOS (Name of Notary)

5. Affidavit of Completeness and Accuracy

Instructions: To be completed by the individual submitting the application (owner or authorized agent)

Project Name Lake Worth Residential Submittal Date 7/31/2020

STATEMENT OF COMPLETENESS AND ACCURACY:

I hereby certify all property owners have full knowledge the property they own is the subject of this application. I hereby certify that all owners and petitioners have been provided a complete copy of all material, attachments and documents submitted to the City of Lake Worth relating to this application. I further certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related application material and all attachments become official records of the Planning, Zoning and Historic Preservation Division of Lake Worth, Florida, and will not be returned. I understand that any knowingly false, inaccurate or incomplete information provided by me will result in the denial, revocation or administrative withdrawal of this application, request, approval or permit. I further acknowledge that additional information may be required by Palm Beach County to process this application. I further acknowledge that any plans that I have prepared or had prepared comply with the Fair Housing Standards. I further consent to the City of Lake Worth to publish, copy or reproduce any copyrighted documents submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application

Corey W. O'Gorman, AICP (Name - type, stamp, or print clearly)

[Signature] (Signature)

PLACE Planning & Design (Name of Firm)

700 US Highway One, Suite C, North Palm Beach, FL 33408 (Address, City, State, Zip)

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 30 day of July, 2020 by Corey O'Gorman

who is personally known to me or who produced a [Signature] as identification. He/she did not take an oath

(NOTARY SEAL)



[Signature] (Signature of Notary Public) Christina MacMullen (Name of Notary)

**EXHIBIT "A"**  
**VILLAGE FLATS**

**ADDRESSES & PROPERTY CONTROL NUMBERS**

**Addresses**                      **Property Control Numbers**

**Phase I**

1207 Lucerne Avenue -	38434421155050050
1209 Lucerne Avenue -	38434421155050040
1211 Lucerne Avenue -	38434421155050030
1213 Lucerne Avenue -	38434421155050020
1215 Lucerne Avenue -	38434421155050010
1216 Lake Avenue -	38434421155050120
1220 Lake Avenue -	38434421155050130
1230 Lake Avenue -	38434421155050160

**Phase II**

1401 Lucerne Avenue	38434421155030050
1310 Lake Avenue	38434421155040130

**EXHIBIT "B"**  
**VILLAGE FLATS**  
**LEGAL DESCRIPTION**

**PHASE I**

LOT 1 THROUGH 5 BLOCK E, THE PALM BEACH FARMS CO., PLAT NO. 2, THE TOWNSITE OF LUCERNE (NOW LAKE WORTH), ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 29, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

LOT 12 AND 13, BLOCK E, THE PALM BEACH FARMS CO., PLAT NO.2, THE TOWNSITE OF LUCERNE (NOW LAKE WORTH), ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 29, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

LOT 16, BLOCK E, THE PALM BEACH FARMS CO., PLAT NO. 2, THE TOWNSITE OF LUCERNE (NOW LAKE WORTH), ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 29, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

**PHASE II**

LOT 5, BLOCK C, OF THE PALM BEACH FARMS COMPANY PLAT NO. 2, THE TOWNSITE OF LUCERNE N/K/A LAKE WORTH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGES 29 THROUGH 40, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. (LESS THE SOUTH 5 FEET THEREOF)

LOT 6, LESS THE SOUTH 5 FEET THEREOF; AND THE NORTH 65 FEET OF LOTS 7 AND 8, BLOCK C, OF THE PALM BEACH FARMS COMPANY PLAT NO.2, THE TOWNSITE OF LUCERNE N/K/A LAKE WORTH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGES 29 THROUGH 40, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

THE NORTH 30 FEET OF THE SOUTH 35 FEET OF LOTS 7 AND 8, BLOCK C, OF TOWNSITE OF LUCERNE N/K/A LAKE WORTH, THE PALM BEACH FARMS COMPANY PLAT NO.2, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 29 THROUGH 40, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LOTS 13 AND 14, LESS THE NORTH 5 FEET, BLOCK D, PALM BEACH FARMS COMPANY PLAT 2, TOWNSITE OF LUCERNE, (NOW KNOWN AS LAKE WORTH), ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 29, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

# Sign Posting Agreement



This form is required for all Historic Applications and Public Hearing Items.

1. Applicant: Corey W. O'Gorman, PLACE Planning & Design, Inc.
2. Property Owner: Lake Worth Beach CRA
3. Contact Phone Number: 561-801-2461
4. Property Location: 1207-1215 Lucerne Ave and 1216, 20 & 30 Lake Ave
5. I, Corey W. O'Gorman, hereby affirm that I will post the notification sign(s) provided to me

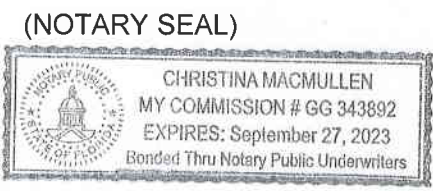
for a minimum of ten calendar days before the scheduled date of the hearing of Planning and Zoning Case No. TBD

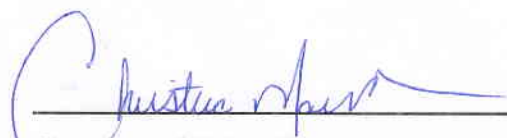
Signature:  Date: 7/30/2020

Name/Title of Signatory: Corey W. O'Gorman, President

STATE OF Florida )  
COUNTY OF Palm Beach )

The foregoing instrument was acknowledged before me this 30 day of July 2020, by Corey O'Gorman who is personally known to me or who produced a \_\_\_\_\_ as identification. He/she did not take an oath.



  
Signature of Notary Public  
Christina MacMullen  
Name of Notary

Prepared by and return to:  
**WYANT-CORTEZ & CORTEZ, CHARTERED**  
840 US Highway One, Suite 345  
North Palm Beach, FL 33408-3834  
561-627-0009

Consideration: **\$235,000.00**  
Parcel Identification No. **38-43-44-21-15-505-0050**

[Space Above This Line For Recording Data]

## WARRANTY DEED

This Indenture delivered this 25th day of January, 2018, between Sparrow Properties, LLC, a Florida limited liability company, whose post office address is 308 Winters Street, West Palm Beach, FL 33405 of the County of Palm Beach, State of Florida, hereinafter called the Grantor\*, and Lake Worth Community Redevelopment Agency, a Florida public agency, created pursuant to Chapter 163, F.S., whose post office address is 1121 Lucerne Ave, Lake Worth, FL 33460 of the County of Palm Beach, State of Florida, hereinafter called the Grantee\*.

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Palm Beach County, Florida, to-wit:

Lot 5, Block E, PALM BEACH FARMS CO. PLAT NO. 2, TOWNSITE OF LUCERNE (n/k/a Lake Worth) according to the map or plat thereof as recorded in Plat Book 2, Page 29, Public Records of Palm Beach County, Florida.

Subject to taxes for 2018 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any, not reimposed by reference thereto.

\* "Grantor" and "Grantee" are used for singular or plural, as context requires.


Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under grantors.

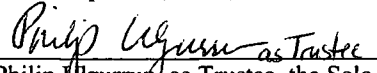
In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year written.

Signed, sealed and delivered in our presence:

  
Witness Name: V. Claire Wyant-Cortez

  
Witness Name: DENISE H. BLASE

Sparrow Properties, LLC, a Florida limited liability company

By:  as Trustee Date: 1/23/18  
Philip Izurrum as Trustee, the Sole Managing Member

State of Florida  
County of Palm Beach

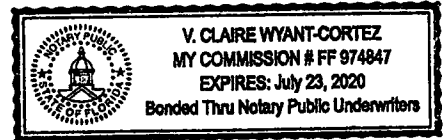
The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of January, 2018, by Philip Ulzurrun, as Trustee, the Sole Managing Member of Sparrow Properties, LLC, a Florida limited liability company, on behalf of the limited liability company. He  is personally known to me or  has produced a Florida driver's license as identification.

[Notary Seal]

V. Claire Wyant-Cortez  
Notary Public

Printed Name: V. Claire Wyant-Cortez

My Commission Expires: 7/23/2020



This is not a certified copy





CFN 20100345367  
OR BK 24076 PG 1910  
RECORDED 09/15/2010 16:02:40  
Palm Beach County, Florida  
ANT 55,440.00  
Doc Stamp 388.50  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 1910 - 1911; (2pgs)

This is not a legal document

PREPARED BY AND RETURN TO:  
Keith C. Austin, Jr., Esquire  
COE, BROBERG & AUSTIN, LLP  
223 Peruvian Avenue  
Palm Beach, Florida 33480  
(561) 655-5166

Property Control No.: 38-43-44-21-15-505-0040  
Property Address: 1209 Lucerne Avenue, Lake Worth, Florida 33460

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED made the 15<sup>th</sup> day of September, 2010, by Tiger Investment Group, Inc., a Florida corporation, and having its principal place of business at 10151 Deerwood Park Boulevard, Building 100, Suite 410, Jacksonville, Florida 32256, hereinafter called the grantor, to Lake Worth Community Redevelopment Agency, a Florida public agency created pursuant to Chapter 163, Florida Statutes, whose address is 29 South J Street, Lake Worth, Florida 3360, hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH, That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Palm Beach County, Florida, viz:

**Lot 4, Block E, THE PALM BEACH FARMS CO., PLAT NO. 2, THE TOWNSITE OF LUCERNE (NOW LAKE WORTH), according to the Plat thereof, recorded in Plat Book 2, Page 29, of the Public Records of Palm Beach County, Florida.**

SUBJECT TO conditions, restrictions, easements, limitations and zoning ordinances of record, if any.

Special Warranty Deed, Page 1 of 2  
Property Control # 38-43-44-21-15-505-0040  
1209 Lucerne Avenue, Lake Worth, FL 33460

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the said grantor.

IN WITNESS WHEREOF, the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, sealed and delivered in the presence of:

Tiger Investment Group, Inc., a Florida corporation

Joyce Duthrie  
Joyce Duthrie  
(Print Name)

By: Michelle Bushway  
Michelle Bushway, Vice President

Manoel V. Vucovich  
MANOEL VUCOVICH  
(Print Name)

8200 66<sup>th</sup> Street North  
Pinellas Park, Florida 33781

STATE OF FLORIDA

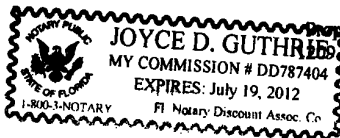
COUNTY OF PINELLAS

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared Michelle Bushway, well known to me to be a Vice President of Tiger Investment Group, Inc., a Florida corporation, and that she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said Bank. I relied upon the following form(s) of identification of the above-named person(s): (Florida Driver's License(s) personally known), and that an oath (was) not taken.

WITNESS my hand and official seal in the County and State last aforesaid, this 10<sup>th</sup> day of September, 2010.

My Commission Expires:

Joyce Duthrie  
Notary Public



Special Warranty Deed, Page 2 of 2  
Property Control # 38-43-44-21-15-505-0040  
2urcerne Avenue, Lake Worth, FL 33460



CFN 20180006490

DR BK 29570 PG 0540

RECORDED 01/04/2018 17:02:42

AMT 249,000.00

Doc Stamp 1,743.00

Palm Beach County, Florida

Sharon R. Bock, CLERK & COMPTROLLER

Pg 0540; (1pg)

THIS INSTRUMENT PREPARED BY AND RETURN TO:  
WILL CALL BOX NO. 4  
BOULEVARD TITLE COMPANY  
685 ROYAL PALM BEACH BLVD., SUITE 101  
ROYAL PALM BEACH, FLORIDA 33411

Property Appraisers Parcel Identification (Folio) Number: 38-43-44-21-15-505-0030

SPACE ABOVE THIS LINE FOR RECORDING DATA

THIS WARRANTY DEED, made this 26 day of **December, 2017** by **TRIPP D. CIOCI and JENNIFER R. MARCHAL-CIOCI, HUSBAND AND WIFE**, whose post office address is **2217 COLLIER AVENUE, LAKE WORTH, FL 33461**, hereinafter called the Grantor(s) to:

**THE LAKE WORTH COMMUNITY REDEVELOPMENT AGENCY, A FLORIDA PUBLIC AGENCY**, whose post office address is **1121 LUCERNE AVENUE, LAKE WORTH, FL 33460**, hereinafter called the Grantee(s)

*(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)*

**WITNESSETH:** That the grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in **PALM BEACH** County, State of Florida, viz.:

**LOT 3, BLOCK E, THE PALM BEACH FARMS CO. PLAT NO. 2, THE TOWNSITE OF LUCERNE (NOW KNOWN AS LAKE WORTH), ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 29, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.**

**SUBJECT TO CONDITIONS, RESTRICTIONS, RESERVATIONS AND EASEMENTS OF RECORD.**

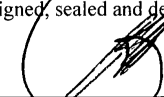
**TOGETHER**, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD**, the same in fee simple forever.

**AND**, the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2017.

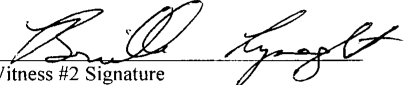
**IN WITNESS WHEREOF**, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

  
\_\_\_\_\_  
Witness #1 Signature

  
\_\_\_\_\_  
TRIPP D. CIOCI

BRUCE K. GREENFIELD  
\_\_\_\_\_  
Witness #1 Printed Name

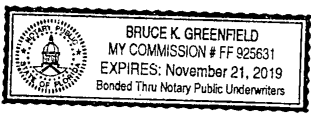
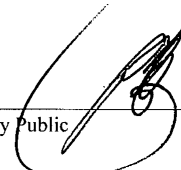
  
\_\_\_\_\_  
Witness #2 Signature

  
\_\_\_\_\_  
JENNIFER R. MARCHAL-CIOCI

Brielle Lysaght  
\_\_\_\_\_  
Witness #2 Printed Name

**STATE OF FLORIDA**  
**COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me this 26 day of **December, 2017** by **TRIPP D. CIOCI and JENNIFER R. MARCHAL-CIOCI**, who ( ) are personally known to me or who ( / ) have produced Florida Driver's Licenses as identification.

**SEAL**    
\_\_\_\_\_  
Notary Public

My Commission Expires:

THIS INSTRUMENT PREPARED BY AND RETURN TO:  
**Leslie Robert Evans, Esq.**  
Leslie Robert Evans & Associates, P.A.  
214 Brazilian Avenue, Suite 200  
Palm Beach, Florida 33480  
Our File No.: **4003.166**

CFN (Folio) Number: 38-43-44-21-15-505-0020

Consideration: **\$260,000.00**

SPACE ABOVE THIS LINE FOR RECORDING DATA

# WARRANTY DEED

**THIS WARRANTY DEED**, made the 3<sup>rd</sup> day of October, 2017 by **Lucerne 1213, LLC**, a Florida Limited Liability Company, whose post office address is 4371 Northlake Blvd., Suite 305, Palm Beach Gardens, FL 33140 herein called the Grantor, to **The Lake Worth Community Redevelopment Agency**, a Florida Public Agency, whose post office address is 29 South J Street, Lake Worth, FL 33460, hereinafter called the Grantee:

*(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)*

**WITNESSETH:** That the Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land situate in PALM BEACH County, State of Florida, viz.:

**Lot 2, Block "E", THE PALM BEACH FARMS CO, Plat No. 2 Townsite of Lucerne (NKA Lake Worth), According to the plat thereof on file in the office of the clerk of the circuit court in and for Palm Beach County, Florida recorded in Plat Book 2, Pages 29 through 40**

**Subject to easements, restrictions and reservations of record and taxes for the year 2017 and thereafter.**

**TOGETHER**, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining. **TO HAVE AND TO HOLD**, the same in fee simple forever.

**AND**, the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2016.

**IN WITNESS WHEREOF**, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Melissa De Tomasso  
Witness #1 Signature

Melissa De Tomasso  
Witness #1 Printed Name

[Signature]  
Witness #2 Signature

Jason Evans  
Witness #2 Printed Name

**Lucerne 1213, LLC, a Florida Limited Liability Company  
By Custom Management, LLC, Its Manager**

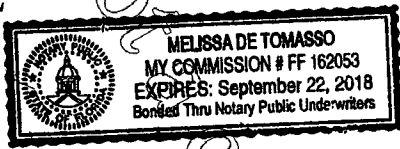
[Signature]  
**By: Ilia Mogilevsky, Its Manager**

Warranty Deed  
File No.: 4003.166  
Page 2

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of October, 2017, by Ilia Mogilevsky as Manager of Custom Management, LLC as Manager of Lucerne 1213, LLC, a Florida Limited Liability Company who is personally known to me or has produced FL Drivers License as identification and  did  did not take an oath.

**SEAL**



Melissa De Tomasso  
Notary Public

Melissa De Tomasso  
Printed Notary Name

My commission expires:

*certified copy*



CFN 20110444059  
 OR BK 24878 PG 0904  
 RECORDED 11/30/2011 15:41:27  
 Palm Beach County, Florida  
 AMT 43,560.00  
 Doc Stamp 305.20  
 Sharon R. Bock, CLERK & COMPTROLLER  
 Pgs 0904 - 905; (2pgs)

This is a  
 2011  
 11/30/2011

PREPARED BY AND RETURN TO:  
 Keith C. Austin, Jr., Esquire  
 COE, BROBERG & AUSTIN, LLP  
 223 Peruvian Avenue  
 Palm Beach, Florida 33480  
 (561) 655-5166

Property Control No.: 38-43-44-21-15-505-0010  
 Property Address: 1215 Lucerne Avenue, Lake Worth, Florida 33460

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED made the 30<sup>th</sup> day of November, 2011, by Tiger Investment Group, Inc., a Florida corporation, and having its principal place of business at 10151 Deerwood Park Boulevard, Building 100, Suite 410, Jacksonville, Florida 32256, hereinafter called the grantor, to Lake Worth Community Redevelopment Agency, a Florida public agency created pursuant to Chapter 163, Florida Statutes, whose address is 29 South J Street, Lake Worth, Florida 3360, hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Palm Beach County, Florida, viz:

**Lot 1, Block E, THE PALM BEACH FARMS CO., PLAT NO. 2, THE TOWNSITE OF LUCERNE (NOW LAKE WORTH), according to the Plat thereof, recorded in Plat Book 2, Page 29, of the Public Records of Palm Beach County, Florida.**

SUBJECT TO conditions, restrictions, easements, limitations and zoning ordinances of record, if any.

Special Warranty Deed, Page 1 of 2  
 Property Control # 38-43-44-21-15-505-0010  
 1215 Lucerne Avenue, Lake Worth, FL 33460

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the said grantor.

IN WITNESS WHEREOF, the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, sealed and delivered in the presence of

Tiger Investment Group, Inc., a Florida corporation

Steve St. Clair  
Steve St. Clair  
(Print Name)

By: Michelle Bushway  
Michelle Bushway, Vice President

Joyce Guthrie  
Joyce Guthrie  
(Print Name)

8200 66<sup>th</sup> Street North  
Pinellas Park, Florida 33781

STATE OF FLORIDA

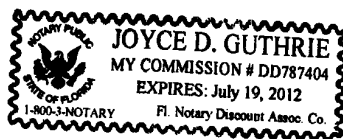
COUNTY OF PINELLAS

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared Michelle Bushway, well known to me to be a Vice President of Tiger Investment Group, Inc., a Florida corporation, and that she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said Bank. I relied upon the following form(s) of identification of the above-named person(s): (Florida Driver's License(s) B200 541 61 7510), and that an oath (was) (was not) taken.

WITNESS my hand and official seal in the County and State last aforesaid, this 28<sup>th</sup> day of November, 2011.

My Commission Expires:

Joyce Guthrie  
Notary Public  
Joyce Guthrie



Special Warranty Deed, Page 2 of 2  
Property Control # 38-43-44-21-15-505-0010  
1215 Lucerne Avenue, Lake Worth, FL 33460

This Instrument was Prepared By and Return to:  
**David N. Tolces, Esquire**  
GOREN, CHEROF, DOODY & EZROL, P.A.  
3099 East Commercial Boulevard, Suite 200  
Fort Lauderdale, Florida 33308

Property Identification No.: 38-43-44-21-15-505-0120

**WARRANTY DEED**

THIS INDENTURE, made on this 6<sup>th</sup> day of November, 2017 by and between **David P. Lovelace and Susan Janet Lovelace, husband and wife**, hereinafter referred to as "Grantor" and **Lake Worth Community Redevelopment Agency, a Florida public agency created pursuant to Chapter 163, F.S.**, whose post office address 1121 Lucerne Avenue, Lake Worth, FL 33460, hereinafter referred to as "Grantee."

WITNESSETH:

That said Grantor, for and in consideration of the sum of TEN (\$10.00) DOLLARS, and other good and valuable considerations to Grantor in hand paid by Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, and Grantee's successors and assigns forever, the following described land, situate, lying and being in PALM BEACH County, Florida, to wit:

*Lot 12, Block E, The Palm Beach Farms Co. Plat No. 2, The Townsite of Lucerne (now known as Lake Worth), according to the Plat thereof, as recorded in Plat Book 2, Page 29, Public Records of Palm Beach County, Florida.*

SUBJECT TO: Taxes for the year 2017 and subsequent years, zoning and/or restrictions and prohibitions imposed by governmental authorities, and easements and restrictions and other matters appearing on the plat and/or common to the subdivision.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

And the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever.

And the Grantors state that the above-referenced Property is not their homestead. Grantors, David P. Lovelace and Susan Janet Lovelace reside at 2554 Canterbury Drive South, West Palm Beach, FL 33407.

[SIGNATURE PAGE TO FOLLOW]



IN WITNESS WHEREOF, Grantors have hereunto set Grantors' hands the day and year first above written.

Signed, sealed and delivered  
in our presence:

[Signature]  
Name: DAVID N. Tolces

[Signature]  
Name: Don Silva

[Signature]  
David P. Lovelace

[Signature]  
Susan Janet Lovelace

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me on this 6<sup>th</sup> day of November, 2017 by David P. Lovelace and Susan Janet Lovelace, husband and wife, who [ ] are personally known to me or [X] have produced Florida driver's licenses as identification.



[Signature]  
NOTARY PUBLIC

CFN 20100314027  
OR BK 24029 PG 0502  
RECORDED 08/23/2010 16:11:59  
Palm Beach County, Florida  
AMT 38,000.00  
Doc Stamp 266.00  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0502 - 503; (2pgs)

**PREPARED BY AND RETURN TO:**

Keith C. Austin, Jr., Esquire  
COE, BROBERG & AUSTIN, LLP  
223 Peruvian Avenue  
Palm Beach, Florida 33480  
(561) 655-5166

Property Control No.: 38-43-44-21-15-505-0130  
Property Address: 1220 Lake Avenue, Lake Worth, Florida 33460

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED made the 20<sup>th</sup> day of August, 2010, by Tiger Investment Group, Inc., a Florida corporation, and having its principal place of business at 10151 Deerwood Park Boulevard, Building 100, Suite 410, Jacksonville, Florida 32256, hereinafter called the grantor, to Lake Worth Community Redevelopment Agency, a Florida public agency created pursuant to Chapter 163, Florida Statutes, whose address is 29 South J Street, Lake Worth, Florida 33460, hereinafter called the grantee;

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Palm Beach County, Florida, viz:

**Lot 13, Block E, THE PALM BEACH FARMS CO., PLAT NO. 2, THE TOWNSITE OF LUCERNE (NOW LAKE WORTH), according to the Plat thereof, recorded in Plat Book 2, Page 29, of the Public Records of Palm Beach County, Florida.**

SUBJECT TO conditions, restrictions, easements, limitations and zoning ordinances of record, if any.

Special Warranty Deed, Page 1 of 2  
Property Control # 38-43-44-21-15-505-0130  
1220 Lake Avenue, Lake Worth, FL 33460

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the said grantor.

IN WITNESS WHEREOF, the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, sealed and delivered in the presence of:

Tiger Investment Group, Inc., a Florida corporation

Joyce Guthrie  
Joyce Guthrie  
(Print Name)

By: Michelle Bushway  
Michelle Bushway, Vice President

[Signature]  
(Print Name)

8200 66<sup>th</sup> Street North  
Pinellas Park, Florida 33781

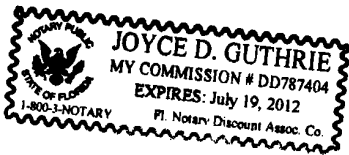
STATE OF FLORIDA  
COUNTY OF PINELLAS

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared Michelle Bushway, well known to me to be a Vice President of Tiger Investment Group, Inc., a Florida corporation, and that she acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said Bank. I relied upon the following form(s) of identification of the above-named person(s): (Florida Driver's License(s) B200541617570), and that an oath (was) (was not) taken.

WITNESS my hand and official seal in the County and State last aforesaid, this 19<sup>th</sup> day of August, 2010.

My Commission Expires:

Joyce Guthrie  
Notary Public  
Joyce Guthrie



Special Warranty Deed, Page 2 of 2  
Property Control # 38-43-44-21-15-505-0130  
1220 Lake Avenue, Lake Worth, FL 33460

This Instrument was Prepared By and Return to:  
**David N. Tolces, Esquire**  
GOREN, CHEROF, DOODY & EZROL, P.A.  
3099 East Commercial Boulevard, Suite 200  
Fort Lauderdale, Florida 33308

Property Identification No.: 38-43-44-21-15-505-0160

## WARRANTY DEED

THIS INDENTURE, made on this 24 day of January, 2018 by and between **Harlan B. Pierce, a single man**, hereinafter referred to as "Grantor" and **Lake Worth Community Redevelopment Agency, a Florida public agency created pursuant to Chapter 163, F.S.**, whose post office address 1121 Lucerne Avenue, Lake Worth, FL 33460, hereinafter referred to as "Grantee."

### WITNESSETH:

That said Grantor, for and in consideration of the sum of TEN (\$10.00) DOLLARS, and other good and valuable considerations to Grantor in hand paid by Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, and Grantee's successors and assigns forever, the following described land, situate, lying and being in PALM BEACH County, Florida, to wit:

*Lot 16, Block E, The Palm Beach Farms Co. Plat No. 2, The Townsite of Lucerne (now Lake Worth) according to the Plat thereof, as recorded in Plat Book 2, Page 29, of the Public Records of Palm Beach County, Florida.*

SUBJECT TO: Taxes for the year 2018 and subsequent years, zoning and/or restrictions and prohibitions imposed by governmental authorities, and easements and restrictions and other matters appearing on the plat and/or common to the subdivision.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

And the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever.

And the Grantor states that the above-referenced Property is not his homestead. Grantor, Harlan B. Pierce resides at 8501 SE Boy Scout Road, Tequesta, FL 33469.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Grantors have hereunto set Grantors' hands the day and year first above written.

Signed, sealed and delivered  
in our presence:

11/22/18

[Signature]

Name: Joao Silva

[Signature]

Name: DAVID N. TOLCES

[Signature]

Harlan B. Pierce

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me on this 24<sup>th</sup> day of January, 2018 by Harlan B. Pierce, who [ ] is personally known to me or [X] has produced Florida driver's licenses as identification.

Certified Copy

[Signature]

NOTARY PUBLIC





WC 13  
MN

CFN 20130033850  
CR BK 25736 PG 1947  
RECORDED 01/23/2013 13:53:09  
Palm Beach County, Florida  
AMT 88,000.00  
Doc Stamp 616.00  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 1947 - 1950; (4pgs)

2012-07241

This instrument prepared by:  
DANIELLE AULD  
WATSON TITLE INSURANCE AGENCY INC  
1901 W. CYPRESS CREEK ROAD  
3<sup>RD</sup> FLOOR  
FT LAUDERDALE, FL 33309

Return to:  
DANIELLE AULD  
WATSON TITLE INSURANCE AGENCY INC  
1901 W. CYPRESS CREEK ROAD  
3<sup>RD</sup> FLOOR  
FT LAUDERDALE, FL 33309  
WTI 2012-07241

Parcel Identification No. ~~38-43-44-21-15-504-0130~~

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED made this 4<sup>th</sup> day of December, 2012, by  
HOMESALES, INC. OF DELAWARE and having its place of business at 7301  
BAYMEADOWS WAY, JACKSONVILLE, FL 32256 hereinafter called the "Grantor", to  
LAKE WORTH COMMUNITY REDEVELOPMENT AGENCY, a Government Entity:  
29 SOUTH J STREET, UNIT 1, LAKE WORTH, FL 33460 hereinafter called the "Grantee",

**WITNESSETH:** That Grantor, for and in consideration of the sum of \$10.00 Dollars and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell unto Grantee, all that certain land situate in PALM BEACH County, Florida, to wit:

See Exhibit A attached hereto and made a part hereof.

**TOGETHER** with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

**SUBJECT** to the matters set forth on Exhibit B attached hereto and made a part hereof (collectively, the "Permitted Exceptions"), provided this shall not serve to reimpose any of the same.

**GRANTOR WILL WARRANT** and forever defend the right and title to the above-described real property unto the Grantee against the claims of all person, claiming by, through or under Grantor, subject to the Permitted Exceptions. (Wherever used herein the terms "Grantor" and "Grantee" included all the parties to this instrument, and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporation.)

DB1/67148262.3

IN WITNESS WHEREOF, the Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

*[Signature]*

Witness to sign above  
Print Name: Carolyn K. Cloud

*[Signature]*

Witness to sign above  
Print Name: Wendy Evans

HOMESALES, INC. OF DELAWARE

by *[Signature]* 12-4-12

Name: Jill Kelsey  
Title: Vice President

(Affix corporate seal)



Florida

STATE OF \_\_\_\_\_ )

COUNTY OF Duval ) ss:

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of December, 2012, by Jill Kelsey, the Vice President of HOMESALES, INC. OF DELAWARE on behalf of said CORPORATION. She/He [Check one]  is personally known to me or \_\_\_\_\_ has produced \_\_\_\_\_ as identification.

NOTARY PUBLIC:

Sign: *[Signature]*  
Print: Melonye H. Nadeau

My commission expires 8.22.15

(Affix Notarial Stamp or Seal)



EXHIBIT A

*JK*

**LEGAL DESCRIPTION**

**LOTS 13 AND 14, LESS THE NORTH 5 FEET, BLOCK D, PALM BEACH FARMS  
COMPANY PLAT 2, TOWNSITE OF LUCERNE, (NOW KNOWN AS LAKE WORTH),  
ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 29  
PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.**

**AKA 1310 LAKE AVENUE, LAKE WORTH, FL 33460**

*This is not a certified copy*



**EXHIBIT B**

*[Handwritten mark]*

**PERMITTED ENCUMBRANCES**

1. The lien of taxes and assessments for the current year and subsequent years;
2. Matters that would be shown by an accurate survey and inspection of the property;
3. All covenants, restrictions, conditions, easements, reservations, rights-of-way, and other matters of record, to the extent valid, subsisting and enforceable;
4. Zoning requirements, statutes, rules, orders, restrictions, regulations and ordinances of governmental agencies or their instrumentalities relating to the property, the buildings located thereon, their construction and uses, in force on the date hereof (if any such exist); and
5. Any licenses, permits, authorizations or similar items (if any) in connection with the conduct of any activity upon the property.

*This is a certified copy*



CFN 20130525746  
 OR BK 26496 PG 1973  
 RECORDED 12/10/2013 15:26:41  
 Palm Beach County, Florida  
 ANT 287,000.00  
 Doc Stamp 2,009.00  
 Sharon R. Bock, CLERK & COMPTROLLER  
 Pgs 1973 - 1976; (4pgs)

Prepared By and Return To:  
 J. Richard Harris, Esquire  
 Scott, Harris, Bryan, Barra  
 & Jorgensen, P.A.  
 4400 PGA Boulevard, Suite 800  
 Palm Beach Gardens, Florida 33410  
 W/C #32 - File #46358

Property Control No. 38-43-44-21-15-503-0050; 38-43-44-21-15-503-0060;  
 and 38-43-44-21-15-503-0071

WARRANTY DEED

THIS WARRANTY DEED, made this 5<sup>th</sup> day of December, 2013,

- between
- (1) **LOIS VANDER WOUDE**, individually and as Trustee of the Lois R. Vander Woude Revocable Trust Agreement dated December 15, 1993 (AS TO PARCELS 1 and 2)
  - (2) **JAMES VANDER WOUDE** and **LOIS VANDER WOUDE**, husband and wife (AS TO PARCEL 3)

hereinafter called the Grantors,

whose mailing address is **1281 Georgia Road  
 Franklin, North Carolina 28734-9275**

to **LAKE WORTH COMMUNITY REDEVELOPMENT AGENCY**, a Florida public agency created pursuant to Chapter 163, Florida Statutes

hereinafter called the Grantee,

whose mailing address is **29 South J Street  
 Lake Worth, Florida 33460-3787**

(Wherever used herein the terms "Grantors" and "Grantee" are used for singular or plural, as context requires and include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations and other business entities.)

**WITNESSETH**, that the said Grantors, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations, receipt whereof is hereby acknowledged, hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, all that certain land situate in the County of **Palm Beach**, State of Florida, to-wit:

**PARCEL 1:**

Lot 5, Block C, of **THE PALM BEACH FARMS COMPANY PLAT NO. 2, THE TOWNSITE OF LUCERNE N/K/A LAKE WORTH**, according to the Plat thereof, as recorded in Plat Book 2, at Pages 29 through 40, inclusive, of the Public Records of Palm Beach County, Florida

**PARCEL 2:**

Lot 6, less the South 5 feet thereof; and the North 65 feet of Lots 7 and 8, Block C, of **THE PALM BEACH FARMS COMPANY PLAT NO. 2, THE TOWNSITE OF LUCERNE N/K/A LAKE WORTH**, according to the Plat thereof, as recorded in Plat Book 2, at Pages 29 through 40, inclusive, of the Public Records of Palm Beach County, Florida

**PARCEL 3:**

The North 30 feet of the South 35 feet of Lots 7 and 8, Block C, of **TOWNSITE OF LUCERNE N/K/A LAKE WORTH, THE PALM BEACH FARMS COMPANY PLAT NO. 2**, according to the Plat thereof, as recorded in Plat Book 2, at Pages 29 through 40, inclusive, of the Public Records of Palm Beach County, Florida

**NEITHER THE GRANTOR, LOIS VANDER WOUDE, AS TRUSTEE OF THE LOIS R. VANDER WOUDE REVOCABLE TRUST AGREEMENT DATED DECEMBER 15, 1993, NOR HER SPOUSE THEREOF, OR ANYONE FOR WHOSE SUPPORT SHE IS RESPONSIBLE, RESIDES ON OR ADJACENT TO THE PROPERTY HEREIN DESCRIBED AND IT IS NOT, THEREFORE, HER HOMESTEAD PROPERTY.**

**SUBJECT TO** restrictions, reservations, covenants, conditions and easements of record; taxes for the year **2014** and the years subsequent thereto; and all applicable laws, ordinances, and governmental regulations, including without limitation, zoning and building codes and ordinances.

**TOGETHER** with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD**, the same in fee simple forever.

**AND** the said Grantors do hereby fully warrant title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said Grantors have signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

[Signature]  
Witness

Kimberly C Falsey  
(print name of witness)

[Signature]  
Witness

Kathleen M Brandon  
(print name of witness)

[Signature]

LOIS VANDER WOUDE, individually and as Trustee of the Lois R. Vander Woude Revocable Trust Agreement dated December 15, 1993

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of December, 2013, by **LOIS VANDER WOUDE**, individually and as Trustee of the Lois R. Vander Woude Revocable Trust Agreement dated December 15, 1993.



Original Copy

NOTARY PUBLIC

[Signature]

Kathleen M Brandon  
(Print Name)

My Commission Expires: 01-05-15

Commission No.: EE023698

Personally Known  OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

IN WITNESS WHEREOF, the said Grantors have signed and sealed these presents the day and year first above written.

Signed, sealed and delivered  
in the presence of:

[Signature]  
Witness as to both parties  
Ruby C. Falsy  
(print name of witness)

[Signature]  
Witness as to both parties  
Kathleen M. Brandon  
(print name of witness)

[Signature]  
JAMES VANDER WOUDE

[Signature]  
LOIS VANDER WOUDE

STATE OF Florida  
COUNTY OF Palmer Beach

The foregoing instrument was acknowledged before me this 5th day of December, 2013, by JAMES VANDER WOUDE and LOIS VANDER WOUDE.

NOTARY PUBLIC

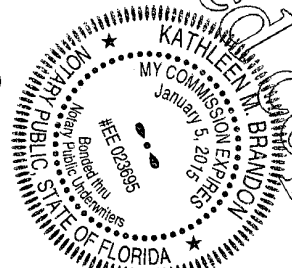
[Signature]

Kathleen M. Brandon  
(Print Name)

My Commission Expires: 01-05-15

Commission No.: EE023695

(SEAL)



Personally Known  OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

**LEGAL DESCRIPTION**

LOT 5, BLOCK C, OF THE PALM BEACH FARMS COMPANY PLAT NO. 2, THE TOWNSITE OF LUCERNE N/K/A LAKE WORTH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGES 29 THROUGH 40, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. (LESS THE SOUTH 5 FEET THEREOF)

LOT 6, LESS THE SOUTH 5 FEET THEREOF; AND THE NORTH 65 FEET OF LOTS 7 AND 8, BLOCK C, OF THE PALM BEACH FARMS COMPANY PLAT NO. 2, THE TOWNSITE OF LUCERNE N/K/A LAKE WORTH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGES 29 THROUGH 40, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

THE NORTH 30 FEET OF THE SOUTH 35 FEET OF LOTS 7 AND 8, BLOCK C, OF TOWNSITE OF LUCERNE N/K/A LAKE WORTH, THE PALM BEACH FARMS COMPANY PLAT NO. 2, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGES 29 THROUGH 40, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LOTS 13 AND 14, LESS THE NORTH 5 FEET, BLOCK D, PALM BEACH FARMS COMPANY PLAT 2, TOWNSITE OF LUCERNE, (NOW KNOWN AS LAKE WORTH), ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 29 OF PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LOT 1 THROUGH 5 BLOCK E, THE PALM BEACH FARMS CO., PLAT NO. 2, THE TOWNSITE OF LUCERNE (NOW LAKE WORTH), ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 29, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LOT 12 AND 13, BLOCK E, THE PALM BEACH FARMS CO., PLAT NO. 2, THE TOWNSITE OF LUCERNE (NOW LAKE WORTH), ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 29, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LOT 16, BLOCK E, THE PALM BEACH FARMS CO., PLAT NO. 2, THE TOWNSITE OF LUCERNE (NOW LAKE WORTH), ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 29, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

**LEGEND**

- ☐ TRAFFIC CONTROL BOX
- ☐ WATER SERVICE
- ☐ ELECTRIC SERVICE
- ☐ TELEPHONE BOX
- ☐ GAS SERVICE
- ☐ CABLE TV BOX
- ☐ SANITARY SERVICE
- ☐ DRAINAGE MANHOLE
- ☐ SANITARY MANHOLE
- ☐ GAS MANHOLE
- ☐ TELECOM MANHOLE
- ☐ WATER VALVE
- ☐ SANITARY VALVE
- ☐ GAS VALVE
- ☐ YARD DRAIN
- ☐ GREASE TRAP
- ☐ SIGN
- ☐ TREE
- ☐ FIRE HYDRANT
- ☐ FIRE CONNECTION
- ☐ CATCH BASIN
- ☐ BOLLARD
- ☐ LIGHT POLE
- ☐ BOLLARD LIGHT
- ☐ GUY WIRE ANCHOR
- ☐ WOOD UTILITY POLE
- ☐ CONCRETE UTILITY POLE
- ☐ CLEAN OUT
- ☐ CENTERLINE
- ☐ BACKFLOW PREVENTER
- ☐ WOOD UTILITY LIGHT POLE
- ☐ CONCRETE UTILITY LIGHT POLE
- ☐ EXISTING ELEVATION
- ☐ PROPOSED ELEVATION

**ABBREVIATIONS**

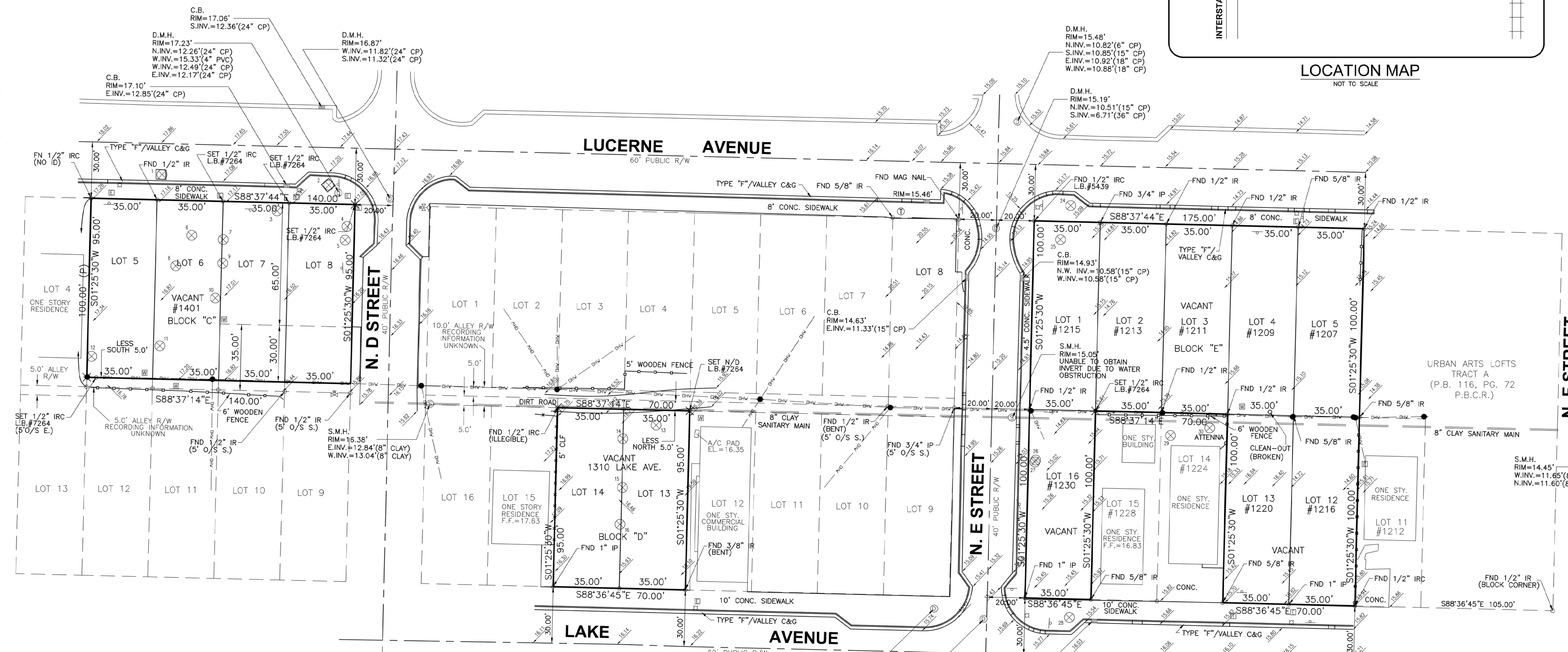
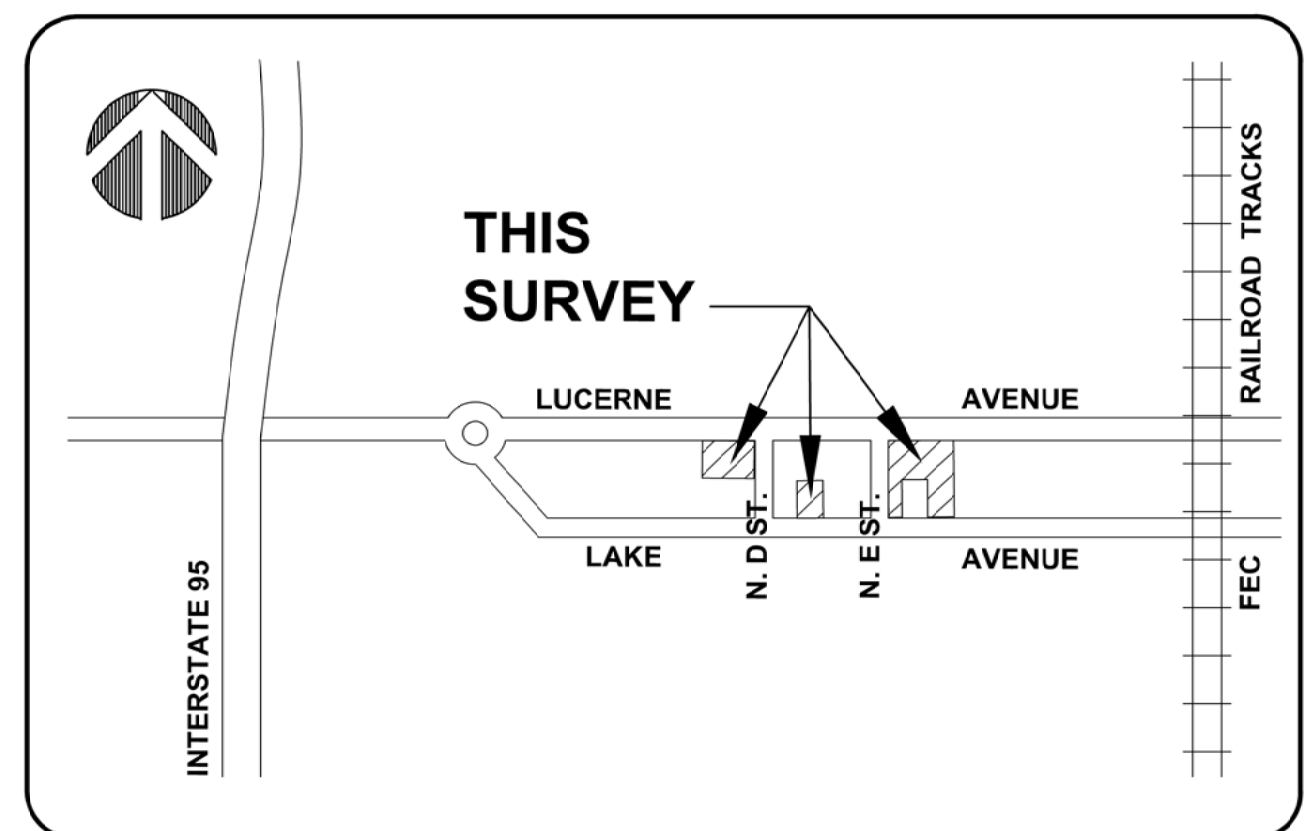
- A = ARC LENGTH
- A/C = AIR CONDITIONER
- C.B. = CATCH BASIN
- CP = CONCRETE PIPE
- C.B.S. = CONCRETE BLOCK & STUCCO
- C&G = CURB AND GUTTER
- CLF = CHAIN LINK FENCE
- CONC. = CONCRETE
- D = DELTA (CENTRAL ANGLE)
- D.M.H. = DRAINAGE MANHOLE
- ELEV. = ELEVATION
- F.F. = FINISHED FLOOR
- FND. = FOUND
- GAR. = GARAGE
- INV. = INVERT
- IP = IRON PIPE
- IR = IRON ROD
- N/D = NAIL AND DISC
- O/HW = OVERHEAD WIRE
- O/S = OFF SET
- (P) = PLAT
- P.B. = PLAT BOOK
- P.B.C.R. = PALM BEACH COUNTY RECORDS
- PG. = PAGE
- RADIUS = RADIUS
- R/W = RIGHT OF WAY
- S.M.H. = SANITARY MANHOLE
- STY. = STORY
- U.E. = UTILITY EASEMENT

**NOTES**

- THIS DRAWING IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- NO SEARCH OF THE PUBLIC RECORDS WAS REFERENCED IN THE PREPARATION OF THIS SURVEY.
- ALL EASEMENTS SHOWN HEREON ARE PER THE RECORD PLAT(S) UNLESS OTHERWISE INDICATED.
- THERE HAVE BEEN NO UNDERGROUND IMPROVEMENTS LOCATED IN CONNECTION WITH THIS SURVEY, EXCEPT AS SHOWN.
- ASSUMED BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH R/W LINE OF LUCERNE AVENUE HAVING A BEARING OF S88°37'44"E.
- ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 AND WERE DETERMINED FROM PALM BEACH COUNTY ENGINEERING BENCHMARK "K402" : ELEVATION: 15.699' NAVD 1988.
- PROPERTY ADDRESSES: 1401 LUCERNE AVE., LAKE WORTH, FL. 1310 LAKE AVE., LAKE WORTH, FL. 1207, 1209, 1211, 1213 AND 1215 LUCERNE AVE., LAKE WORTH, FL. 1219, 1220, 1228 AND 1230 LAKE AVE., LAKE WORTH, FL.
- SAID LANDS CONTAIN 13,300 SQUARE FEET IN BLOCK C, 6650 SQUARE FEET IN BLOCK D, AND 28,000 SQUARE FEET IN BLOCK E, MORE OR LESS.
- FLOOD INFORMATION IS AS FOLLOWS:  
COMMUNITY NUMBER : 12099C0777F AND 12099C0781F  
PANEL NUMBER : 0777 AND 0781  
DATE OF FIRM INDEX: 10-05-2017  
ZONE : X  
BASE FLOOD ELEVATION : N/A

**TREES LIST**

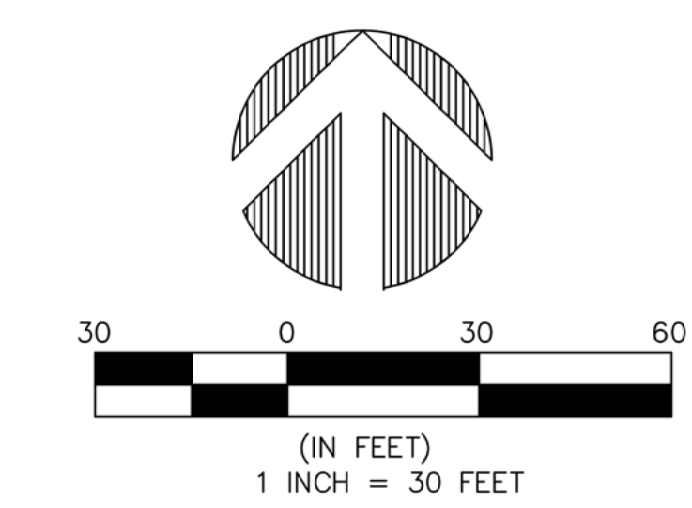
- |                      |                      |
|----------------------|----------------------|
| 1. 12" OAK           | 24. 12" OAK          |
| 2. 12" OAK           | 25. 12" COCONUT PALM |
| 3. 6" SEAGRAPE       | 26. 12" UNKNOWN      |
| 4. 10" COCONUT PALM  | 27. 18" MANGO        |
| 5. 10" COCONUT PALM  | 28. 10" LIVE OAK     |
| 6. 12" MANGO         | 29. 12" MANGO        |
| 7. 12" MANGO         | 30. 12" COCONUT PALM |
| 8. 10" MANGO         |                      |
| 9. 20" UNKNOWN       |                      |
| 10. 6" PALM          |                      |
| 11. 6" SEAGRAPE (X4) |                      |
| 12. 12" SABLE PALM   |                      |
| 13. 18" LIVE OAK     |                      |
| 14. 10" LIVE OAK     |                      |
| 15. 6" LIVE OAK      |                      |
| 16. 10" LIVE OAK     |                      |



**SURVEYOR'S CERTIFICATION**

I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON COMPLIES WITH STANDARDS OF PRACTICE AS CONTAINED IN CHAPTER 5J-17.051, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT SAID SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION.

JEFF S. HODAPP  
SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. LS5111  
DATE OF LAST FIELD WORK: FEBRUARY 20, 2020



**BOUNDARY AND TOPOGRAPHIC SURVEY  
LAKE WORTH PARCELS**

NO.	DATE	BY	CK'D	REVISION
1	09/05/2019	GY	JSH	LOCATE DRAINAGE/SANITARY SEWER INVERTS, PIPE SIZES.
2	02/20/2020	GY	JSH	LOCATE ADDITIONAL SANITARY SEWER MANHOLE, INVERTS, PIPE SIZES.
3	07/07/2020	GY	JSH	REVISED BOUNDARY.



G:\Projects\2019\19163\PSM\19163\_SURVEY\_rev1.dwg



# INHABIT

## PROPERTY GROUP

August 10, 2020

Mr. William Waters, AIA  
Director of Community Sustainability Department  
City of Lake Worth Beach  
1900 2<sup>nd</sup> Avenue North  
Lake Worth Beach, FL 33461

**RE: Village Flats, Lucerne & Lake Avenues, Lake Worth Beach, Florida -**

**Project Narrative Letter – Mixed Use Residential and Live/Work Planned Development, Major Site Plan, and Sustainable Bonus Incentive Program Applications ( “Project” or “Village Flats”)**

Dear Mr. Waters:

This Project Narrative Letter is respectfully submitted on behalf of InHabit LWB, LLC for the following properties located in Lake Worth Beach, associated with the Village Flats Residential and Live/Work Project:

<b>Addresses</b>	<b>Property Control Numbers</b>
<b><u>Phase I</u></b>	
1207 Lucerne Avenue -	38-43-44-21-15-505-0050
1209 Lucerne Avenue -	38-43-44-21-15-505-0040
1211 Lucerne Avenue -	38-43-44-21-15-505-0030
1213 Lucerne Avenue -	38-43-44-21-15-505-0020
1215 Lucerne Avenue -	38-43-44-21-15-505-0010
1216 Lake Avenue -	38-43-44-21-15-505-0120
1220 Lake Avenue -	38-43-44-21-15-505-0130
1230 Lake Avenue -	38-43-44-21-15-505-0160
<b><u>Phase II</u></b>	
1401 Lucerne Avenue -	38-43-44-21-15-503-0050
1310 Lake Avenue -	38-43-44-21-15-504-0130

The Project proposal is a two-phased development that contains a total of 1.1 acres and is described as follows:

**Phase I:** 28,000 S.F. – Between Lucerne and Lake Avenues, east side of North E Street.

- Construction of 30-units in two separate buildings - a 4-story, 24-unit, mixed use building with residential units and live/work units and spaces, and a 3-story, 6-unit mixed use building with residential spaces;
- Construction of 36 on-site parking spaces (2 ADA accessible parking spaces) and 12 on-street parking spaces (49 total spaces);
- Bicycle parking area and a dumpster enclosure with accommodations for recyclables; and,
- Approximately 6,534 S.F. of common open space area with a trellis, dog walk, benches and seating area, with landscaping and associated site lighting.

**Phase II:** Final Site Plans to be approved separately

- 1401 Lucerne Avenue - 13,300 S.F. – Construction of a 6-unit residential building units and associated parking and landscaping
- 1310 Lake Avenue – 6,650 S.F. – Construction of 5 mixed-use townhouse units with residential and live/work spaces and associated parking and landscaping

### **MAJOR SITE PLAN APPLICATION**

a. Project Location:

The Project consists of fourteen (14) lots scattered across a three (3) block area, between Lake and Lucerne Avenues, and North C and F Streets, just west of downtown.

b. Current Zoning and Land Use Designation:

The subject properties are currently zoned Mixed Use–East with an underlying Land Use Map designation of Mixed Use–East.

c. Proposed Zoning and Land Use Designation (if applicable):

There are no changes to the zoning or Future Land Use Map designation associated with the development proposal.

d. Existing Use (if applicable) – Vacant Land

e. Project Background

The City of Lake Worth Beach is determined to attract new residents, businesses and activities while still remaining quaint, distinctive and authentic. Consistent with this vision, the Lake Worth Beach CRA seeks to continue the development of housing choices while also creating additional local job opportunities. With that in mind, the CRA bought properties with NSP-2 funds and land-banked them for further development. Realizing that the development of single parcel, 25 foot lots would not produce the projects envisioned, additional lots were bought a few years later, due in part, to a line-of-



credit the CRA was able to secure. The CRA sought to improve the area through the development of live/work units and potentially other commercial space.

On February 16, 2019, the Lake Worth Beach CRA issued a Request for Proposals #01-1819 (RFP) for the redevelopment of CRA-owned vacant lots between Lake and Lucerne Avenues and North C and F Streets. The intent is to create a unified vision with similar uses in the District that complement the existing landscape as well as each other. Projects were required to be at least two to three stories in height. Subsequently, the CRA Board of Commissioners awarded the RFP to InHabit LWB, LLC (InHabit).

The properties are located just west of downtown, in an area undergoing significant redevelopment, and within the burgeoning arts district. The Project is in close proximity to the very successful Urban Arts Lofts, West Village and HATCH 1121. This area is also close to recreational activities, live entertainment, and the beach is less than a mile away.

In August of 2019, the CRA approved an agreement with InHabit for the development of the properties. Subsequently, InHabit worked closely with both the CRA and City Staff on the placement and design of appropriate units in the desired locations, and to address several development challenges related to lot sizes, City utility locations, needed infrastructure, and parking. At its meeting on January 14, 2020, the CRA Board of Commissioners approved the purchase and sale and development agreements between InHabit and the Lake Worth Beach CRA.

#### f. Site Characteristics

There are no significant site characteristics. The vacant parcels were previously developed with residential structures that were demolished. The site was cleared in anticipation of redevelopment.

#### g. Surrounding Property Information – Uses, Architectural Style and Size

The surrounding uses include a mix of single and multi-family residential and live/work units. The surrounding area is an eclectic mix of architectural styles, the most significant of which are Florida Vernacular, Anglo-Caribbean, Contemporary and Modern, each of which vary in height from one (1) to three (3) stories, with the exception of Lake Worth Towers at ten (10) stories.

#### h. Justification of the Proposal

The proposal is consistent with the vision of the City of Lake Worth Beach and the CRA, providing live-work units and compact, sustainable urban infill residential development that is envisioned in the Mixed Use-East zoning district, and consistent with the intent of the Planned Development District and Sustainable Bonus Incentive Program.

i. The proposed Project complies with the Site Design Qualitative Standards in Section 23.2-31 (1) – (15), which are listed below.

1. Harmonious and efficient organization. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in these LDRs.

*Response: All elements of the site plan have been harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining properties and the type and size of buildings. The design and layout of the site fits into the urban fabric in a manner*

*consistent with the Major Thoroughfare Design Guidelines. The development will be complimentary to and harmonious with surrounding area and provide the desired massing characteristics and features of an urban infill setting. The site is effectively planned and designed in a manner that promotes safety and minimizes adverse impacts to its neighbors. On-site parking is placed behind the buildings, effectively screening it from Lake Ave and Lucerne Aves with landscaping, thereby creating a park-like setting. The development promotes walkability and increased health, lower maintenance costs for infrastructure, and appealing aesthetic design. In addition, the development will encourage improvements to surrounding properties and further the stabilization and redevelopment of this important gateway to Lake Worth Beach.*

2. Preservation of natural conditions. The natural (refer to landscape code, Article 6 of these LDRs) landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by such other site planning approaches as are appropriate. Terrain and existing vegetation shall not be disturbed in a manner likely to significantly increase either wind or water erosion within or adjacent to a development site. Natural detention areas and other means of natural vegetative filtration of stormwater runoff shall be used to minimize ground and surface water pollution, particularly adjacent to major waterbodies. Fertilizer/pesticide conditions may be attached to development adjacent to waterbodies. Marinas shall be permitted only in water with a mean low tide depth of four (4) feet or more.

*Response: This section is not applicable as the property has already been disturbed by demolition. However, accommodations were made to retain drainage on-site in compliance with City regulations.*

3. Screening and Buffering. Fences, walls or vegetative screening shall be provided where needed and practical to protect residents and users from undesirable views, lighting, noise, odors or other adverse off-site effects, and to protect residents and users of off-site development from on-site adverse effects. This section may be interpreted to require screening and buffering in addition to that specifically required by other sections of these LDRs, but not less.

*Response: As previously stated, the on-site parking has been placed behind the buildings, effectively screening it from Lake and Lucerne Avenues. The proposed dumpster enclosure will be constructed of high-quality materials with aesthetically appealing gates. The common open space along Lake Avenue has been well designed with a decorative metal perimeter fence and landscaping adjacent to the public realm. All site lighting will comply with the City's lighting design and illumination standards. Landscaping and vertical landscape elements will be provided adjacent to the buildings and will complement the architectural style of the buildings, and further enhance the aesthetics of the surrounding area.*

4. Enhancement of residential privacy. The site plan shall provide reasonable, visual and acoustical privacy for all residential and live/work units located therein and adjacent thereto. Fences, walls, barriers and vegetation shall be arranged for the protection and enhancement of property and to enhance the privacy of the occupants.

*Response: The parking area will be secured with an automatic decorative rolling gate with private access to the buildings. The project will be consistent with Crime Prevention Through Environmental Design Principles (CPTED) to reinforce the privacy and safety of the residents. The buildings are designed with impact windows and high rated insulation, thus ensuring acoustical privacy for the residents.*

5. Emergency access. Structures and other site features shall be arranged so as to permit emergency vehicle access by some practical means to all sides of all buildings.

*Response: Emergency access is available from the adjacent streets and interior parking area for emergency response vehicles. All buildings will have a sprinkler system. Also, a Fire Department connection will be provided.*

6. Access to public ways. All buildings, dwelling units and other facilities shall have safe and convenient access to a public street, walkway or other area dedicated to common use; curb cuts close to railroad crossings shall be avoided.

*Response: The site is designed in a manner that provides safe and convenient access to the adjacent public streets, sidewalks and the common use area on the south side of the Phase I site.*

7. Pedestrian circulation. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.

*Response: As stated above, the pedestrian circulation system that is provided is appropriate for this urban infill site with sidewalks along the streets. The sidewalks internal to the site are insulated from the vehicular circulation system. Pedestrian connections are provided from the buildings to the sidewalks along the adjacent streets.*

8. Design of ingress and egress drives. The location, size and numbers of ingress and egress drives to the site will be arranged to minimize the negative impacts on public and private ways and on adjacent private property. Merging and turnout lanes traffic dividers shall be provided where they would significantly improve safety for vehicles and pedestrians.

*Response: There is one 24' wide driveway on North E Street providing ingress/egress to the parking area. The accommodations for ingress/egress have been designed to minimize the negative impacts on public and private ways and on adjacent private property. Due to low traffic volumes, urban development pattern, and design of the surrounding street sections, accommodations for merging or turn out lanes are not necessary.*

9. Coordination of on-site circulation with off-site circulation. The arrangement of public or common ways for vehicular and pedestrian circulation shall be coordinated with the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Minor streets shall not be connected to major streets in such a way as to facilitate improper utilization.

*Response: The public rights-of-way adjacent to the site currently contain streetscape improvements consisting of on-street parking with sidewalks and decorative LED street lighting. The development proposal includes the elimination of existing curb cuts onto Lucerne and Lake Avenues and additional on-street parking that will reinforce the desired development pattern and public right-of-way improvements for the streetscapes in this area of downtown Lake Worth Beach. Thus, the arrangement of public or common ways for vehicular and pedestrian circulation is coordinated with the pattern of existing or planned streets and pedestrian or bicycle pathways in the area.*

10. Design of on-site public right-of-way. On-site public street and rights-of-way shall be designed for maximum efficiency. They shall occupy no more land than is required to provide access, nor shall they unnecessarily fragment development into small blocks. Large developments containing extensive public rights-of-way shall have said rights-of-way arranged in a hierarchy with local streets providing direct access to parcels and other streets providing no or limited direct access to parcels.

*Response: The development proposal includes elimination of the existing curb cuts along both Lucerne and Lake Avenues adjacent to the subject properties and replaced with additional on-street parking and with modifications to the existing on-street parking, as necessary, in compliance with City and FDOT standards, as applicable. Direct access to the off-street parking area will be provided from North E Street.*

11. Off-street parking, loading and vehicular circulation areas. Off-street parking, loading and vehicular circulation areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.

*Response: The site design utilizes new urbanism design principles with buildings fronting Lake and Lucerne Avenues and access to the parking and service areas from the side street (North E Street), and to the rear of the buildings with required landscaping for screening. All site lighting will comply with City's lighting design and illumination standards. Thus, the site is designed so that the off-street parking, loading and vehicular circulation area are located, designed and screened to minimize the impact of noise, glare and odor on adjacent properties.*

12. Refuse and service areas. Refuse and service areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.

*Response: Refuse will be collected in a 6' high concrete block-stucco trash enclosure with high quality decorative vision-obscuring gates that are located at the entrance to the development on North E Street. Accommodations for recyclables will also be provided adjacent to the enclosure. The trash enclosure is located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.*

13. Protection of property values. The elements of the site plan shall be arranged so as to have minimum negative impact on the property values of adjoining property.

*Response: The proposed Project will have a positive impact on the property values of adjoining properties and the surrounding area. The elements of the site plan utilize new urbanism design principles with buildings fronting Lake and Lucerne Avenues and access to the parking and service areas from the side street (North E Street). Landscaping will also effectively screen the area from adjacent properties and North E Street.*

14. Transitional development. Where the property being developed is located on the edge of the zoning district, the site plan shall be designed to provide for a harmonious transition between districts. Building exteriors shall complement other buildings in the vicinity in size, scale, mass, bulk, rhythm of openings and character. Consideration shall be given to a harmonious transition in height and design style so that the change in zoning districts is not accentuated. Additional consideration shall be given to complementary setbacks between the existing and proposed development.

*Response: This section is not applicable as the development is internal to the Mixed Use – East Zoning District. However, the site plan is designed to be complementary to and harmonious with the surrounding area, which will provide the desired massing characteristics and features of an urban infill setting. The buildings' exteriors will complement recently constructed buildings in size, scale, mass, bulk, rhythm of openings and character, and is consistent with the architectural character envisioned for the area.*

15. Consideration of future development. In finding whether or not the above standards are met, the review authority shall consider likely future development as well as existing development.

*Response: The Project is a two-phased development with phase II consisting of properties that are not contiguous to Phase I, and located in Blocks C and D immediately west of Phase I. The proposed site design and architectural styles will be consistent with urban design principles, the Major Thoroughfare Design Guidelines and the City's Land Development Regulations. Thus, the review authority should find that the above findings are met.*

j. Positive findings can also be made with the Compliance with Community Appearance Criteria Section 23.2-31(l), which are as follows:

1. The plan for the proposed structure or project is in conformity with good taste, good design, and in general contributes to the image of the City as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas and high quality.
2. The proposed structure or project is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.
3. The proposed structure or project is in harmony with the proposed developments in the general area, with code requirements pertaining to site plan, signage and landscaping, and the comprehensive plan for the City, and with the criteria set forth herein.
4. The proposed structure or project is in compliance with this section and 23.2-29, as applicable.

*Response: The Village Flats will adhere to the Compliance with Community Appearance Criteria (CAC). The architectural elevations as well as the design and layout of the site fit into the urban fabric in a manner consistent with the Major Thoroughfare Design Guidelines. The Modern or Contemporary architectural style is consistent with the Design Guidelines and consists of a modern design made with quality materials that will withstand the test of time. The buildings will contribute to the City's positive image and will enhance the local environment and property values, thereby advancing stabilization and redevelopment efforts. The Project will be complementary to and harmonious with the surrounding area and provide the desired massing characteristics and features of an urban infill setting.*

### **MIXED-USE PLANNED DEVELOPMENT**

Project Narrative addressing the following:

- o A general description of the proposed development, including the total acreage involved in the project; the number and percentage of acres devoted to various categories of land use; the number and type of dwelling units proposed and the overall project density in dwelling units per gross acre; the minimum design standards for such features as lot shape and size, building size and lot coverage, open space, off-street parking and loading, signs, and landscaping;

*Response: The Project proposal is a two-phased mixed-use residential and live/work development that contains a total of 1.1 acres and is described as follows:*

**Phase I:** Site 1- 28,000 S.F. – Between Lucerne and Lake Avenues, east side of North E Street.

- Construction of 30-units in two separate buildings - a 4-story, 24-unit, with residential and live/work spaces and a 3-story, 6-unit residential building;

- Construction of 36 on-site parking spaces (2 ADA accessible parking spaces) and 12 on-street parking spaces (49 total spaces);
- Bicycle parking area and a dumpster enclosure with accommodations for recyclables; and,
- Approximately 6,534 S.F. of common open space area with a gazebo, dog walk, benches and seating area, with landscaping and associated site lighting.

**Phase II:** Final Site Plans to be approved separately

- 1401 Lucerne Avenue – Site 3- 6,650 S.F. – Construction of 5 townhouse/live-work units and associated parking and landscaping.
- 
- 1310 Lake Avenue – Site 2- 13,300 S.F. – Construction of a 6-unit apartment building with associated parking and landscaping.

**PROJECT DATA**

SETBACKS:

*Front (Lake & Lucerne): Required: 10' Minimum 22' Maximum                      Provided: 10'*  
*Rear:    Required: NA    Provided: NA.*  
*Side:    Required: 10' On Street and 0 ft. on interior Lot.*  
*Provided: 10' On Street and 0 ft. on interior Lot.*  
*(Additional Setback above 3<sup>rd</sup> story not provided)*

F.A.R.:    *Allowed: 1.40    Proposed: Phase 1 & 2: .78*  
*Proposed area of structures - Phase 1: 25,726 S.F.*  
*Proposed area of structures - Phase 2: 11,667 S.F.*

HEIGHT:    *Allowed: 30 ft. Max. (45 ft. With increase of additional 15' per Sustainable Bonus Incentive.)*  
*Provided: 45 ft. max.*

DENSITY:    *Allowed: 30 du/Acre with increase of 25% = 41.2 units*  
*Provided: Phase 1: 30 Dwelling Units*  
*Provided: Phase 2: 11 Dwelling Units*

PARKING

*Phase 1: Required: Studio & 1 Bedroom: 1.5 REQUIRED / unit required*  
*2 Bedroom: 1.75 SPACES/ UNIT REQUIRE*  
*Total: 47 spaces*  
*Provided: 36 Spaces (on site)*  
*+ 12 Parallel on-street*  
*+ 4 Bikes = 1 space*  
*Total: 49 Spaces*

*Phase 2: Required: 18 spaces*  
*Provided: 18 spaces*

IMPERMEABLE SURFACE:

*Allowed:    Proposed:*

Phase 1: 65% 53.4%  
 Phase 2: 65% approx. 65%

LOT COVERAGE:

	<i>Allowed:</i>	<i>Proposed:</i>
Phase 1:	55%	28%
Phase 2:	55%	28%

OPEN SPACE:

*Provided:*  
 Phase 1: 9,432 S.F.  
 Phase 2: 10,160 S.F.

UNIT TABULATION: The units described below will include 10 live/work spaces and 31 residential units.

PHASE 1 (30 TOTAL UNITS)

BUILDING 1 (24 UNITS)  
 17 - 1 BEDROOM UNITS:  
 7 - 2 BEDROOM UNITS:

BUILDING 2 (6 UNITS)  
 6 - 1 BEDROOM UNITS

PHASE 2 (11 TOTAL UNITS)

BUILDING 3 (6 UNITS)  
 6 - 1 BEDROOM UNITS

BUILDING 4 (5 UNITS)  
 5 - 2 STORY TOWNHOMES: 1280 S.F./unit

UNIT AREAS

<u>PHASE 1 -</u>	<u>UNIT #</u>	<u>TYPE</u>	<u>MIN AREA REQUIRED</u>	<u>AREA PROPOSED</u>
<u>BUILDING 1 -</u>	1	1 BEDROOM	600 S.F.	715 S.F.
	2	2 BEDROOM	750 S.F.	1027 S.F.
	3	1 BEDROOM	600 S.F.	686 S.F.
<u>BUILDING 2 -</u>	4	1 BEDROOM	600 S.F.	610 S.F.

- o A statement indicating the manner in which the proposed Project complies with the comprehensive plan;

The Project is consistent with the CRA's infill and redevelopment initiatives and programs. Scattered vacant properties throughout the commercial zoning districts create serious voids within the City fabric that become a deterrent for redevelopment. These vacant blocks give areas of the downtown the appearance of insecurity, abandonment and blight. The project consolidates smaller vacant lots into one redevelopment Project and provides new market-rate housing. The Project provides live-work units and compact, sustainable urban infill residential development that is envisioned for the Mixed Use-East Zoning District. The design will be complementary to the redevelopment projects recently completed in the area and will further enhance and foster the redevelopment initiatives contemplated for the area. The Project is consistent with the contemporary and modern architectural styles referenced in the Major Thoroughfare Design Guidelines for Sub Area 2. In addition, the Project is consistent with the intent of the Sustainable Bonus Incentive Program, detailed in Future Land Use Element Objective 1.2.3, Policy 1.2.3.4.3., which allows a 25% increase in density greater than 30 units per acre (37.5 du/ac proposed), as well as Land Development Regulations Sec. 23.2-33 (Sustainable Bonus Incentive Program) and Sec. 23.3-25 (Planned Development District). Increasing residential density is crucial to ensure a healthy and lasting life to the Lake Worth Beach Downtown District, including the Lucerne and Lake

Avenues corridors. This development fronts Lucerne and Lake Avenues, which sits along Palm Tran Route 62, providing a vital transportation alternative to Downtown Lake Worth Beach, Tri-Rail Station, the Beach, and Palm Beach State College, thereby reducing vehicular trips and providing a more sustainable downtown.

A review of the City of Lake Worth Beach Comprehensive Plan was conducted. The proposed project is consistent with and furthers the applicable Goals, Objectives and Policies of the Comprehensive Plan, which are listed below.

## **1. FUTURE LAND USE ELEMENT**

**GOAL 1.2:** To strive to foster the City of Lake Worth Beach as a livable community where live, work, play and learn become part of the daily life of residents and visitors.

**Objective 1.2.1:** To promote the location of high-quality retail, office and mixed-use projects in the Downtown Mixed Use (DMU) and Mixed Use East (MU-E) designations as the prime retail and commercial areas of the City.

**Policy 1.2.1.6:** In order to support continued redevelopment of Mixed-Use Corridors (such as Dixie and Federal Highways) to maintain their economic viability, the City shall update and continue to implement design guidelines for its major commercial thoroughfares and for the Historic Downtown (Lake/Lucerne corridor). These design guidelines establish flexible, but consistent standards for the exterior appearance of new and renovated buildings within two blocks of these main streets. The Guidelines shall incorporate implementation policies concerning appropriate signage, and architectural design of new and renovated structures.

**Objective 1.2.2:** The City shall facilitate a compact, sustainable urban development pattern that provides opportunities to more efficiently use and develop infrastructure, land and other resources and services, and to reduce dependence on the automobile. This can be accomplished by concentrating more intensive growth within the City's mixed use, high density residential and transit-oriented development (TOD) areas.

**Policy 1.2.2.1:** The City shall continue to promote compact developments within the mixed-use high density residential and TOD areas while providing adequate public services for each development in the most cost effective manner possible.

**Objective 1.2.3:** The City shall establish incentives to help support the creation of a compact, sustainable, community-oriented development by implementing a Sustainable Bonus Incentive Program.

**Policy 1.2.3.1:** The City shall continue to implement the Sustainable Bonus Incentive Program described in Policy 1.2.3.4 below, to provide for increased density, intensity and height allowances in return for specific project or public components that would create or increase quality of life measures for a larger segment of the population. The Sustainable Bonus Incentive Program will be more fully developed and implemented through the City's Land Development Regulations.

**Policy 1.2.3.4:** The Sustainable Bonus Incentive Program shall consist of the following criteria: **3.** For a planned development, mixed use planned development, residential planned development or urban planned development, a project may obtain a 25% bonus on density, intensity and height over the base line as outlined in Table I of the Future Land Use Element.



**GOAL 1.6:** To support and coordinate with the City's Community Redevelopment Area (CRA) infill and redevelopment initiatives and programs and to provide incentives for the continued redevelopment of the historic downtown commercial core of the City.

**Objective 1.6.1:** To support the redevelopment of older urban area.

**Policy 1.6.1.1:** The City shall support redevelopment with recommended regulations pertaining to height, density, design, mixed use, neighborhood compatibility and protection of historic resources.

**Policy 1.6.1.2:** The City shall encourage new development, infill and redevelopment in conjunction with existing or planned transit improvements where possible

**Objective 1.6.7:** To encourage infill development, redevelopment and renewal of blighted areas and to promote the rehabilitation and restoration of older structures.

**Policy 1.6.7.1:** Infill and Redevelopment opportunities shall be maximized through activities of the Community Redevelopment Agency to operate within the Redevelopment Area as shown on the Future Land Use Plan.

**Policy 1.6.7.2:** Infill and Redevelopment opportunities will be maximized through programs to achieve the consolidation of small lots into larger redevelopment parcels, where feasible.

**Policy 1.6.7.3:** Redevelopment of the City's major thoroughfares, Transit Oriented Mixed-Use areas and along the F.E.C. railway with more intensive uses shall be encouraged.

## **2. TRANSPORTATION ELEMENT**

**Objective 2.1.4:** To eliminate or reduce conflicts between rail, vehicular and pedestrian traffic in any new development or redevelopment, coordinate the transportation system with existing and future or existing land uses, and ensure that planned development is consistent with planned transportation services as a means to ensure improvement of air quality and overall mass transit performance.

## **3. HOUSING AND NEIGHBORHOODS ELEMENT**

**GOAL 3.1:** To achieve a supply of housing that offers a variety of residential unit types and prices for current and anticipated homeowners and renters in all household income levels by the creation and/or preservation of a full range of quality housing units.

**Objective 3.1.1:** To upgrade the quality of existing housing and assure that new construction is of the highest possible quality while supporting the position that the city's housing supply will be principally provided by the private sector.

**Objective 3.1.8:** Encourage construction of workforce housing units and market-rate housing to alleviate the excessive concentration of affordable units in the City and to contribute to the Goal of providing a full range of quality residential unit types and prices for current and anticipated homeowners and renters in all household income levels.

**Policy 3.1.8.2:** Promote the construction of market-rate housing in redevelopment areas and mixed-use corridors to contribute to achieve a full range of housing supply.

o The proposed schedule of development which identifies the anticipated project start and completion dates, stages of development (if any), and the area and location of common open space to be provided at each stage;

*Response: Total time to complete the first Phase is 18-22 months from the time the building permit is issued.*

o Compliance with the General Provisions and Requirements in Section 23.3-25(b), which are as follows:

*Response: The submittal and proposed development comply with the General Provisions and Requirements in Section 23.3-25(b). The following General Provisions and Requirements are highlighted below:*

- Utilities. All utilities, including telephone, cable television, and electrical service systems, shall be installed underground. However, the following facilities may be exempt from this requirement:
  - Accessory facilities normally associated with such systems that require above-ground installation, provided such facilities are screened adequately; and
  - Primary facilities, such as electric substations, providing service to the planned development or to service areas not located within the planned development. Primary facilities shall be screened or landscaped.

*Response: As required, all utility service laterals servicing this development will be located underground. The proposed transformer will be screened accordingly as well as any above ground junction boxes.*

- Visibility triangle. In all planned development, visibility at all street and alley intersections shall be provided pursuant to section 23.4-4.

*Response: Sight distance has been depicted on the landscape plan. Sight visibility triangles will be indicated on all plans at the intersections and driveways. Landscape material and walls located within the triangle will be maintained as specified in Section 23.4-4. Given the proposed development is an urban infill Project, the buildings will encroach into the visibility triangles. However, stop signs exist on North E Street at the intersections of Lucerne and Lake Avenues and provide adequate sight visibility given the locations of the stop bars and signs. While Lucerne Avenue is a westbound one-way street, Lake Avenue is an eastbound one-way street. Along both streets terminal nodes exist providing additional distance and visibility from the stop signs to the travel lanes, which does provide improved sight visibility. Thus, a positive finding can be made that the project complies with this code section.*

- Open space. In all planned development, sufficient areas of common open space shall be provided at each stage of development and upon completion of development. Such common open space shall include areas not covered by water.

*Response: The Village Flats has approximately 6,534 S.F. of common open space area with a gazebo, dog walk, benches and seating area, landscaping and associated site lighting. The common open space along Lake Avenue has been well designed with a perimeter wall and landscaping adjacent to the public realm. All site lighting will comply with City's lighting design and illumination standards. While Phase II residents can utilize the common open space in Phase I, the townhomes will be provided private open space areas, and additional open space may be provided for the Phase II apartment building.*

- Establishment of planned development districts. Planned development districts will be established from designated existing zoning districts by amendment to the official zoning map for tracts of land suitable in location, extent, and character for the structures and uses proposed.

*Response: Noted.*

- Unified control. All land included for purpose of development within a planned development district shall be owned or under the control of the petitioner for such zoning designation, whether that petitioner be an individual, partnership or a corporation, or a group of individuals, partnerships or corporations. The petitioners shall present firm evidence of the unified control of the entire area within the proposed planned development district and shall agree that when the development proceeds:
  - It will be in accordance with the ordinance officially adopted for the district and the regulations in effect when the planned development was approved.
  - Agreements, contracts, or deed restrictions and covenants will be provided to the city to insure that the development will occur in accordance with the master development plan; and that the developer, his successors, assignees, or heirs, are responsible for the continued maintenance and operation of common areas and facilities, including sodding, watering down and fencing of undeveloped areas earmarked for future stages of development that are disturbed during development.

*Response: In addition to the Master Plan, the properties will be unified via a Declaration of Unity of Title, or another mechanism. The developer will execute agreements as appropriate to ensure compliance with this section.*

○ If applicable, compliance with the Residential Planned Development Special Requirements in Section 23.3-25(c), which are as follows:

- Minimum area required. The minimum area required for a residential planned development district shall be five acres, unless otherwise provided in these LDRs. However, any area of lesser size may be approved for residential planned development zoning upon findings by the planning board or historic resources preservation board and the city commission that one or more of the following conditions exist:
  - Particular circumstances justify such reduction.
  - Requirements for RPD zoning and the benefit to be derived from such zoning can be derived in such lesser area.
  - Permitting such lesser area for RPD zoning is in conformity with the comprehensive plan.

*Response: The site area is 1.1 acres. Given the location of the property within Major Thoroughfare Area A and its location within the Mixed-Use East zoning district and Community Redevelopment Area, the site provides sufficient basis to allow the RPD. The urban infill development proposal is consistent with the City's Comprehensive Plan, and the CRA's infill and redevelopment initiatives and programs.*

- Permitted uses. Within any residential planned development any use permitted in the underlying zoning district is permitted.
- Required setbacks: Required setbacks shall be as provided in these LDRs for the zoning district in which the planned development is to be located.
- Parking and loading space requirements. Parking and loading spaces for all uses within a residential planned development district shall be provided as required by sections 23.4-18 and 23.4-19. No off-street parking shall be located within a required setback area.
- Landscaping. Landscaping, tree protection, screening and buffering shall be provided as required by Section 23.6-1. However, additional landscaping, screening, and buffering may be required to

provide additional privacy and protection for residents within a planned development district and adjacent property owners.

*Response: The development proposal complies with the sections referenced above. The multiple family use at the requested density is allowed, required setbacks are met, adequate parking is provided with no parking located in required setback areas, and landscape material meets code.*

### **SUSTAINABLE BONUS INCENTIVE PROGRAM**

The Sustainable Bonus Incentive Program, as outlined in Sec. 23.2-33 of the City's Code and Major Thoroughfare Design Guidelines, includes the following criteria:

1. Any buildings seeking incentives must be over two stories, which allows for increases in height and intensity over baseline maximums.
2. As part of a residential planned development, or urban planned development, a project may receive a 25% bonus on density, intensity, and height over the baseline.

*Response: The Project proposal includes utilization of the Sustainable Bonus Incentive Program to increase the height of the Phase I buildings from 2 to 4 stories (30' to 42'8") for Building 1 (24-unit building fronting Lucerne Avenue) and from 2 to 3 stories (30' to 32') for Building 2 (6-unit building fronting North E Street.) In addition, the Program is being utilized to increase the allowed residential density of the overall development from 30 du/ac by 25% as permitted to 37.5 du/acre for a total of 41.2, or 41 units (rounded down). As currently proposed, the Phase II buildings will be 3 stories.*

*This Project incorporates sustainable design and development principles to foster a more sustainable, economically vibrant, diverse community with an emphasis on high-quality design and appreciation of the City's unique cultural, architectural, historical and natural resources.*

### **LDR Section 23.2-33 c)2). Review/decision.**

The award of bonus height or intensity under the Sustainable Bonus Incentive Program shall be based on the following criteria:

- (a) Is the award calculated correctly, consistent with the square footage and height requested and the value of the features and improvements included in the development proposal;

*Response: Based on the description provided above, Building 1 will result in an addition of 5,570 S.F. per floor or 11,140 S.F. (2 X 5,570 S.F.). Building 2 will result in an additional 1,572 S.F. of floor area. Building 3 will result in an additional 2,442 S.F. for a total of 15,134 S.F. of additional floor area. The increase in intensity will accommodate 9 additional units, for a total of 41 units. As indicated in the application, the value of the additional floor area is \$75,670. With the improvements that are eligible for Florida Green certification valued at 50% (\$37,835), the balance will be achieved by providing higher quality open space, various sustainable improvements and landscaping in excess of code.*

- (b) Do the proposed on-site features or improvements adequately provide sustainable project enhancements, beyond those otherwise required by these LDRs for the development proposal, that are attainable and reasonable in the context of the proposed project; and

*Response: The Project proposal incorporates the following qualifying sustainability features or improvements specified in LDR Section Sec. 23.2-33 d) 1):*

*(b) Florida Green Building certification shall entitle the applicant to fifty (50) percent of the incentive award regardless of the number of additional stories or additional square feet above the initial two (2) stories.*

*(d) Higher quality or additional open space beyond the requirements of the code.*

*(e) Higher quality or additional landscaping beyond the requirements of the code.*

*The Project incorporates a variety of green building elements that will be eligible to meet green building criteria, including but not limited to: impact resistant windows, tinted windows, high-rated insulation, energy star appliances, high efficiency HVAC units, low flow toilets, interior and exterior LED light fixtures, low volume irrigation, drought tolerant landscape material, and bicycle racks. The project provides high quality open space for the residents in excess of code. Also, landscaping may be proposed in excess of code. In addition, the fact that this Project is an urban infill redevelopment project that fosters walkability, connectivity and the intensity that is envisioned for the urban core further supports the incentive program for this Project. Also, this Project incorporates sustainable design and development principles to foster a more sustainable, economically vibrant, diverse community with an emphasis on high-quality design and appreciation of the City's unique cultural, architectural, historical and natural resources. Based on these qualifying features, the requested Sustainable Bonus Incentive is respectfully requested and can be supported.*

(c) Do the proposed off-site improvements meet the priorities of the city for community sustainability; and

*Response: Off-site improvements are not proposed.*

(d) Do the proposed features, improvements or fees-in lieu meet the intent of the Sustainable Bonus Incentive Program?

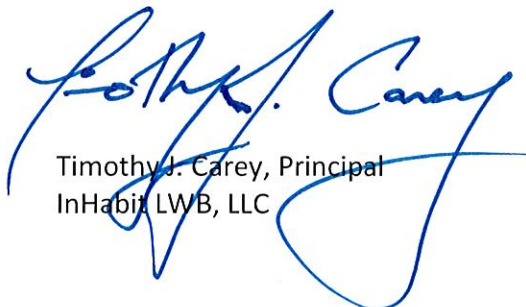
*Response: As described above, the proposed features and improvements meet the intent of the Sustainable Bonus Incentive Program.*

Based upon the above, approval of the Major Site Plan, Planned Development District, and Sustainable Bonus Incentive Program is respectfully requested. Please let me know if you have any questions or require additional information. Thank you for your consideration.

Sincerely,

Norman Weinstein, Principal  
InHabit LWB, LLC

Robert Schmier, Principal  
InHabit LWB, LLC



Timothy J. Carey, Principal  
InHabit LWB, LLC

**EXHIBIT "A"**  
**VILLAGE FLATS PHASE 2**  
**PROJECT SUMMARY**

Village Flats Phase 2 will consist of the following:

**1310 Lake Avenue (Building 3)** - 6,650 S.F.:

- Construction of a 3-story 6-unit residential building containing six 1-bedroom apartment units.
- Construction of 7 on-site parking spaces (1 ADA accessible parking space) accessible from the alley, and 3 on-street parking spaces on Lake Avenue (10 total spaces); and,
- Installation of a bicycle parking area, site lighting, associated landscaping, and a refuse container enclosure with accommodations for recyclables accommodations for recyclables.

This building will seek a waiver request so that the third floor 10 foot setback will not apply to this building. The building is already set back 13 feet from the curb, and any additional setback will further constrain this urban infill lot. An additional setback will increase the cost of design and construction, which hampers our ability to provide affordable market rate apartments and an economically viable project. As such, a waiver to the code requirement is necessary.

**1401 Lucerne Avenue (Building 4)** -13,300 S.F.:

- Construction of five (5) 2-story mixed-use townhouse units with rear loaded garages off the alley. The townhouses will be 3-bedroom, 2-bath units with live/work spaces and a minimum 1-car garage.
- Each townhouse will be provided with a minimum of 2 parking spaces with 4 on-street spaces on Lucerne Avenue and associated parking. Trash will be accommodated via roll-out carts.

Phase 2 will provide 65% impermeable surface, 28% lot coverage, 10,160 s.f. of open space and total of 24 parking spaces (17 on-site, 7 on-street). The buildings will be of the Modern or Contemporary architectural style consistent with Phase 1 buildings and the Major Thoroughfare Design Guidelines.

With the Phase 2 site plan approval, complete drawings will be submitted for review and approval in compliance with the applicable land development regulations. The Sustainable Bonus Incentive associated with Phase 2 only applies to Building 3, which will be a 3-story, 6-unit apartment building with parking provided adjacent to the alley. The third floor area is approximately 1,684 s.f. and has been factored into the overall calculation associated with the master plan approval. As stated above, a waiver to the third floor setback requirement is included with the Waiver Request Justification Letter. The elevations, interior finishes and Sustainable Bonus features/improvements will be consistent with those provided in Phase 1.

# Sustainable Bonus Incentive Program



All development proposals seeking increased height above two stories, or additional FAR, as each may be allowed in a zoning district, shall submit this Sustainable Bonus Incentive Program Application. The application shall accompany the standard City of Lake Worth Universal Development Application for the development proposal.

Two hard copies and one electronic copy of the following materials are required in order for a Sustainable Bonus Incentive Program Application to be deemed complete and sufficient to present to the decision making board.

The Sustainable Bonus Incentive calculations are based on the gross square footage of the bonus height or intensity requested. The additional gross square footage amount is multiplied by \$5 per square foot ("Value Multiplier") in order to determine the value of the additional improvements to be provided for the project.

**1. Please indicate whether the development proposal includes bonus height or bonus intensity:**

a.  Bonus Height

- i. No. of Additional Stories: Building 1 - 2 Stories; Building 2 - 1 story; Building 3 - 1 story ("Bonus Height")
- ii. Additional Gross Floor Area: 14,396 S.F.-5,248= 9,148 S.F. @ \$5 per S.F. ("Bonus Area")

b.  Bonus Intensity

- i. Additional Floor Area Ratio: 8 Bonus Units = 5,248 S.F. @ \$10 per S.F. ("Bonus Intensity")
- ii. Additional Gross Floor Area: \_\_\_\_\_ ("Bonus Area")

**2. Multiply the Bonus Area by the Value Multiplier to determine the value of required improvements.**

a. 9,148 square feet x \$5 = \$ 45,740  
Bonus Area Value of Required Improvements

**3. Indicate the type and value of the community benefit proposed to qualify for the Bonus Area:**

- a.  On-Site Features and Improvements; Value: \$ 98,220
- b.  Off-Site Features and Improvements; Value: \$ \_\_\_\_\_
- c.  Fee In Lieu; Amount: \$ \_\_\_\_\_

**4. Attach to this application a separate sheet with a detailed description of the proposed improvement and valuation of the same.**

See attached Project Narrative letter.

## Sustainable Bonus Incentive Program

Note: This calculation addresses the sustainable bonus incentive program for additional height and units.

<b>Improvement Detail</b>	<b>Valuation Amount</b>	<b>Calculation Details</b>
Florida Green Building Certification	\$49,110	$\$98,220/2 = \$49,110.$
Additional Building Amenities – Courtyard garden	\$40,000	Includes sod, large trees, pavers, plants, pergola, benches and tables.
Other project components offering a direct community benefit and meeting the intent of the comprehensive plan, include the following sustainable design elements:		
1) Character and Aesthetic Excellence – Public Art	\$20,000	Mural on the western side of building 2. Figure based on quotes received and previous projects.
2) Bicycle Mobility Systems – Bike Racks	\$5,000	
<b>TOTAL</b>	<b>\$114,110</b>	



PRINCIPALS

Joseph J. DeSantis, P.E., PTOE  
John S. DePalma  
Casey A. Moore, P.E.  
Gary R. McNaughton, P.E., PTOE  
Christopher J. Williams, P.E.

ASSOCIATES

John J. Mitchell, P.E.  
R. Trent Ebersole, P.E.  
Matthew M. Kozsuch, P.E.  
Maureen Chlebek, P.E., PTOE  
Dean A. Carr, P.E.  
Jason T. Adams, P.E., PTOE  
Christopher K. Bauer, P.E., PTOE  
Mark A. Roth, P.E.  
John R. Wichner, P.E., PTOE

FOUNDER

Joseph W. McMahon, P.E.

July 20, 2020

VIA E-MAIL

Tim Carey  
InHabit Lake Worth Beach, LLC  
2200 Butts Road, STE 300  
Boca Raton, FL 33431

RE: **Lake Worth Residential Traffic Analysis**  
**McMahon Project No. M20598.01**

Dear Mr. Carey:

McMahon Associates, Inc. (McMahon) has completed a traffic analysis associated with the development of 11 parcels of land located along Lucerne Avenue and Lake Avenue, in the City of Lake Worth Beach, Florida. The Parcel Control Numbers for the subject parcels include: 38-43-44-21-15-503-0050, 38-43-44-21-15-504-0130, 38-43-44-21-15-504-0080, 38-43-44-21-15-505-0160, 38-43-44-21-15-505-0130, 38-43-44-21-15-505-0120, 38-43-44-21-15-505-0050, 38-43-44-21-15-505-0040, 38-43-44-21-15-505-0030, 38-43-44-21-15-505-0020, and 38-43-44-21-15-505-0010. The sites are currently vacant lands. The proposed development, with an anticipated buildout year of 2021, includes a total of 42 multi-family dwelling units ranging between three (3) and four (4) stories. **Figure 1** graphically depicts the site subject parcels.

**Figure 1: Subject Parcels**



**Trip Generation Analysis**

Using trip generation information obtained from Palm Beach County Trip Generation Rates, dated March 2, 2020, trip generation estimates were developed for the proposed land use. Land Use 221 Multifamily Mid-Rise Housing was used for the analysis. Results of the trip generation analysis, summarized in **Table 1**, indicate that the proposed development is expected to generate 225 daily trips, 15 AM peak hour trips, and 18 PM peak hour trips.

**Table 1: Trip Generation Analysis**

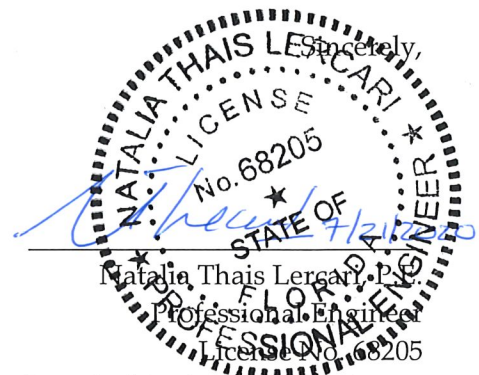
LAND USE	ITE CODE	INTENSITY	TRIP GENERATION RATE <sup>(1)</sup>	IN	OUT	TOTAL TRIPS		
						IN	OUT	TOTAL
<b>DAILY</b>								
<b>PROPOSED USE</b>								
Multifamily Mid-Rise Housing	221	42 DU	T= 5.44 (X)	50%	50%	114	114	228
<b>AM PEAK HOUR</b>								
<b>PROPOSED USE</b>								
Multifamily Mid-Rise Housing	221	42 DU	T= 0.36 (X)	26%	74%	4	11	15
<b>PM PEAK HOUR</b>								
<b>PROPOSED USE</b>								
Multifamily Mid-Rise Housing	221	42 DU	T= 0.44 (X)	61%	39%	11	7	18

(1) Source: Palm Beach County Trip Generation Rates, March 2, 2020.

**Conclusion**

The proposed development is expected to generate less than 20 peak hour trips. Per Article 12 of the Palm Beach County Traffic Performance Standards, no additional analysis is required for developments generating less than 20 peak hour trips.

Should you have any questions or comments regarding these findings, please do not hesitate to call me.

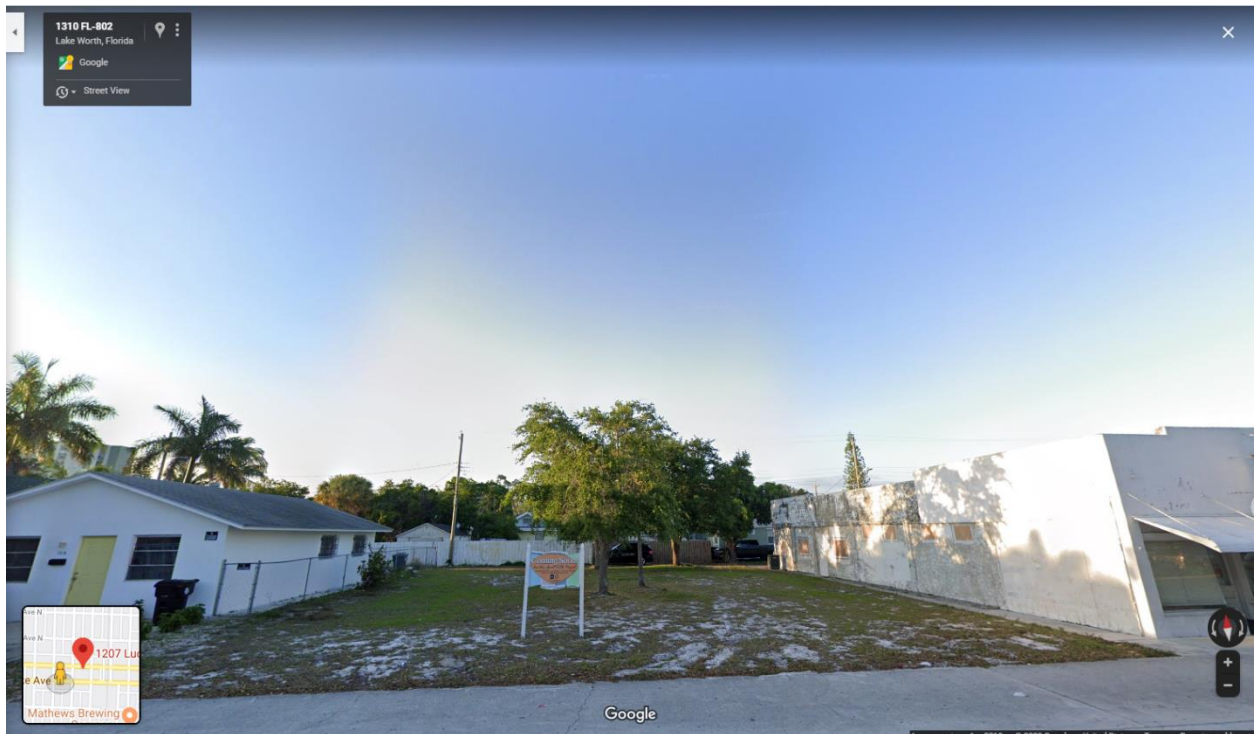
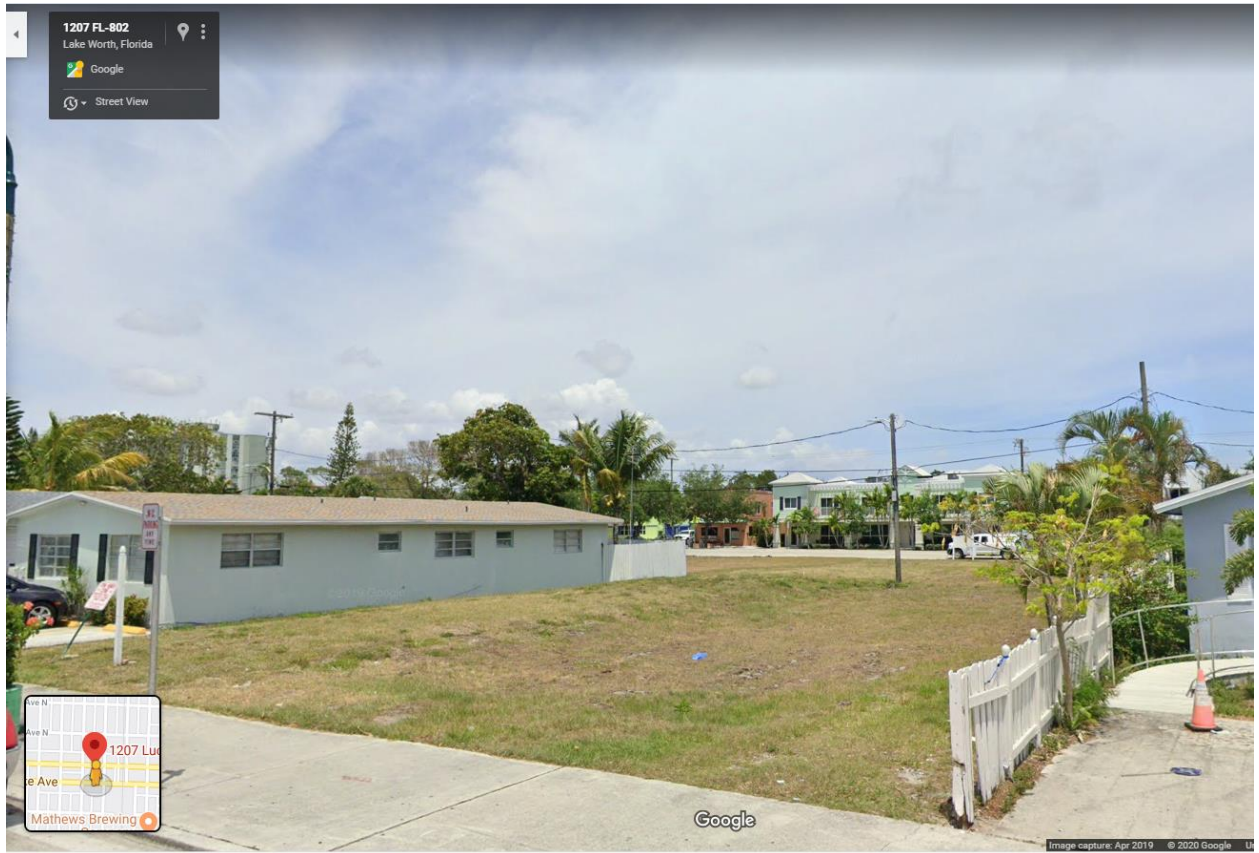


Natalia Thais Lercari, P.E.  
 Professional Engineer  
 License No. 68205  
 State of Florida, Board of Professional Engineers  
 Certificate of Authorization No. 4908

NTL/cec  
 Enclosure

# SITE PHOTOGRAPHS







# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Community Sustainability

**TITLE:**

Ordinance 2020-18 (PZB 20-01300002) - First Reading - Request for a City-initiated rezoning for 118 North A Street, 116 North A Street, 127 North B Street, 121 North B Street, 119 North B Street, 113 North B Street, 1500 Lucerne Avenue, and 128 North C Street from either Single Family – Two Family Residential (SF-TF-14) or Multi-family Residential 20 (MF-20) to Mixed Use – East (MU-E)

**SUMMARY:**

Consideration of an ordinance amending the City’s Official Zoning Map to rezone the properties as more particularly described in Exhibit A of Ordinance 2020-18 from the Single-family and two-family residential (SF-TF-14) or Multi-family residential (MF-20) zoning districts to the Mixed Use – East (MU-E) zoning district pursuant to Section 23.2-36 of the City’s Land Development Regulations (LDRs). The properties are generally located in an area bounded by North A Street to the west, North D Street to the east, Lucerne Avenue to the south, and 2nd Avenue North to the north. The proposed City-initiated rezoning was reviewed for consistency with the City’s Comprehensive Plan, Strategic Plan and Land Development Regulations (LDRs).

**BACKGROUND AND JUSTIFICATION:**

The existing uses on the subject properties are currently a mixture of single-family residences, multi-family residences, and places of worship. Rezoning of the subject sites would allow for higher development potential of these properties consistent with other properties located in the general area north of Lucerne Avenue and would also reduce non-conformities of some structures and uses with the proposed rezoning to MU-E. Staff has determined that the proposed rezoning meets the Comprehensive Plan, Strategic Plan, LDRs, and the review criteria for rezoning as outlined in LDR Section 23.2-36.

On September 22, 2020, a letter was mailed to the owners of properties included in the subject rezoning. The letter identified the date of the Planning & Zoning Board meeting and offered property owners the option to opt out from the City-initiated rezoning prior to adoption. At this time, no property owners have selected to opt out of the proposed rezoning.

At the October 7, 2020 Planning & Zoning Board meeting, the board discussed the subject rezoning and recommended unanimously for the City Commission to approve the proposed ordinance.

**MOTION:**

Move to approve/disapprove Ordinance No. 2020-18 on first reading and schedule the second reading and public hearing for December 1, 2020.

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A  
Ordinance 2020-18  
PZB/HRPB Staff Report

1  
2  
3 **ORDINANCE NO. 2020-18 OF THE CITY OF LAKE WORTH**  
4 **BEACH, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING**  
5 **MAP FROM THE ZONING DISTRICTS OF SINGLE FAMILY –**  
6 **TWO FAMILY RESIDENTIAL (SF-TF-14) AND MULTI-FAMILY**  
7 **RESIDENTIAL 20 (MF-20) TO MIXED USE – EAST (MU-E) ON**  
8 **PROPERTIES GENERALLY LOCATED NORTH OF LUCERNE**  
9 **AVENUE, SOUTH OF 2<sup>ND</sup> AVENUE NORTH, AND BETWEEN**  
10 **NORTH A STREET AND NORTH D STREET, AND AS MORE**  
11 **PARTICULARLY DESCRIBED IN EXHIBIT A; AND PROVIDING**  
12 **FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**  
13

14 WHEREAS, the City Commission of the City of Lake Worth Beach, Florida,  
15 pursuant to the authority granted in Chapters 163 and 166, Florida Statutes, and the Land  
16 Development Regulations, as adopted by the City of Lake Worth Beach, is authorized  
17 and empowered to consider amending the City's Official Zoning Map; and  
18

19 WHEREAS, this is a City-initiated request for the properties as more particularly  
20 described in Exhibit A for a zoning map amendment to change the zoning districts of the  
21 properties; and  
22

23 WHEREAS, City staff has prepared and reviewed an amendment to the City's  
24 Official Zoning Map to change the zoning districts of the properties described below from  
25 Single Family – Two Family Residential (SF-TF-14) and Multi-family Residential 20 (MF-  
26 20) to Mixed Use – East (MU-E), pursuant to the City of Lake Worth Beach Land  
27 Development Regulations and Comprehensive Plan; and  
28

29 WHEREAS, on October 7, 2020, the City Planning and Zoning Board, sitting as  
30 the duly constituted Local Planning Agency for the City, recommended approval of the  
31 subject zoning map amendment to the City's Official Zoning Map; and  
32

33 WHEREAS, the City has received public input and participation through hearings  
34 before the Local Planning Agency and the City Commission in accordance with Section  
35 163.3181, Florida Statutes; and  
36

37 WHEREAS, the City Commission has considered all of the testimony and evidence  
38 and has determined that rezoning meets the rezoning review criteria of the Land  
39 Development Regulations, Section 23.2-36, and is consistent with the City's  
40 Comprehensive Plan and Strategic Plan; and  
41

42 WHEREAS, the City Commission has determined that the adoption of this  
43 Ordinance is in the best interest of the citizens and residents of the City of Lake Worth  
44 Beach.  
45

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



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Section 1. The foregoing recitals are hereby affirmed and ratified.

Section 2. The properties as particularly described in **Exhibit A** are hereby rezoned from Single Family – Two Family Residential (SF-TF-14) and Multi-family Residential 20 (MF-20) to Mixed Use – East (MU-E) on the City’s Official Zoning Map.

Section 3. The City’s zoning maps shall be amended and updated to reflect the changes.

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

Section 5. Severability. If any provision of this ordinance or the application thereof is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions 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 6. Effective Date. This ordinance shall become effective ten (10) days after its final 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 Pam Triolo
- Vice Mayor Andy Amoroso
- Commissioner Scott Maxwell
- Commissioner Herman Robinson

The Mayor thereupon declared this ordinance duly passed on first reading on the 17<sup>th</sup> day of November, 2020.

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 Pam Triolo
- Vice Mayor Andy Amoroso
- Commissioner Scott Maxwell
- Commissioner Herman

The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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ATTEST:

\_\_\_\_\_  
Deborah M. Andrea, City Clerk

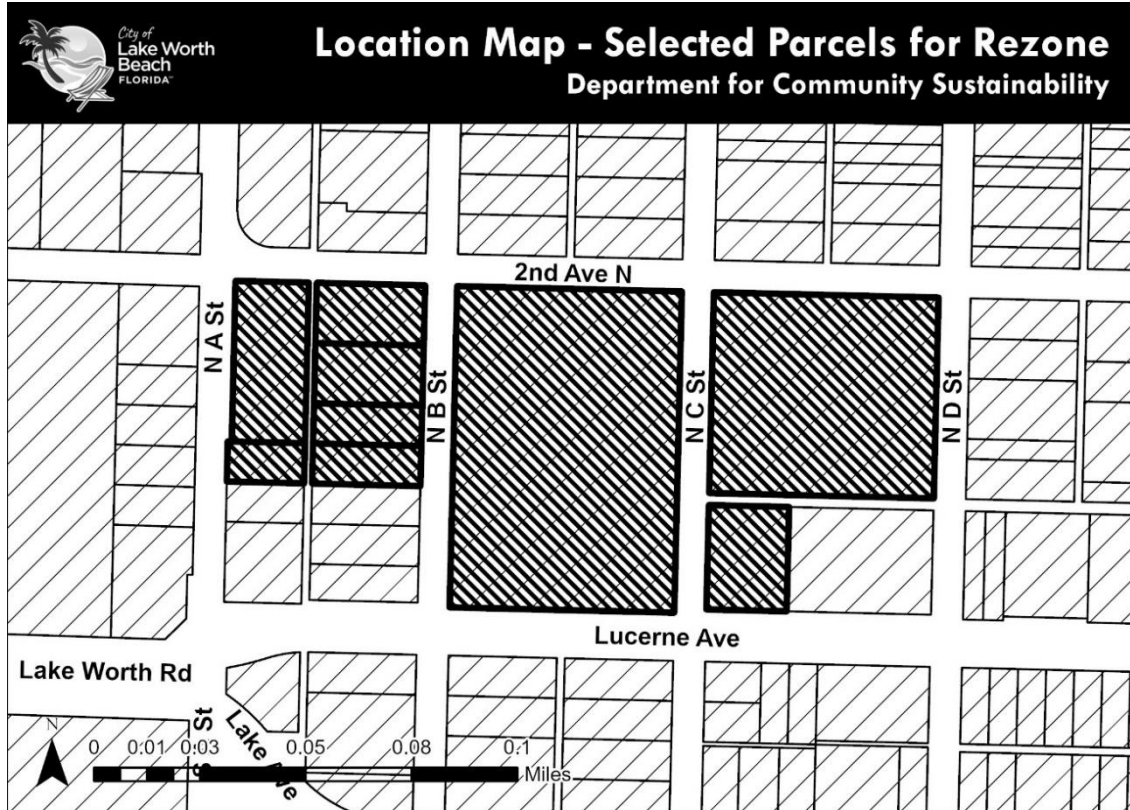
By: \_\_\_\_\_  
Pam Triolo, Mayor

101 **Exhibit A**

102

103 Property Location: The subject eight (8) parcels are generally located south of 2<sup>nd</sup>  
104 Avenue North, east of North A Street, north of Lucerne Avenue and west of North D  
105 Street as depicted in the map below and include the following property control numbers:  
106 38434421150060010, 38434421150040010, 38434421150020090,  
107 38434421150020080, 38434421150020062, 38434421150020050,  
108 38434421150020030, and 38434421150020021.

109



110



DATE: October 1, 2020

TO: Members of the Planning & Zoning

FROM: William Waters, AIA, NCARB, LEED, AP BD+C, ID SEED, Director for Community Sustainability

MEETING: October 7, 2020

SUBJECT: **PZB Project Number 20-01300002**: Request for a City initiated rezoning to rezone 118 North A Street, 116 North A Street, 127 North B Street, 121 North B Street, 119 North B Street, 113 North B Street, 1500 Lucerne Avenue, and 128 North C Street from either Single Family – Two Family Residential (SF-TF-14) or Multi-family Residential 20 (MF-20) to Mixed Use – East (MU-E) pursuant to Section 23.2-36 of the Land Development Regulations (LDRs). PCN#s 38434421150060010, 38434421150040010, 38434421150020090, 38434421150020080, 38434421150020062, 38434421150020050, 38434421150020030, and 38434421150020021.

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**BACKGROUND/ PROPOSAL:**

The proposed City initiated rezoning would rezone the following properties from Single-family and two-family residential (SF-TF-14) or Multi-family residential (MF-20) to the Mixed Use – East (MU-E) zoning district: 118 North A Street, 116 North A Street, 127 North B Street, 121 North B Street, 119 North B Street, 113 North B Street, 1500 Lucerne Avenue, and 128 North C Street. The existing uses on the eight (8) subject properties are currently a mixture of single-family residences, multi-family residences, and places of worship. The properties are generally located in an area bounded by North A Street to the west, North D Street to the east, Lucerne Avenue to the south, and 2nd Avenue North to the north. The Planning and Zoning Board’s decision will be in the form of a recommendation to the Lake Worth Beach City Commission, who will then make the final decision regarding the rezoning request.

**ANALYSIS:**

Based on the analysis below, the proposed rezoning is consistent with the goals, objectives, and polices of the City of Lake Worth Beach’s Comprehensive Plan and Strategic Plan.

**Consistency with the Comprehensive Plan and Strategic Plan**

The subject properties currently have a Future Land Use (FLU) designation of Mixed Use – East (MU-E). Per Policy 1.1.1.5, the MU-E land use category is intended to provide for a mixture of residential, office, service, and commercial retail uses within specific areas east of I-95, near or adjacent to the central commercial core and major thoroughfares of the City. The implementing zoning districts of the MU-E FLU are Mixed Use – Dixie Highway (MU-DH), Mixed Use Federal Highway (MU-FH), and MU-E. The properties’ current zoning district of MF-20 and SF-TF-14 are not designated implementing zoning districts of the MU-E FLU in the City’s Comprehensive Plan and Land Development Regulations (LDRs). Approval of the rezoning request would bring the properties’ zoning into compliance with the MU-E FLU and provide additional opportunities for future redevelopment if desired by the property owners.

Additionally, Objective 1.2.1 states that the City shall promote the location of high-quality retail, office and mixed-use projects in the Downtown Mixed Use (DMU) and MU-E designations as the prime retail and commercial areas of the City. The current properties' zoning districts have a primary permissible use of residential, but also allow for a very limited number of commercial, office, and personal service uses. Approval of the rezoning request would allow for a more substantial variety of commercial, office, and service uses, as outlined in the City's Use Table (LDR Section 23.3-6). Therefore, if successfully rezoned to MU-E, the properties will have the potential to establish uses that are consistent with the Comprehensive Plan's vision for the MU-E FLU area.

The City's Strategic Plan focuses on fostering safer neighborhoods, encouraging community pride, building a vibrant and diverse economy, planning for the future, and enhancing the natural, historic, and cultural environment of the City. Pillar IV.A, Pillar IV.B, Pillar IV.C, Pillar IV.D, and Pillar IV.E encourages the City to achieve economic sustainability, attract investment, influence the supply and expansion of jobs, and ensure facility placement that embraces the future. Approval of the rezoning will result in more diverse development opportunities and create more jobs by allowing a wide range of commercial, office, and service uses that activate the downtown corridor. Therefore, the rezoning is consistent with Pillar IV.A, Pillar IV.B, Pillar IV.C, Pillar IV.D, and Pillar IV.E.

***Consistency with the City's Land Development Regulations***

Rezoning of the subject sites will allow for higher development potential of these properties. The table below outlines the development standards of the existing SF-TF-14 and MF-20 zoning districts, and the development standards of the proposed MU-E zoning district:

Development Standard		Existing Zoning: SF-TF-14 Development Standards	Existing Zoning: MF-20 Development Standards	Proposed Zoning: MU-E Development Standards
Lot Size (min) In square feet (sf)		5,000 sf	5,000 sf	6,500 sf
Lot Width (min)		50'	50'	Lake and Lucerne: 25' 1st Ave South and 2 <sup>nd</sup> Ave N: 50'
Density (max)			20 du/acre	30 du/acre
Height (min)		30'	30' (plus 5' with SBIP)	30' (plus 5' with SBIP)
Setbacks	Front (min)	20'	20'	Lake and Lucerne: 10' 1st Ave South and 2 <sup>nd</sup> Ave N: 10' to 22'
	Rear (min)	Lesser of 15' or 10% of lot depth	Lesser of 15' or 10% of lot depth	Lesser of 15' or 10% of lot depth when next to a residential zoning district; 10' in general
	Street Side (min)	10% of lot width	10% of lot width	10'
	Interior Side (min)	10% of lot width	10% of lot width	0'
Living Area (min)		800 sf	800 sf for SFR; 400 for efficiency; 600 sf for one-bed, 750 sf for two-bed, 900 sf for three-bed, 1,350 sf for four-bed	800 sf for SFR; 400 for efficiency; 600 sf for one-bed, 750 sf for two-bed, 900 sf for three-bed, 1,350 sf for four-bed

Development Standard		Existing Zoning: SF-TF-14 Development Standards	Existing Zoning: MF-20 Development Standards	Proposed Zoning: MU-E Development Standards
Impermeable Surface Total (max)	Large Lot	50%	55%	65%
	Med Lot	55%	60%	70%
	Small Lot	60%	65%	75%
Structure Coverage (max)	Large Lot	30%	35%	45%
	Med Lot	35%	40%	50%
	Small Lot	40%	45%	55%
FAR (max)	Large Lot	0.45	0.5 (plus 0.5 with SBIP)	0.9 (plus 0.5 with SBIP)
	Med Lot	0.5	0.55 (plus 0.5 with SBIP)	0.95 (plus 0.5 with SBIP)
	Small Lot	0.55	0.6 (plus 0.5 with SBIP)	1.0 (plus 0.5 with SBIP)

Should a non-conformity in use or structure be created as a result of the rezoning, the City’s nonconformities code shall apply (LDR Section 23.5-3). The intent of Section 23.5-3 is to permit the continuation of buildings and structures, lots of record, uses of buildings and structures, and uses of land that were lawfully permitted when established or commenced, but which do not conform in whole or in part to the current LDRs. Limitations in this section include the provision that should a building be allowed to deteriorate or be destroyed beyond 50% of the assessed value, the structure must be brought into conformity with the current LDRs. However, an exemption to the conformity requirement is provided for structures destroyed by a tropical cyclone or other natural disaster, which could be reconstructed in conformance with the provisions of this section.

The LDRs also require all rezoning requests without a concurrent Future Land Use Map (FLUM) Amendment be analyzed for consistency with the review criteria in Section 23.2-36(3). Staff’s full analysis of the review criteria is located in Attachment C. The analysis demonstrates that the proposed rezoning complies with the review criteria and that the required findings can be made in support of the rezoning.

**STAFF RECOMMENDATION:**

Staff has determined that the proposed rezoning meets the criteria of the Comprehensive Plan, LDRs, and the review criteria for rezoning as outlined in LDR Section 23.2-36. Therefore, staff is recommending approval to the City Commission to rezone the property at 118 North A Street, 116 North A Street, 127 North B Street, 121 North B Street, 119 North B Street, 113 North B Street, 1500 Lucerne Avenue, and 128 North C Street to MU-E.

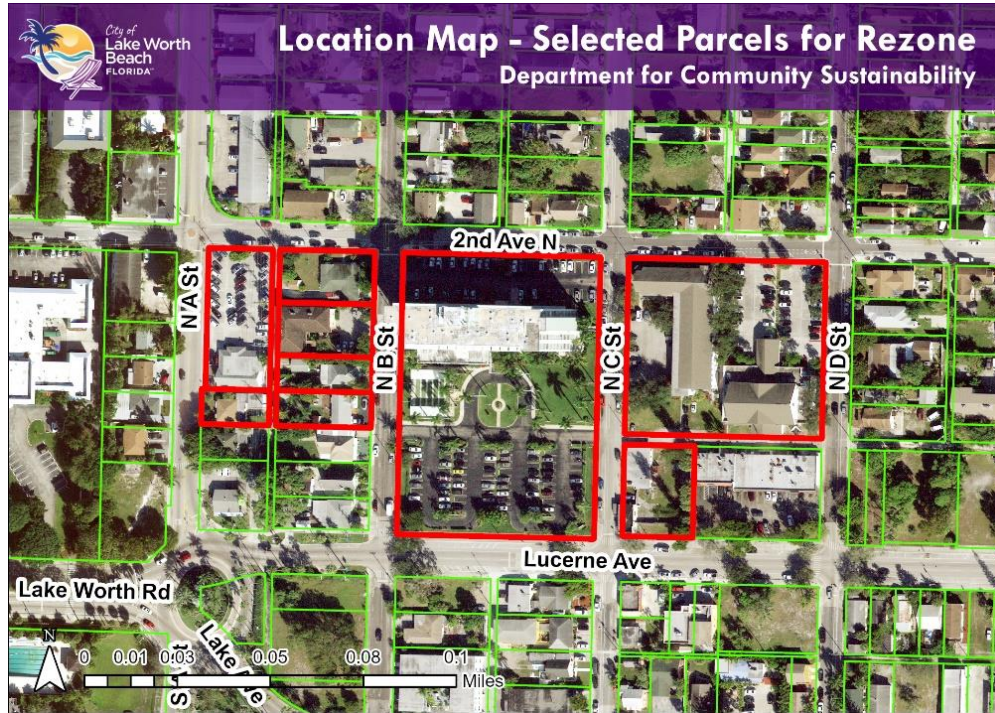
**POTENTIAL MOTION:**

I move to **RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION TO ADOPT** the proposed City initiated rezoning in PZB / HRPB Project Number PZB Project Number 20-01300002.

Attachments

- A. Map & Site Description
- B. Site History
- C. Section 23.2-36(3) Rezoning Review Criteria

**ATTACHMENT A: MAP & PROPERTY DESCRIPTION**



<b>General Location</b>	Bounded by North A Street to the west, North D Street to the East, Lucerne Avenue to the south, and 2 <sup>nd</sup> Avenue North to the north
<b>Properties</b>	<ul style="list-style-type: none"> <li>• 118 North A Street – Bryant Park Congregation of Jehovah’s Witnesses Inc.</li> <li>• 116 North A Street – Glenn R Yerger</li> <li>• 127 North B Street – Michael Harrylal and Maria Thirbenny</li> <li>• 121 North B Street – Fraeye Investments LLC.</li> <li>• 119 North B Street – Erik Helsher</li> <li>• 113 North B Street – Milton Jackson</li> <li>• 1500 Lucerne Avenue – Lake Worth Towers Inc.</li> <li>• 128 North C Street – Lake Worth First Church of Nazarene Inc.</li> </ul>
<b>Existing PCN Numbers</b>	38434421150060010, 38434421150040010, 38434421150020090, 38434421150020080, 38434421150020062, 38434421150020050, 38434421150020030, and 38434421150020021
<b>Existing Land Use</b>	A mixture of single-family residences, multi-family residences, and places of worship
<b>Zoning</b>	Single Family – Two Family Residential (SF-TF-14) or Multi-family Residential 20 (MF-20)
<b>Future Land Use Designation</b>	Mixed Use – East (MU-E)

## ATTACHMENT B: SITE HISTORY

The subject sites are comprised of a mixture of single-family residences, multi-family residences, and places of worship. Below is a summarized history of each property based on Palm Beach Property Appraiser's records and City records:

- 118 North A Street
  - 1950 – The +/- 2,920 square foot place of worship was constructed at 118 North A Street.
  - September 28, 2020 – There are no active business licenses at this site.
  - September 28, 2020 – There are no active code cases at this site.
- 116 North A Street
  - 1949 – The +/- 1,251 single-family residence was constructed at 116 North A Street.
  - September 28, 2020 – There are no active business licenses at this site.
  - September 28, 2020 – There are no active code cases at this site.
- 127 North B Street
  - 1955 – The +/- 2,042 square foot multi-family residence was constructed at 127 North B Street.
  - September 28, 2020 – Michael Harrylal has an active business license for the rental of a single-family.
  - September 28, 2020 – Code Compliance records show that this property is due for a Use and Occupancy Inspection.
- 121 North B Street
  - 1979 – The +/- 6,936 square foot multi-family residence was constructed at 121 North B Street.
  - January 15, 2009 – September 20, 2012 – Benjamin Francois held a business license at 121 North B Street for the rental of six units.
  - April 17, 2014 – September 30, 2021 – Fraeye Investments LLC holds an active business license at 121 North B Street for the rental of six units.
  - September 28, 2020 – Code Compliance records show that this property is due for a Use and Occupancy Inspection.
- 119 North B Street
  - 1928 – The +/- 1,360 square foot single-family residence was constructed at 119 North B Street.
  - June 12, 2012 – September 30, 2012 – Erik Helsher, Inc. held a business license at 119 North B Street for a home occupation.
  - September 28, 2020 – There are no active business licenses at this site.
  - September 28, 2020 – There are no active code cases at this site.
- 113 North B Street
  - 1952 – The +/- 1,085 square foot single-family residence was constructed at 113 North B Street.
  - September 28, 2020 – There are no active business licenses at this site.
  - September 28, 2020 – There are no active code cases at this site.
- 1500 Lucerne Avenue
  - 1967 – The +/- 153,106 square foot multi-family tower was constructed at 1500 Lucerne Avenue, known as the Lake Worth Towers.
  - December 9, 1999 – September 30, 2021 – Towers Hari Design holds an active business license at 1500 Lucerne Avenue for a hair salon.
  - July 2, 2012 – September 30, 2020 – Clary's Corner Café held a business license at 1500 Lucerne Avenue for a 49-seat restaurant.
  - July 17, 2014 – September 30, 2021 – Lake Worth Towers, Inc. holds an active business license at 1500 Lucerne Avenue for a commercial rental and for a Group Home Type III.
  - September, 8, 2020 – September 30, 2021 – GTP Structures II, LLC holds an active business license at 1500 Lucerne Avenue for a telecommunication operator.
  - September 28, 2020 – Code Compliance records show that this property is due for Use and Occupancy Inspections.



- 128 North C Street
  - 1949 – The +/- 4,918 square foot place of worship was constructed at 128 North C Street.
  - 1950 – A +/- 1,708 square foot residence was constructed in connection with the existing place of worship.
  - 1962 – A +/- 9,750 square foot building was constructed in connection with the existing place of worship.
  - 1955 – An +/- 800 square foot office building was constructed in connection with the existing place of worship.
  - June 27, 2014 – September 30, 2021 – Lake Worth First Church of the Nazarene holds an active business license at 128 North C Street for a religious organization.
  - September 2, 2020 – A zoning letter was issued allowing 128 North C Street to be split into two separate parcels.
  - September 28, 2020 – Code Compliance records show that this property is due for Use and Occupancy Inspections.

## ATTACHMENT C: CONSISTENCY WITH SECTION 23.2-36(3)

### **Consistency with Section 23.2-36(3): Review Criteria for the Rezoning of Land**

The land development regulations require all rezoning requests without a concurrent Future Land Use Map (FLUM) Amendment be analyzed for consistency with Section 23.2-36(3). Staff has reviewed the rezoning against this section and has determined that the rezoning complies with the following review criteria:

a. **Consistency:** Whether the proposed rezoning amendment would be consistent with the purpose and intent of the applicable comprehensive plan policies, redevelopment plans, and land development regulations. Approvals of a request to rezone to a planned zoning district may include limitations or requirements imposed on the master plan in order to maintain such consistency

**Staff Analysis:** The rezoning request furthers the implementation of the City's Comprehensive Plan with the proposed adoption of a zoning district that is consistent with the Mixed Use – East future land use (FLU) designation on the subject sites. The current zoning districts are not implementing zoning districts of the Mixed Use – East FLU. **Meets Criterion.**

b. **Land use pattern:** Whether the proposed rezoning amendment would be contrary to the established land use pattern, or would create an isolated zoning district unrelated to adjacent and nearby classifications, or would constitute a grant of special privilege to an individual property owner as contrasted with the protection of the public welfare. This factor is not intended to exclude rezoning that would result in more desirable and sustainable growth for the community.

**Staff Analysis:** The rezoning request will not be contrary or incompatible to the established land pattern, nor will it create an isolated zoning district unrelated to the adjacent and nearby classifications or constitute a grant of special privilege to the petitioner as contrasted with the protection of the public welfare. The proposed zoning of MU-E allows for a wide array of commercial, office, and service uses that are consistent with the City's vision for the MU-E FLU area. Further, the rezoning offers the current property owners with more flexibility for redevelopment and higher market potential. **Meets Criterion.**

c. **Sustainability:** Whether the proposed rezoning would support the integration of a mix of land uses consistent with smart growth or sustainability initiatives, with an emphasis on 1) complementary land uses; 2) access to alternative modes of transportation; and 3) interconnectivity within the project and between adjacent properties.

**Staff Analysis:** The rezoning request supports the integration of a mix of land uses consistent with smart growth and sustainability initiatives. In particular, approval of the rezoning request could lead to compatible land uses that could strengthen and direct development to the existing area. This is a smart growth principle that will allow the City to benefit from a stronger tax base, will increase efficiency of already-developed land, and will add to the redevelopment potential in the area. The uses immediately surrounding the properties are primarily single-family residential, multi-family residential, and commercial. Approval of the rezoning will allow for land uses that are complementary to the commercial core area as well as the existing residential uses surrounding the properties. **Meets Criterion.**

d. **Availability of public services/infrastructure:** Requests for rezoning to planned zoning districts shall be subject to review pursuant to [section 23.5-2](#).

**Staff Analysis:** This criterion is only applicable to requests to rezone land to a planned zoning district. As this request seeks approval to rezone the subject properties to the conventional MU-E zoning district, this criterion

does not apply. That being said, all future requests for development will be reviewed to ensure the provision of adequate public services and infrastructure necessary to support the subject properties. Further, the availability of public services and infrastructure for the adopted future land use map was reviewed previously with the adoption of the Comprehensive Plan 2016 EAR based amendments and the subsequent 2018 amendments. **Criterion not applicable.**

e. *Compatibility*: The application shall consider the following compatibility factors:

1. Whether the proposed rezoning would be compatible with the current and future use of adjacent and nearby properties, or would negatively affect the property values of adjacent and nearby properties.
2. Whether the proposed rezoning is of a scale which is reasonably related to the needs of the neighborhood and the city as a whole.

**Staff Analysis:** The existing zoning districts of the subject properties are not consistent with the adopted future land use. Rezoning of the subject sites will increase compatibility with the adoption of a zoning district that is intended to implement the vision of the Mixed Use – East FLU designation. **Meets Criterion.**

f. *Direct community sustainability and economic development benefits*: For rezoning involving rezoning to a planned zoning district, the review shall consider the economic benefits of the proposed amendment, specifically, whether the proposal would:

1. Further implementation of the city's economic development (CED) program;
2. Contribute to the enhancement and diversification of the city's tax base;
3. Respond to the current market demand or community needs or provide services or retail choices not locally available;
4. Create new employment opportunities for the residents, with pay at or above the county average hourly wage;
5. Represent innovative methods/technologies, especially those promoting sustainability;
6. Support more efficient and sustainable use of land resources in furtherance of overall community health, safety and general welfare;
7. Be complementary to existing uses, thus fostering synergy effects; and
8. Alleviate blight/economic obsolescence of the subject area.

**Staff Analysis:** The rezoning request does not have a concurrent site plan application in review at this time. As such, this criterion is not applicable. Any future requests for development on this property will be processed and subject to review in accordance with the applicable Land Development Regulations. **Criterion not applicable.**

g. *Economic development impact determination for conventional zoning districts*: For rezoning involving rezoning to a conventional zoning district, the review shall consider whether the proposal would further the economic development program, and also determine whether the proposal would:

1. Represent a potential decrease in the possible intensity of development, given the uses permitted in the proposed land use category and/or zoning district; and
2. Represent a potential decrease in the number of uses with high probable economic development benefits.

**Staff Analysis:** The proposed application would increase the development potential of the subject sites in density, intensity and number of uses. **Meets Criterion.**

h. *Master plan and site plan compliance with land development regulations:* When master plan and site plan review are required pursuant to section 2.D.1.e. above, both shall comply with the requirements of the respective zoning district regulations of article III and the site development standards of [section 23.2-32](#).

**Staff Analysis:** The rezoning request does not have a concurrent site plan application in review at this time. As such, this criterion is not applicable. Any future requests for development on this property will be processed and subject to review in accordance with the applicable Land Development Regulations. **Criterion not applicable.**

The analysis has shown that the required findings can be made in support of the rezoning. Therefore, the proposed rezoning is consistent with the review criteria for rezoning as outlined in LDR Section 23.2-36.

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Electric Utility

**TITLE:**

Seventh Amendment to the existing agreement with Vantage Services Consulting LLC for additional consulting services for Fiscal Year 2021

**SUMMARY:**

The Seventh Amendment authorizes Vantage Energy Consulting LLC to renew the term for one (1) year.

**BACKGROUND AND JUSTIFICATION:**

The Electric Utility Department entered into an agreement with Vantage Energy Consulting LLC ("Vantage") to provide consulting services related to the purchase of electric power, development of electric supply cost models to support cost tracking, budgeting and fiscal modeling, auditing of energy supplier and transmission provider bills, nomination of electric energy and capacity purchases, assistance with natural gas pipeline capacity sales, development of electric reliability reports, and analysis of natural gas supply pipeline options.

The purpose of this seventh amendment is to renew the term for one (1) year and set for the certain terms and conditions for the provision of additional services by the consultant to the City. Vantage has submitted a proposal for services for the new fiscal year sought by the City. The Electric Utility has reviewed the consultant's proposal and concluded the estimate is reasonable for the said work.

**MOTION:**

Move to approve/disapprove Seventh Amendment to the existing agreement with Vantage Services Consulting LLC for additional consulting services for Fiscal Year 2021 in the amount not to exceed \$170,880.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Seventh Amendment

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$170,800	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
<b>Net Fiscal Impact</b>	<b>\$170,800</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
401-6010-531.31-90	Prof Servc/Other	N/A	\$358,960	298,061	\$170,800	\$127,261

## SEVENTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This Seventh Amendment (“Seventh Amendment”) to the Professional Services Agreement is made as of the \_\_\_\_\_, by and between the **City of Lake Worth Beach**, Florida, a municipal corporation of the State of Florida (“CITY”) and **Vantage Energy Consulting, LLC**, a Florida limited liability company, (“CONSULTANT”).

**WHEREAS**, the City and CONSULTANT entered a Professional Services Agreement for the CONSULTANT’s distinct field of expertise in Florida and beyond (the “Agreement”) on November 8, 2017; and

**WHEREAS**, the Consultant has a distinct field of expertise in Florida and beyond in regard to auditing electric services and providing variety of consulting services related to electric utility regulatory issues, asset management and procurement; and

**WHEREAS**, the Agreement has been amended six times to broaden the scope of services which CONSULTANT was providing to the CITY; and

**WHEREAS**, the Fourth, Fifth and Sixth Amendment included specific tasks that Consultant provided in the past year and the City wishes to extend the same services for the additional year; and

**WHEREAS**, the CONSULTANT has submitted the new rates for services sought by the CITY; and

**WHEREAS**, the purpose of this Seventh Amendment is to renew the term for one (1) year and set forth certain terms and conditions for the provision of additional services by the CONSULTANT to the CITY; and

**WHEREAS**, the CITY’s Electric Utility has reviewed the CONSULTANT’s rates and concluded the rates are reasonable; and

**WHEREAS**, under section 2-112(c)(6) of the CITY’s procurement code, the City Commission is authorized to approve an agreement with a consultant with a distinct field of expertise without competitive selection; and

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged by each party hereto, the CITY and the CONSULTANT agree to amend the Agreement, as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Consultant’s Services.** Section 2 of the Agreement, regarding the Consultant’s services, is amended to add the additional services as outlined in the Consultant’s

proposal and new rates, and consisting of one page, which is attached hereto as **Exhibit “1”** and incorporated herein.

3. **Fees.** Section 5 of the Agreement, regarding the Consultant’s fees, is amended to allow for the additional services to be provided by the Consultant under this Amendment. Said compensation shall not exceed **One Hundred Seventy Thousand Eight Hundred and Eighty Dollars (\$170,880.00)**.
4. **Term of Agreement.** Section 4 of the Agreement shall be amended to provide that the Agreement expires November 30, 2021.
5. **E-Verify.** Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the Contractor shall:
  - a. 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;
  - b. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an “unauthorized alien” as defined in Section 448.095(1)(k), Florida Statutes;
  - c. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the City upon request;
  - d. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
  - e. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
  - f. Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the Contractor may not be awarded a contract 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.
6. **Entire Agreement.** The CITY and the CONSULTANT agree that the Agreement and this Fourth Amendment set 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 Fourth Amendment may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. All other terms and conditions of the Agreement remain in full force and effect.
7. **Counterparts.** This Fourth Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but



one and the same instrument. Either or both parties may sign this Fourth Amendment via facsimile or email and such signature is as valid as the original signature of such party.

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SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF the parties hereto have made and executed this Seventh Amendment to the Professional Services Agreement on the day and year first above written.

**CITY OF LAKE WORTH BEACH, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Deborah M. Andrea, City Clerk

By: \_\_\_\_\_  
Pam Triolo, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

CONSULTANT: **Vantage Energy Consulting, LLC**

[Corporate Seal]

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, who was physically present, as \_\_\_\_\_ (title), of **Vantage Energy Consulting, LLC, A Corporation**, which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following \_\_\_\_\_ as identification.

Notary Public

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**Exhibit "1"**  
(Vantage Rates – 1 page)

<b>Proposed LWB Budget Fiscal 2021</b>									
1 Assist with rates and budgeting including			Mark Fowler Budget			Walt Drabinski Budget			
LWB Budgeting			Days	Hours	Rate	Days	Hours	Rate	
		Actual versus Budget updates	6	48	\$ 230	0.5	4	\$ 250	
		Work with external rate consultants	6	48	\$ 230	0	0	\$ 250	
		Rate and Financial Projections	6	48	\$ 230	0	0	\$ 250	
		Bill Verification	6	48	\$ 230	0	0	\$ 250	
		Load Forecasting for Model	3	24	\$ 230	1	8	\$ 250	
		Nominations(including Model Update)	1	8	\$ 230	1	8	\$ 250	
2	Customer Solar Energy /Avoided cost		2	16	\$ 230	0	0	\$ 250	
3	Greenhouse and carbon free		2	16	\$ 230	0	0	\$ 250	
4	Maintain All In Cost Model		12	96	\$ 230	3	24	\$ 250	
5	Product Budget Variance Reports								
		Monthly	12	96	\$ 230	0.5	4	\$ 250	
		Quarterly	6	48	\$ 230	1	8	\$ 250	
6	Assist with Ad Hoc Presentations and Reports		20	160	\$ 230	3	24	\$ 250	
<b>Total</b>			<b>82</b>	<b>656</b>	<b>\$ 150,880</b>	<b>10</b>	<b>80</b>	<b>\$ 20,000</b>	

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Electric Utility

**TITLE:**

Amended and Restated Directive with Gas South, LLC

**SUMMARY:**

Amended and Restated Directive will enable Florida Gas Utility (FGU) to release some or all of the City's Florida Gas Transmission (FGT) capacity on a temporary basis to Gas South as an alternative to the bundled gas sale for Fiscal Years 2021-2025.

**BACKGROUND AND JUSTIFICATION:**

Pursuant to the Directive, dated February 22, 2019, the City authorized FGU to sell natural gas, bundled with firm FGT transportation capacity, to Peninsula Energy Services Company ("PESCO") on behalf of the City.

On October 15, 2019, the City issued an addendum to the Directive to authorize FGU to consent to and execute the assignment of PESCO's rights and obligations in the Directive to Gas South, LLC.

FGU and Gas South desire to modify the structure of the Directive to enable a release of some or all of the FGT capacity contemplated therein from FGU to Gas South to be managed under an asset management agreement with Gas South.

The modified structure will enable FGU to release some or all of the City's FGT capacity on a temporary basis to Gas South as an alternative to the bundled gas sale. The benefits to the City and FGU of incorporating this capacity release element are:

1. Reduce the City's credit exposure to Gas South
2. Improve timing of the City's cash flows from FGU (capacity release credits from FGT come ~3 weeks prior to payment of gas supply on bundled sale)
3. Economics to the City are neutral (no change in expected net benefit).
4. Reduce FGU's administrative burden for daily scheduling of gas supply to multiple Gas South points.

**MOTION:**

Move to approve/disapprove the Amended and Restated Directive with Gas South, LLC authorizing FGU to release some or all of the City's FGT capacity on a temporary basis to Gas South as an alternative to the bundled gas sale.

**ATTACHMENT(S):**

Directive Confirmation 2.22.19  
FGU-Lake Worth Beach Directive Addendum 10.15.2019  
Proposed Amended and Restated Directive 10.21.2020  
FGU – Lake Worth Gas Services Agreement  
Sun Trust Letter of Credit

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$4,728,326	\$4,668,533	\$4,668,278	\$4,668,406	\$4,668,406
External Revenues	\$4,942,930	\$4,960,648	\$4,960,648	\$4,960,776	\$4,960,776
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
 Net Fiscal Impact	 \$214,604	 \$292,370	 \$292,370	 \$292,370	 \$292,370
 No. of Addn'l Full-Time Employee Positions	 0	 0	 0	 0	 0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Fiscal Year	FY21 Budget	Annual Revenue	Cumulative Revenue Balance
401-0000-343-10-21	Capacity Revenues	2021	\$0	\$214,604	\$214,604
401-0000-343-10-21	Capacity Revenues	2022	\$0	\$292,370	\$313,974
401-0000-343-10-21	Capacity Revenues	2023	\$0	\$292,370	\$606,344
401-0000-343-10-21	Capacity Revenues	2024	\$0	\$292,370	\$898,714
401-0000-343-10-21	Capacity Revenues	2025	\$0	\$292,370	\$1,191,084



February 22, 2019

*DIRECTIVE CONFIRMATION*

To: Ed Liberty, City of Lake Worth ("LAKE WORTH")  
From: David Wagner, Florida Gas Utility ("FGU")  
Subject: Authorization for Execution of Natural Gas Sale and Purchase Agreements ("Directive")

This Directive is given pursuant to the Gas Services Agreement between FGU and LAKE WORTH, dated as of July 26, 1995 (the "Agreement"). Pursuant to Article XI of the Agreement, and to FGU's Credit Policy A-8 and the corresponding Credit Policy Operating Procedures, LAKE WORTH hereby requests and authorizes FGU to sell natural gas, bundled with firm FGT transportation capacity, to Peninsula Energy Services Company ("PESCO") on behalf of LAKE WORTH under the following terms and conditions:

Term: May 1, 2019 through October 31, 2025; provided however that LAKE WORTH may terminate the sale, effective no earlier than December 31, 2021, upon 365 days' prior written notice if LAKE WORTH proceeds with a capital project requiring natural gas delivery to the City of Lake Worth.

Quantity: 7,542 Dths/day

Delivery Point: Miami LNG Holdings (POI 100042), or other FGT points mutually agreed upon by PESCO and FGU

Price: Stated in dollars per dekatherm and equal to Inside FERC Monthly Index for Florida Gas, Zone 3 plus (i) FGT variable usage/fuel charges, (ii) the maximum tariff reservation rate for FGT FTS-2, or any successor rate schedule (subject to true-up for any rate adjustments ordered by the FERC), and (iii) an adder of \$0.155/Dth (effective 8/1/2021, the adder will be \$0.255/Dth).

Credit Extension: To support the sale to PESCO, for the Term LAKE WORTH requests and authorizes FGU to extend an open line of credit to Chesapeake Utilities Corporation ("CUC"), PESCO's guarantor under the sale agreement, of a floating dollar amount equal to FGU's contract exposure to PESCO under this Directive for two full calendar months contingent upon CUC providing FGU an equivalent parent guarantee. In the event that LAKE WORTH, in its reasonable discretion, deems CUC is no longer creditworthy, LAKE WORTH may direct FGU to demand an alternate form of security from PESCO for assurance of performance.

Credit Allocation: FGU will allocate the security provided by PESCO in accordance with the Exhibit A (FGU Credit Allocation) attached to this Directive.

Other terms: LAKE WORTH's obligation to directly support the purchase of firm gas and the sale of bundled gas and transportation capacity to PESCO is limited to the delivery months of May through October each year.

LAKE WORTH further authorizes FGU to purchase firm natural gas, in quantities and at locations and for terms as determined by FGU's CEO and General Manager, or its designee, required to effectuate the delivery of the gas sale to PESCO.

LAKE WORTH acknowledges that the quantities of gas purchased and sold by FGU pursuant to this directive will be done so under firm contracts and that FGU will be required to take and make delivery of such quantities. LAKE WORTH will be obligated to reimburse FGU for the cost of the purchased gas, regardless of whether FGU is reimbursed under its sale contract to PESCO. Furthermore, LAKE WORTH understands that any claim for adequate credit assurance that results in a margin posting or prepayment of quantities by FGU, an early termination of the purchase and/or sale that results in an early termination expense, or any other costs incurred by FGU on LAKE WORTH's behalf as a result of the transactions, are the financial responsibility of LAKE WORTH.

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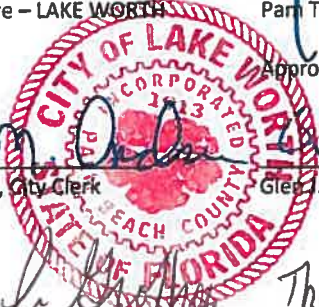


This Directive is supplemental to the Agreement and shall not be viewed as an amendment of any terms, provisions or requirements contained in the Agreement.

\_\_\_\_\_  
Authorized Signature – LAKE WORTH *Pam Triolo* 2/02/19  
Pam Triolo, Mayor Date

Attest: Approved as to form and legal sufficiency:

*Deborah M. Andrea* *Gies J. Torcivia* FOR  
Deborah M. Andrea, City Clerk Gies J. Torcivia, City Attorney



*Thomas A. Geokroy* Thomas A. Geokroy 2-22-19  
Authorized Signature – FGU Print Name Date



**Directive Confirmation Exhibit A - FGU Credit Allocation**

Per the terms of the transaction confirmation between FGU and PESCO for the FGU sale of natural gas for the period of March 1, 2019 through November 30, 2025, PESCO shall be required to securitize FGU’s exposure to PESCO under the contract with collateral reasonably satisfactory with FGU, in an amount equal to the sum of (i) the contract exposure for two full calendar months, and (ii) six months of FGT FTS-2 reservation charges based on the maximum tariff rate as posted in FGT’s tariff for the quantity of 7,542 Dths. For purposes of allocating such security among the FGU members directing the sale to PESCO, FGU shall apply the methodology outlined below.

**Allocation of Security in the Event of Non-Payment by PESCO**

Allocation of Amount (i) above - contract exposure for two months		
Timing of Non-Payment	Lake Worth	FMPA
January	\$0	2-months of contract exposure
February	\$0	2-months of contract exposure
March	\$0	2-months of contract exposure
April	\$0	2-months of contract exposure
May	1-month of contract exposure	1-month of contract exposure
June	2-months of contract exposure	\$0
July	2-months of contract exposure	\$0
August	2-months of contract exposure	\$0
September	2-months of contract exposure	\$0
October	2-months of contract exposure	\$0
November	1-month of contract exposure	1-month of contract exposure
December	\$0	2-months of contract exposure

**Allocation of Security in the Event of Default by PESCO and Early Termination by FGU**

Allocation of Amount (ii) above - six months reservation charges	
Lake Worth	FMPA
up to the full amount, depending on actual damages to Lake Worth as determined under the NAESB Contract between FGU and PESCO	any amount of security remaining after determination of Lake Worth damages





October 15, 2019

ADDENDUM TO MEMBER DIRECTIVE

WHEREAS, on February 22, 2019 the City of Lake Worth Beach, formerly known as the City of Lake Worth (the "City"), issued a directive (the "Directive") to authorize Florida Gas Utility ("FGU") to sell natural gas, bundled with firm FGT transportation capacity to Peninsula Energy Services Company ("PESCO") on behalf of the City under the terms and conditions contained therein (the "Transaction"); and

WHEREAS, PESCO desires to assign the Transaction to Gas South, LLC effective as soon as practicable (the "Assignment"), and per the terms of the Transaction, has requested that FGU consent to such Assignment; and

WHEREAS, Gas South, LLC is willing to accept the terms of the Transaction, including the credit support requirements contained therein, pursuant to which it has posted an irrevocable letter of credit issued by Sun Trust Bank and effective as of the date of the Assignment ("Letter of Credit"); and

WHEREAS, FGU and the City agree and accept the Letter of Credit, which is issued in an amount sufficient to cover (i) two full calendar months of FGU's contract exposure to Gas South, LLC plus (ii) six-months of FGT FTS-2 reservation charges for the City's FGT capacity, in satisfaction of the credit support requirements of the Transaction; and

WHEREAS, the City desires to add to its Directive the authorization for FGU to consent to the Assignment; and

WHEREAS, the City acknowledges that, other than the obligation to pay for natural gas delivered to PESCO prior to the effective date of the Assignment, the obligations of PESCO to perform under the Transaction will be discharged upon the effective date of the Assignment and neither PESCO nor its parent company Chesapeake Utilities Corporation will have any further obligations under the Transaction;

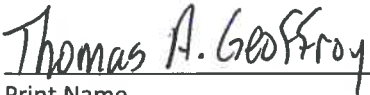
NOW THEREFORE, the City hereby issues this Addendum to its February 22, 2019 Directive for the purpose of authorizing FGU to consent to and execute the Assignment as described herein.

\_\_\_\_\_  
Authorized Signature – Lake Worth Beach      Print Name      Date

Attest:

\_\_\_\_\_  
Authorized Signature      Print Name      Date

  
Authorized Signature - FGU  
*DAW*

  
Print Name

10-16-19  
Date



October 21, 2020

***DIRECTIVE CONFIRMATION***

**To:** Brian King, City of Lake Worth Beach ("Lake Worth Beach")  
**From:** David Wagner, Florida Gas Utility ("FGU")  
**Subject:** Amended and Restated Directive to Authorize Remarketing of Capacity ("Amended and Restated Directive")

WHEREAS, on February 22, 2019, Lake Worth Beach (formerly Lake Worth) issued a directive (the "Directive") to authorize FGU to sell natural gas, bundled with firm FGT transportation capacity to Peninsula Energy Services Company ("PESCO") on behalf of Lake Worth Beach under the terms and conditions contained therein (the "Transaction"); and

WHEREAS, on October 15, 2019, Lake Worth Beach issued an addendum (the "Addendum") to the Directive to authorize FGU to consent to and execute the assignment of PESCO's rights and obligations in the Transaction to Gas South, LLC ("Gas South"); and

WHEREAS, FGU and Gas South desire to modify the structure of the Transaction to enable a release of some or all of the FGT capacity contemplated therein from FGU to Gas South to be managed under an asset management agreement by Gas South;

NOW THEREFORE, Lake Worth Beach hereby issues this Amended and Restated Directive, which shall supersede and replace the Directive and Addendum, for the purpose of authorizing FGU to remarket Lake Worth Beach's firm gas transportation capacity on FGT as described herein.

This Amended and Restated Directive is given pursuant to the Gas Services Agreement between FGU and Lake Worth Beach, dated as of July 26, 1995 (the "Agreement"). Pursuant to Article XI of the Agreement, and to FGU's Credit Policy A-8 and the corresponding Credit Policy Operating Procedures, Lake Worth Beach hereby requests and authorizes FGU to remarket Lake Worth Beach's firm gas transportation capacity on FGT via either capacity release, sale of gas supply bundled with Lake Worth Beach's capacity, or a combination thereof, to Gas South on behalf of Lake Worth Beach under the following terms and conditions:

**Term:** March 1, 2019 through November 30, 2025; provided however that Lake Worth Beach FGU may terminate the sale to Gas South, effective no earlier than December 31, 2021, upon 365 days' prior written notice if Lake Worth Beach proceeds with a capital project requiring natural gas delivery to the City of Lake Worth.

**Quantity:** 7,542 Dths/day for only the delivery months of May through October each year during the Term

**Delivery Point:**

For quantities remarketed via sale of gas supply bundled with capacity:

FGT Market Area - Miami LNG Holdings (Loc # 100042), or other FGT points mutually agreed upon by Gas South and FGU

For quantities remarketed via capacity release:

FGT Market Area – W Lake Worth CTG-FGU (Loc # 78280)

**Minimum Price:**

For quantities remarketed via sale of gas supply bundled with capacity:

Stated in dollars per dekatherm and equal to Inside FERC Monthly Index for Florida Gas, Zone 3 plus (i) FGT variable usage/fuel charges, (ii) the maximum tariff reservation rate for FGT FTS-2, or any successor rate schedule (subject to true-up for any rate adjustments ordered by the FERC), and (iii) an adder of \$0.155/Dth (effective 8/1/2021, the adder will be \$0.255/Dth).

For quantities remarketed via capacity release:

The maximum tariff reservation rate for FGT FTS-2, or any successor rate schedule (subject to true-up for any rate adjustments ordered by the FERC) plus an adder of \$0.155/Dth (effective 8/1/2021, the adder will be \$0.255/Dth).

**Credit:** To support the sale to Gas South during the Term, Lake Worth Beach agrees and accepts the irrevocable letter of credit (the "Letter of Credit"), posted by Gas South in favor of FGU and issued by Sun Trust Bank in an amount sufficient to cover (i) two full calendar months of FGU's contract exposure to Gas South plus (ii) six-months of FGT FTS-2 reservation charges for Lake Worth Beach's FGT capacity, to satisfy the credit support requirements of the Transaction. FGU will allocate the security provided by Gas South in accordance with the Exhibit A (FGU Credit Allocation) attached to this Amended and Restated Directive.

Lake Worth Beach acknowledges that any capacity released by FGU pursuant to this Amended and Restated Directive may be done so on a non-recallable basis. Lake Worth Beach will be obligated to pay for the released transportation capacity should Gas South fail to make payment to FGT.

Lake Worth Beach further authorizes FGU to purchase firm natural gas, in quantities and at locations and for terms as determined by FGU's CEO and General Manager, or its designee, as required to effectuate an optimal delivery of any gas supply bundled with transportation capacity sold to Gas South under this Amended and Restated Directive. Lake Worth Beach acknowledges that the quantities of gas purchased and sold by FGU pursuant to this Amended and Restated Directive will be done so under firm contracts and that FGU will be required to take and make delivery of such quantities. Lake Worth Beach will be obligated to reimburse FGU for the cost of the purchased gas, regardless of whether FGU is reimbursed under its sale contract to Gas South. Furthermore, Lake Worth Beach understands that any claim for adequate credit assurance that results in a margin posting or prepayment of quantities by FGU, an early termination of the purchase and/or sale that results in an early termination expense, or any other costs incurred by FGU on Lake Worth Beach's behalf as a result of Gas South related transactions, are the financial responsibility of Lake Worth Beach.

This Amended and Restated Directive is supplemental to the Agreement and shall not be viewed as an amendment of any terms, provisions or requirements contained in the Agreement.

\_\_\_\_\_  
Authorized Signature – Lake Worth Beach

\_\_\_\_\_  
Date



**Directive Confirmation Exhibit A - FGU Credit Allocation**

Per the terms of the transaction confirmation between FGU and Gas South for the FGU sale of natural gas for the period of March 1, 2019 through November 30, 2025, Gas South shall be required to securitize FGU’s exposure to Gas South under the contract with collateral reasonably satisfactory with FGU, in an amount equal to the sum of (i) the contract exposure for two full calendar months, and (ii) six months of FGT FTS-2 reservation charges based on the maximum tariff rate as posted in FGT’s tariff for the quantity of 7,542 Dths. For purposes of allocating such security among the FGU members directing the sale to Gas South, FGU shall apply the methodology outlined below.

**Allocation of Security in the Event of Non-Payment by Gas South**

Allocation of Amount (i) above - contract exposure for two months		
Timing of Non-Payment	Lake Worth Beach	FMPA
January	\$0	2-months of contract exposure
February	\$0	2-months of contract exposure
March	\$0	2-months of contract exposure
April	\$0	2-months of contract exposure
May	1-month of contract exposure	1-month of contract exposure
June	2-months of contract exposure	\$0
July	2-months of contract exposure	\$0
August	2-months of contract exposure	\$0
September	2-months of contract exposure	\$0
October	2-months of contract exposure	\$0
November	1-month of contract exposure	1-month of contract exposure
December	\$0	2-months of contract exposure

**Allocation of Security in the Event of Default by Gas South and Early Termination by FGU**

Allocation of Amount (ii) above - six months reservation charges	
Lake Worth Beach	FMPA
up to the full amount, depending on actual damages to Lake Worth Beach as determined under the NAESB Contract between FGU and Gas South	any amount of security remaining after determination of Lake Worth Beach damages

CITY OF LAKE WORTH

AND

FLORIDA GAS UTILITY

GAS SERVICES AGREEMENT

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This Agreement ("Agreement") is entered into this 26<sup>th</sup> day of July, 1995, by and between Florida Gas Utility ("FGU"), a public body corporate and politic and joint action agency formed under the Florida Interlocal Cooperation Act and the City of Lake Worth ("Member"), a municipal corporation of the State of Florida.

WHEREAS, Florida Gas Transmission Company ("FGT") has received Federal Energy Regulatory Commission ("FERC") approval to effect a restructuring of its services, such that it now provides a number of service options, including transportation service, to its customers and prospective customers; and

WHEREAS, in order to take advantage of perceived opportunities created by this restructuring of service by FGT, FGU was established between and among several Florida municipal entities for the purpose of achieving savings through joint services for, or which benefit, its members; and

WHEREAS, services provided by FGU include, but are not limited to, the following:

1. The coordination and management of firm and/or interruptible transportation entitlements.
2. The purchase of gas for its members and customers.
3. The performance of gas flow balancing between FGU members' and customers' receipt and delivery point(s).
4. The performance of tariff interpretation, accounting services, gas nominations, dispatching, balancing, adjustments to gas and transportation invoices, invoice reconciliation, invoice payments, billing of charges for fuel, transportation, and other related services.

WHEREAS, FGU will, from time to time, have both interruptible contracts and firm contracts in place with gas producers, pipelines, marketers, and others to sell interruptible or firm gas to FGU's members and customers for one month or longer or shorter on notice from any FGU member or customer; and

WHEREAS, FGU has entered into Firm Transportation Service Agreements with FGT (which presently includes FTS-1 and FTS-2) which permit gas to be delivered to specified delivery point(s) serving the municipal systems of its members; and

WHEREAS, FGT's tariff provides its firm transportation customers the right to aggregate with other shippers; and

WHEREAS, FGU has signed an Interruptible Transportation Service (ITS-1) Agreement with FGT and is able to deliver natural gas to Member's delivery point(s); and

WHEREAS, Member desires to receive, and FGU is willing and able to provide, the sales and agency services described herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises contained herein, the Parties agree as follows:

I. Definitions.

In addition to definitions incorporated herein, the following terms when used herein shall have the meanings set forth below:

- 1.1 The term "FTS-1" shall mean Florida Gas Transmission Company's Rate Schedule FTS-1 for Firm Transportation Service as filed with the FERC as changed and adjusted from time to time by Florida Gas Transmission Company.
- 1.2 The term "FTS-2" shall mean Florida Gas Transmission Company's Rate Schedule FTS-2 for Firm Transportation Service as filed with the FERC, as changed and adjusted from time to time by Florida Gas Transmission Company.
- 1.3 The term "PTS" shall mean Florida Gas Transmission Company's Rate Schedule PTS for Preferred Transportation Service as filed with the FERC as changed and adjusted from time to time by Florida Gas Transmission Company.
- 1.4 The term "ITS" shall mean Florida Gas Transmission Company's Rate Schedule ITS for Interruptible Transportation Service as filed with the FERC as changed and adjusted from time to time by Florida Gas Transmission Company.
- 1.5 The term "SFTS" shall mean Florida Gas Transmission Company's Rate Schedule SFTS for Small Firm Transportation Service as filed with the FERC as changed and adjusted from time to time by Florida Gas Transmission Company.
- 1.6 The term "FERC" shall mean the Federal Energy Regulatory Commission or any successor regulatory agency or body, including the Congress, which has authority to regulate the rates and services of Florida Gas Transmission Company.
- 1.7 The term "Gas" shall mean pipeline quality natural gas which complies with the quality provisions set forth in the General Terms and Conditions of Florida Gas Transmission Company's effective FERC Gas Tariff, Volume No. 1.



- 1.8 The term "Division" shall mean a member of FGU, and the associated delivery point(s) of that member, whose transportation entitlements have been aggregated under one transportation contract held by FGU to which Florida Gas Transmission Company's Tariff Section 11 applies.
- 1.9 The term "Designee" shall mean FGU as the contractually authorized agent of a Member as defined in the general terms and conditions of the FGT Tariff.
- 2.0 The term "FGT Tariff" shall mean the effective tariff of Florida Gas Transmission Company on file at the FERC, as such tariff may be changed from time to time.

II. FGU Transportation Service for Member.

A. Aggregated Transportation Contract(s).

(1) In accordance with the provisions of the FGT Tariff, Member may aggregate all or a portion of its firm transportation entitlements with the firm transportation entitlements of other FGU Members, which shall, for purposes of this Agreement, be referred to as the "Aggregated Transportation Contract(s)."

(2) The administration of the Aggregated Transportation Contract(s) shall be governed solely in accordance with the policies set by the FGU Board of Directors using procedures approved by the FGU Executive Committee.

(3) It is understood that the Aggregated Transportation Contract(s) will be operated in a manner which will preserve to each Division, with Member being a Division, a priority right to the use of the firm transportation entitlements which would have been assigned to it in the absence of the Aggregated Transportation Contract(s). Only when Member's capacity rights are not required to meet the requirements of Member, will they be made available to other Divisions upon approval of Member in accordance with the policies of the Board of Directors. Aggregated Transportation Contract(s) capacity not required by any Division may be temporarily relinquished or otherwise utilized by FGU under the terms of the FGT Tariff in accordance with the policies established by the Board of Directors.

(4) Member shall assume full responsibility for reimbursement of actual transportation charges, including demand charges, incurred by the Aggregated Transportation Contract(s) for the benefit of Member. To the extent another Division or customer of FGU may make actual use of Member's transportation rights, a reassignment of demand costs shall be made by FGU in

accordance with the policies established by the Board of Directors.

(5) It is further understood that Member (or other members or customers) shall be permitted to withdraw all or part of its aggregated firm entitlements from the Aggregated Transportation Contract(s) at any time, without otherwise affecting this Agreement, provided appropriate FGT consent and FERC authorizations have been obtained.

(6) Because Member requirements change from time to time, FGU will assist in acquiring and/or disposing of transportation entitlements for Member. To the extent Member and FGU agree, FGU will request an allocation of such capacity in its own name; provided, however, that a sub-allocation of such incremental transportation entitlement will also be made to the requesting Member's Division, which shall be binding in the event of later withdrawals of membership or entitlements or dissolution.

(7) All contracts involving a substantial change in the burdens or benefits of Member entered into with FGT in the name of the Aggregated Transportation Contract(s) for the benefit of Member shall have been approved in advance by both FGU and Member.

#### B. Retained Entitlement.

Member may retain its transportation contracts with FGT or other pipeline supplier rather than aggregate some or all of its transportation entitlements as provided above. In this case, the relationship between Member and FGU shall be that of principal and agent and FGU shall in all such cases serve as Designee. FGU shall administer the retained transportation contracts in accordance with its terms as Designee for Member and shall serve in such capacity for the purpose of the administration of such contracts and shall perform the services as provided in Article IV hereof with respect to such transportation contracts, in accordance with instructions received from Member.

#### III. Gas Supply Service.

A. FGU and Member hereby agree that FGU shall furnish gas supplies for Member's gas requirements acquired pursuant to this Agreement, to the extent such supplies can be transported to Member's delivery point(s) under Member's or FGU's transportation agreements with FGT, including those transportation agreements described in Article II B hereof.

B. The quantity to be supplied by FGU shall be stated on a daily basis and nominated monthly by Member or as otherwise agreed to in accordance with VII A.

C. The General Manager of FGU, in accordance with policies established by the Board of Directors, shall determine the sources from which the gas supply services under this Agreement shall be provided including the proper mix of firm gas supplies, spot gas supplies and long term gas supplies.

D. Upon the termination of this Agreement by Member or in the event of excess gas supply, a determination shall be made by the Board of Directors as to whether an allocable part of such firm or long term gas supply agreements shall remain in the ownership and control of Member and the obligation of Member, or whether such agreements shall remain in the ownership and control of FGU and shall be paid for by FGU. Any right of Member to retain ownership of such allocation shall be subject to the release by the gas supplier of any liability of FGU or other members for such contract.

E. Member shall be obligated for its allocable share of any firm or long term supply of gas. No notification from Member of intent to accept less gas shall be effective with respect to such obligation for such allocable share of Member under any such firm or long term gas supply contracts. FGU shall, however, utilize its best efforts to attempt to dispose of any excess gas supply to the extent not required by Member.

#### IV. Related Authorizations.

A. FGU shall be responsible, unless otherwise instructed by Member in writing, for obtaining Member's gas supply for transportation under FTS-1, FTS-2, PTS, SFTS, and ITS transportation types, to be transported hereunder to Member's delivery point(s) and for all operational decisions and arrangements associated with the transportation of gas on or upstream of the FGT pipeline, including but not limited to, transportation along pipelines other than FGT, selection of receipt point(s), delivery point(s), scheduling, balancing and dispatching of gas on such pipelines other than FGT as well as on FGT's pipeline.

B. Member and FGU anticipate that FGT and third parties will look to FGU for all purposes connected with servicing the transportation and purchasing of gas, including FTS-1, FTS-2, PTS, SFTS and ITS transportation types, for Member on the FGT system, including, but not limited to, the furnishing and receipt of information concerning daily nominations, scheduling, balancing, receipt point(s), delivery point(s), invoice payment, accounting, third party transportation, and communications with Member, and that

operational conditions may allow limited time for communications concerning such matters. To facilitate this process, and except with respect to services covered by the Aggregated Transportation Contract(s), Member agrees to name FGU, or a representative of FGU, as Member's Designee to perform Member's obligations with respect to nominations, scheduling and payment under the various FGT transportation rate schedules under which Member arranges transportation service for gas purchased from FGU hereunder.

C. It is recognized that Member is not obligated by this Agreement to purchase all of its gas requirements from FGU. Member may elect to enter into gas purchase arrangements directly with one or more third party suppliers. In such event, FGU hereby agrees to serve as agent for Member for purposes of the administration of such gas purchase contract(s), and/or the arrangement of transportation service by FGT in which case Member agrees to pay a service charge pursuant to VI (F) of this Agreement.

V. Engineering Support.

Member will provide engineering information and support as reasonably requested by FGT or FGU in order to assure appropriate design, configuration, and installation of facilities in accordance with generally accepted industry standards necessary to serve Member's delivery point(s).

VI. Reimbursement to FGU for Costs.

A. FGU shall invoice Member monthly for costs incurred by FGU on behalf of Member which shall be reimbursed by Member under this Agreement. Each invoice shall separately identify (i) gas supply costs; (ii) gas transportation charges and related costs, (iii) FGU service charges, and (iv) adjustments.

B. The monthly gas supply costs shall be calculated in accordance with the Pricing Policy adopted by the Board of Directors.

C. The monthly gas transportation charges shall be calculated in accordance with the Pricing Policy adopted by the Board of Directors.

D. Any adjustments or corrections to invoiced gas supplies or transportation charges will be reflected on subsequent FGU invoices to Member.

E. In the event Member requests assignment back to Member of any of its share of Aggregated Transportation Contract(s), Member and FGU intend that Member shall assume and relieve FGU of all obligations for the payment of any charges resulting from such assignment. These charges shall be paid and all settlements

completed, including the release of FGU and its other members from any liability by FGT with respect to the Aggregated Transportation Contract(s), unless other arrangements are agreed to by the Member, the General Manager of FGU and FGT, prior to the date such reassignment is made to Member.

F. In addition to the gas supply and transportation charges described in Paragraphs A, B and C above, Member shall pay FGU the applicable FGU Monthly Service Charge in accordance with the policies adopted by the Board of Directors. In addition to the FGU Service Charges, FGU will charge a one time membership fee in an amount that is in accordance with the policies adopted by the Board of Directors.

VII. Member's Obligation to Notify FGU.

A. It will be Member's responsibility to notify FGU of any variations in Member's daily gas usage rate. Member will provide FGU with its natural gas requirements in such a manner to allow FGU to effectively secure the required gas supply and associated services in a timely and cost effective manner for Member. The actual details of such daily and monthly information requirements will be mutually agreed upon by the parties and may change from time to time to meet varying conditions.

B. Member shall advise FGU of any change in any of the fuel requirements at Member's delivery point(s) (point of sale) as soon as is reasonably possible to allow FGU to make necessary adjustments in Member's or other FGU member or customer's gas volume nominations to avoid imbalances and penalties.

VIII. Notification and Obligation for Operating Conditions.

FGU will promptly notify Member of all pipeline operating conditions, including but not limited to operational flow orders and alert days for which Member may be subject to costs or penalties as a result of noncompliance. If Member does not fully comply with such operational requirements, Member will assume full liability for any noncompliance.

IX. Insulation from Liability for Loss.

Except as otherwise specifically provided in this Agreement, neither Party to this Agreement shall be liable for any loss, injury, or damage resulting to the other or to any other person from the use of any service provided pursuant to this Agreement, or arising from or caused by the interruption or curtailment of the same; provided, however, that this paragraph shall not be deemed to relieve either Party to this Agreement of responsibility imposed by

law for loss or damage which is proximately caused by such Party's own negligence.

X. Risk of Loss; Indemnity.

A. Although FGU may hold title to the gas in order to transport it to Member's delivery point(s) under this Agreement, Member shall bear the risk of loss for all such gas during such transportation by FGU on the FGT system, including but not limited to, any economic or consequential damages to Member for failure to deliver gas or otherwise. FGU will, immediately prior to any such sale or transfer of such gas to Member for further delivery or Member's use, have good title or right to the gas so as to make such conveyance effective and free of adverse claims and liens. Title to the gas transported for Member with its own transportation contracts will pass to such Member upon purchase by FGU from the supplier. Title to gas purchased for utilization by the Aggregate Transportation Contracts, will pass upon delivery by FGU to Member at the Member's Division.

B. Member agrees, to the extent permitted by law, to indemnify and hold FGU harmless from any and all losses or damages sustained by FGU, including any and all suits, actions, damages, losses, and expenses arising out of adverse claims of any persons, including Member, to such gas or the title thereto, or to royalties, taxes, license fees, or charges thereon, and from any and all liability to any persons, including Member, or for any property damage, occasioned by FGU holding title to gas for benefit of Member during transportation on the FGT system.

XI. Disposition of Transportation Entitlements.

If Member is temporarily or permanently unable to utilize all or any portion of its share of the Aggregated Transportation Contract(s), the following provisions shall apply:

(1) Upon request by FGU and approval by Member on each occasion, FGU may utilize that portion of Member's unused capacity which has been approved by Member for use by other FGU members or customers. These other FGU members or customers shall be responsible to FGU for any demand charges and other costs directly associated with such portions of the capacity for the period of time specified by Member for use by those other FGU members or customers, as provided in the Pricing Policy adopted by the Board of Directors.

(2) To the extent FGU is unable to utilize such excess Member capacity, FGU will, as permitted by the FGT Tariff, applicable FERC regulations and agreements, assist and cooperate with

Member to dispose of such excess transportation entitlement so as to avoid or minimize any payment obligations by Member to FGT or others.

(3) Nothing herein shall relieve Member from its obligation to reimburse FGU for costs and expenses incurred by FGU for the released excess capacity for which FGU is not otherwise reimbursed by third parties.

#### XII. Curtailment.

It is understood that, in the event of a capacity curtailment on the FGT system which causes an interruption of firm, preferred or interruptible service, curtailment shall be implemented in accordance with FGT's currently effective curtailment plan. In the event interruptible service is partially interrupted, FGU shall endeavor to continue deliveries to Member under FGU's FTS-1, FTS-2, PTS, SFTS or ITS contracts, if applicable in accordance with policies and procedures set forth by its Board of Directors.

#### XIII. Indemnification for Avoidable Costs.

If any act or omission of Member causes FGU to incur producer demands, or pipeline scheduling, imbalance, or overrun penalties, Member will, to the extent permitted by law, indemnify and reimburse FGU for all such amounts. Nothing herein shall be deemed to foreclose FGU from employing other remedies, including cessation of deliveries, and FGU reserves the right to do so, in order to ameliorate any such exposure.

#### XIV. Termination of Agreement.

This Agreement may be terminated by either Party upon one hundred eighty (180) days written notice to the other or as otherwise approved by the Board of Directors; provided, however, that, before such termination can take effect, provision shall have been made for the reassignment of any capacity rights aggregated in the Aggregated Transportation Contract(s) to FGU (or to its individual members or customers, if preferred by them) and to Member, respectively; and for the payment of all outstanding obligations, or obligations that may arise with respect to firm or long term gas supply contracts by FGU, as provided in Article III C, D and E hereof.

XV. Inducement to Agreement.

The obligations of Member to reimburse FGU for demand charges, transportation charges, gas supply costs and other reasonable costs and taxes, levies or fees expended by FGU and paid to FGT and others to secure gas under favorable terms and costs for delivery to Member's delivery point(s) are essential to the inducement of FGU and Member to enter into this Agreement. Unless specifically provided to the contrary in this Agreement, such obligations shall apply and continue in all events, and irrespective of whether Member actually utilizes or is able to utilize the capacity reserved and the firm or long term gas supply contracts secured by FGU, pursuant to this Agreement, except as this Agreement allows these obligations to be reduced or eliminated.

XVI. Billing.

A. FGU will render an invoice for the service to be provided to Member and for reimbursement of costs and charges which FGU is required to pay to effect the purposes of this Agreement.

B. FGU will provide Member with an invoice by mail, courier or facsimile or other electronic transmission for the amounts due as provided in paragraph A above, for the prior month as soon as the billing information is available, based on scheduled gas consumption. FGU will provide a calendar of invoice and due dates at the beginning of each fiscal year. Payment for all invoices submitted shall be due on or before FGU's published due date. All invoices shall be considered past due if payment is not received by the due date. Interest may be charged on all balances outstanding after the due date at the Prime Rate of interest as published from time to time in the Wall Street Journal and in effect on the calendar month for which the unpaid balance shall be received by FGU, but in no event in excess of the maximum lawful rate in existence from time to time. Failure to pay the full amount due by the due date including the past due amount, interest charges and the current amount due, may result in suspension of gas supply service by FGU until the past due amount and all charges are paid in full. Member shall advise FGU of any dispute in any invoice on or before the due date, provided, however, that payment in full shall be made by Member on or prior to the due date and the parties shall attempt in good faith to resolve the dispute. The billing and payment procedures shall be in accordance with the Billing and Payment Policy as established by the Board of Directors and any conflict with the provisions of this Agreement and such policy shall be governed by such policy.



XVIII. Force Majeure.

A. In the event that either Party, FGU, or Member, is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement or any subsequent service agreement between the Parties contemplated herein, other than the obligation to make payments due, it is agreed that upon such Party giving notice and full particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied on, then the obligations of the Party giving such notice (other than the obligation to make payments due), so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall as far as possible be remedied with all reasonable dispatch. It is further agreed that except for the obligation to make payments due, neither FGU nor Member shall be liable to the other for any damage occasioned by force majeure.

B. In the event of any nonperformance caused by any of the forces described in Subparagraph C the Party affected shall within twenty-four (24) hours promptly notify the other Party verbally and within two (2) working days of nonperformance and provide the other Party with written confirmation of the nature, cause, date of commencement and anticipated extent of such nonperformance. If by reason of such force majeure FGU has a right to terminate any service agreement with FGT or others, FGU will afford Member a comparable right to terminate the corresponding service or agreement under this Agreement.

C. The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, freezes, washouts, arrests and restraints of governments and people, civil disturbances, explosions, breakage or accidents to machinery or lines of pipe, the necessity for making repairs or alterations to machinery or lines of pipe (other than regularly scheduled or routine maintenance), freezing of wells or lines of pipe, planned or unplanned outages by FGT, Member or other parties in the transportation of the gas, partial or entire failure of source of supply, acts of civil or military authority (including, but not limited to, courts or administrative or regulatory agencies), and any other similar or related cause, whether or not enumerated herein, and whether caused or occasioned by or happening on account of the act or omission of FGU or Member or any other person or concern, not reasonably within the control of the Party claiming suspension and which by the exercise of due diligence such Party is unable to prevent or overcome; such term shall likewise include;

(1) in those instances where either Party is required to obtain servitude, rights of way grants, permits or licenses to enable such Party to fulfill its obligations

hereunder, the inability of such Party to acquire, or the delays on the part of such Party in acquiring, at reasonable cost and after the exercise of reasonable diligence, such servitude, rights of way grants, permits or licenses; and

(2) in those instances where either Party is required to furnish materials and supplies for the purpose of constructing or maintaining facilities or is required to secure grants or permissions from any governmental agency to enable such Party to fulfill its obligations hereunder, the inability of such Party to acquire, or the delays on the part of such Party in acquiring, at reasonable cost and after the exercise of reasonable diligence, such materials and supplies, permits and permissions.

D. The settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty, and the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing Party when such course is inadvisable in the discretion of the Party having the difficulty.

#### XVIII. Notices.

All notices, payments and communications with respect to this Agreement shall be in writing and sent by mail, courier or facsimile or other electronic transmission to the addresses stated below, or to any other such addresses as may be hereafter designated in writing.

FGU: Florida Gas Utility  
Attn: General Manager  
7328 West University Avenue Suite A  
Gainesville, Florida 32607

Member: City of Lake Worth  
Attn: Steve Abel  
1900 2nd Ave., North  
Lake Worth, Florida 33461-4298

#### XIX. Term and Effective Date.

This Agreement shall be effective on the date first written above and unless earlier terminated as provided herein shall continue in full force and effect for a term which is coterminous with that of any Service Agreement with FGT or third parties or as they may be extended, that are entered into by FGU for the benefit of Member, so that FGU's obligation to provide service for Member shall

continue for the full term of this Agreement and the underlying agreements with FGT and third parties. This agreement shall supersede any prior agreement executed between Member and FGU.

XX. FERC Approval.

The obligations of the Parties hereto shall be conditioned on any required FERC approval for the Aggregated Transportation Contract(s) and/or transportation services contemplated hereunder, and the availability of such transportation services to FGU and Member.

XXI. Assignment.

This Agreement shall bind and benefit the successors and assigns of the respective parties hereto; provided, however, neither Party shall assign this Agreement or any of its rights or obligations hereunder without first obtaining the written consent of the other Party, which shall not be unreasonably withheld, and any necessary regulatory authorizations.

XXII. Member Representative.

Member shall appoint from time to time and provide to FGU written notice of the name, mailing address, telephone number and facsimile transmission number of one or more employees or agents with authority to give instructions required by this Agreement and otherwise exercise decisions by Member required under this Agreement (the "Member Representative").

(1) The Member Representative shall represent Member in giving and receiving notices and directives regarding the routine operational decisions, which decisions may be relied upon by FGU and shall be contractually binding upon Member.

(2) The Member Representative or another designated Member Representative may also, if so stated, represent Member in giving and receiving notices and directives regarding all other decisions required or that may be exercisable under this Agreement, which decisions may be relied upon by FGU and shall be contractually binding upon Member.

(3) Notices and directives between the Member Representative(s) and FGU may be transmitted orally when required, provided that such notices and directives shall be promptly confirmed by a written notice as authorized by this Agreement.

XXIII. Governmental Regulations.

This Agreement shall be subject to all valid, applicable and effective laws, orders, rules, regulations and directives of all duly constituted federal, state and local governmental authorities having jurisdiction.

XXIV. Special Projects.

The Board of Directors of FGU may agree to undertake a project involving investment of capital, other than minor capital expenditures and may elect to establish a separate budget or budgets for such projects. All members shall be afforded an opportunity to participate on an equitable basis in any project. When a project is operational, if less than all members are participants, FGU may maintain a separate, subsidiary operating account on each such project which will demonstrate the financial relationship between the project and FGU's general operating budget.

XV. Rate Covenant.

Member shall establish, maintain and collect rates and charges for the services it provides to its customers so as to provide sufficient revenues, together with available system reserves, to enable Member to pay all accounts payable to FGU by Member under this Agreement and all other lawful charges against or liens on the revenues of Member's system. In no event shall Member ever be required to levy ad valorem taxes on any property within its boundaries to make any payments required under this Agreement. No obligations of Member hereunder shall constitute or create a lien, either legal or equitable, on Member's ad valorem taxing power.

THIS AGREEMENT is entered into in mutual consideration of the premises stated herein, and is effective as of the date first written above.

FLORIDA GAS UTILITY

CITY OF LAKE WORTH

By: [Signature]  
Title: Chairman

By: [Signature]  
Title: MAYOR

Attest: [Signature]  
Title: General Manager

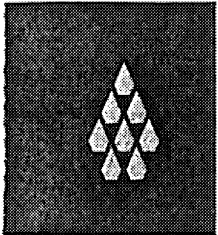
Attest: [Signature]  
Title: CITY CLERK

LAK-77617.8



**FGU**

July 28, 1995



**Florida Gas Utility**

Mr. Steve Abel  
City of Lake Worth  
1900 Second Avenue, N.  
Lake Worth, FL 33461-4298

RE: GAS SERVICES AGREEMENT

Dear Steve:

Enclosed for your files is one fully executed original of the Gas Services Agreement between the City of Lake Worth and Florida Gas Utility. We appreciate your cooperation in getting this new agreement executed. You are a valued member of FGU and we look forward to providing many years of natural gas management services to the City of Lake Worth.

Sincerely,

Katrina R. Vaughan  
General Manager

Encl.

7328 W. University Avenue, Suite A  
Gainesville, Florida 32607  
Telephone: 904/333-2500  
Fax: 904/333-2524



CITY OF **LAKE WORTH**  
1900 2ND AVENUE NORTH  
LAKE WORTH, FLORIDA 33461-4298

UTILITIES  
DEPARTMENT

(407) 586-1666  
FAX (407) 586-1702

June 12, 1995

Ms. Kelly Russ, Member Services Representative  
Florida Gas Utility  
7328 W. University Ave., Suite A  
Gainesville, FL 32607

SUBJECT: GAS SERVICES AGREEMENT BETWEEN THE CITY OF  
LAKE WORTH AND FLORIDA GAS UTILITY

Dear Kelly:

Enclosed, please find two (2) originals of the subject agreement, executed by the Mayor and City Clerk. Please have both copies executed by the appropriate parties and return one (1) to me.

There is also a copy of a memo from the Utilities Director confirming both approval of the agreement and his appointment as Member Representative.

Please let me know if there is anything else we need to provide to finalize this issue.

Sincerely,

CITY OF LAKE WORTH UTILITIES

Steve Abel  
Systems Operation Superintendent

SA:jp

Enclosures

c: Harvey Wildschuetz, Utilities Director  
Lloyd Gibb, Power Plant Superintendent  
Anatole Bezugly, Assistant Utilities Director

RECEIVED


JUN 15 1995

F G U

# *Lake Worth Utilities Administration*

## *Memorandum*

**TO:** Steve Abel, System Operations Superintendent

**FROM:** Harvey F. Wildschuetz, Utilities Director 

**SUBJ:** Gas Services Agreement between the City of Lake Worth and Florida Gas Utility

**DATE:** June 7th, 1995

At their regular meeting of Tuesday, June 6, 1995, the City Commission 1) approved the Gas Services Agreement between the City of Lake Worth and Florida Gas Utility and authorized the Mayor and City Clerk to execute the agreement; and 2) appointed the Utilities Director and/or his designee as Member Representative.

Please forward required originals to the City Clerk's Office for execution as soon as possible, and proceed with other appropriate paperwork as required.

/jsm

pc: Anatole Bezugly, Assistant Utilities Director  
Jacquie Murray, Executive Secretary  
Herb Fein, Internal Auditor  
City Clerk

**IRREVOCABLE STANDBY LETTER OF CREDIT 70004264**

DATE: SEPTEMBER 27, 2019

APPLICANT:  
GAS SOUTH, LLC  
3625 CUMBERLAND BLVD., STE 1500  
ATLANTA, GA 30339-6409

BENEFICIARY:  
FLORIDA GAS UTILITY  
4619 NW 53RD AVE  
GAINESVILLE, FL 32653

FOR: USD 3,500,000.00 (US DOLLARS THREE MILLION FIVE HUNDRED THOUSAND)

DATE OF EXPIRATION: 1/31/2020  
PLACE OF EXPIRATION: OUR COUNTERS

WE HEREBY ESTABLISH OUR IRREVOCABLE LETTER OF CREDIT NO. 70004264 IN YOUR FAVOR FOR ACCOUNT OF THE ABOVE-REFERENCED APPLICANT AVAILABLE BY YOUR DRAFTS DRAWN ON US PAYABLE AT SIGHT FOR ANY SUM OF MONEY NOT TO EXCEED A TOTAL OF THE AMOUNT REFERENCED ABOVE WHEN ACCOMPANIED BY THIS LETTER OF CREDIT AND THE FOLLOWING DOCUMENT:

BENEFICIARY'S DATED CERTIFICATE AND SIGHT DRAFT (EXAMPLE ATTACHED HERETO AS EXHIBIT 1) PURPORTEDLY SIGNED BY ONE OF ITS OFFICIALS STATING:

"PUNCTUAL PAYMENT WAS NOT MADE WHEN DUE OF COMPANY'S PAYMENT OBLIGATIONS ARISING UNDER ANY AGREEMENT WITH BENEFICIARY WITH PAYMENT TERMS OF LESS THAN 364 DAYS FOR ANY INDIVIDUAL OBLIGATION/INVOICE, AS SUCH AGREEMENT MAY BE AMENDED OR MODIFIED BY AGREEMENT BETWEEN BENEFICIARY AND THE APPLICANT FROM TIME TO TIME."

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE YEAR FROM THE EXPIRATION DATE HEREOF, OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST NINETY (90) DAYS PRIOR TO ANY EXPIRATION DATE WE SEND NOTICE TO YOU BY REGISTERED MAIL OR OVERNIGHT COURIER THAT WE ELECT NOT TO CONSIDER THIS LETTER OF CREDIT EXTENDED FOR ANY SUCH ADDITIONAL PERIOD. LETTER OF CREDIT NON EXTENSION NOTICE SHALL BE SENT TO THE BENEFICIARY AT THE ADDRESS AS STATED ABOVE, OR AS AMENDED.

ALL DRAFTS MUST REFERENCE THE NUMBER AND ISSUE DATE OF THIS CREDIT.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 PUBLICATION 590.

WE HEREBY AGREE WITH YOU THAT ALL DRAFTS DRAWN IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION AND DELIVERY OF THE DOCUMENTS SPECIFIED ABOVE ON OR



BEFORE JANUARY 31, 2020 OR ANY AUTOMATICALLY EXTENDED EXPIRY DATE.  
PRESENTATION OF DRAWINGS(S) MAY BE MADE BY OVERNIGHT COURIER OR BY  
FACSIMILE TO OUR FACSIMILE NUMBER 801-567-6205 UNDER TELEPHONIC ADVICE  
TO OUR STANDBY LETTER OF CREDIT DEPARTMENT AT 800-951-7847 OPTION 3. IN  
SUCH CASE, PRESENTATION OF ORIGINAL DOCUMENTS ARE NOT REQUIRED.

ALL DOCUMENTS MAY BE PRESENTED TO:  
SUNTRUST BANK  
LETTERS OF CREDIT AND TRADE SERVICES  
245 PEACHTREE CENTER AVENUE, 17<sup>TH</sup> FLOOR  
MC: GA-ATL-3707  
ATLANTA, GA 30303

PLEASE DIRECT ALL INQUIRIES TO:  
PHONE: 800-951-7847 OPTION 3.

SINCERELY,

SUNTRUST BANK

---

AUTHORIZED SIGNATURE

\*\*\*\*\*  
PLEASE NOTE THAT THIS DRAFTED DOCUMENT IS NEITHER A  
PRE-ADVICE NOR AN INDICATION THAT A LETTER OF CREDIT WILL BE  
ISSUED BY SUNTRUST BANK NOR A COMMITMENT OF ANY TYPE BY  
SUNTRUST BANK. THIS DRAFTED DOCUMENT IS FOR REVIEW OF POSSIBLE  
WORDING/STRUCTURE ONLY. ISSUANCE OF A LETTER OF CREDIT BY  
SUNTRUST BANK IS SUBJECT TO FINAL APPROVAL BY THE APPROPRIATE  
PARTIES OF THE WORDING/STRUCTURE AND ALL REQUIRED  
SUNTRUST BANK INTERNAL APPROVALS.  
\*\*\*\*\*

{EXHIBIT 1}

[FGU LETTERHEAD]

**IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER XXX**

**FORM OF BENEFICIARY'S DATED CERTIFICATE AND SIGHT DRAFT**

TO:

SUNTRUST BANK

LETTERS OF CREDIT AND TRADE SERVICES  
245 PEACHTREE CENTER AVENUE, 17<sup>TH</sup> FLOOR  
MC: GA-ATL-3707  
ATLANTA, GA 30303

AND/OR

FACSIMILE NUMBER 801-567-6205 UNDER TELEPHONIC ADVICE  
TO OUR STANDBY LETTER OF CREDIT DEPARTMENT AT 800-951-7847 OPTION 3

PUNCTUAL PAYMENT WAS NOT MADE WHEN DUE OF COMPANY'S PAYMENT  
OBLIGATIONS ARISING UNDER ANY AGREEMENT WITH BENEFICIARY WITH PAYMENT  
TERMS OF LESS THAN 364 DAYS FOR ANY INDIVIDUAL OBLIGATION/INVOICE, AS  
SUCH AGREEMENT MAY BE AMENDED OR MODIFIED BY AGREEMENT BETWEEN  
BENEFICIARY AND THE APPLICANT FROM TIME TO TIME.

AT SIGHT, PAY TO THE ORDER OF FLORIDA GAS UTILITY, THE SUM OF \_\_\_\_\_  
UNITED STATES DOLLARS (\$ \_\_\_\_\_), DRAWN UNDER SUNTRUST BANK IRREVOCABLE  
STANDBY LETTER OF CREDIT NUMBER \_\_\_\_\_, DATED \_\_\_\_\_.

SUNTRUST BANK IS HEREBY DIRECTED TO PAY THE PROCEEDS OF THIS SIGHT DRAFT  
SOLELY TO THE FOLLOWING ACCOUNT: RTN#: \_\_\_\_\_ ACCOUNT#: \_\_\_\_\_.

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17, 2020

**DEPARTMENT:** Electric Utility

**TITLE:**

Work Order No. 5 with The L.E. Myers Co., for Electric Distribution System construction services

**SUMMARY:**

This Work Order No. 5 authorizes The L.E. Myers Co., to complete construction services and repairs to address issues identified during the Infrared Inspections on the Electrical Distribution system in the amount not to exceed \$278,407.

**BACKGROUND AND JUSTIFICATION:**

The City issued a Request for Proposal (RFP 18-206) seeking proposals from qualified Electric Utility Contractors to build and construct numerous hardening and reliability improvements to the City's electrical transmission and distribution systems. A total of six Electric Utility Contractors were selected by the evaluation committee to complete these services.

During peak electrical loading of the summer months of 2020, the City of Lake Worth Beach Electric Utility utilized the services of Brady Infrared to conduct Infrared & Thermal Inspections on the Electrical System. Inspections were completed at (11) substations, the 138kV Tie-Line and Distribution Feeder Circuits, as a preventative maintenance measure to identify hot-spots and potential issues which could result in fault on the system.

The Electric Utility is requesting the services of L.E. Myers to complete remediation work on the distribution system to address approximately 133 locations identified as potential issues. The work is anticipated to be completed in 35 work days in the amount not exceed \$278,407.

**MOTION:**

Move to approve/disapprove Work Order No. 5 to The L.E. Myers Co. to complete repairs on the Electrical Distribution system at a cost not to exceed \$278,407.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
L.E Myers Work Order No. 5

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$278,407	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
<b>Net Fiscal Impact</b>	<b>\$278,407</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:** Funds have been identified in account No. 401-6034-531-31.90. A Budget Amendment and/or Budget Transfer will be completed to fund this project in the account identified above and below.

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
401-6034-531-31.90	Prof Serv/ Other		\$100,000	\$79,485	-\$278,407	-\$198,922

**CONTRACT FOR SYSTEM HARDENING AND RELIABILITY IMPROVEMENT  
WORK ORDER NO. 5  
IR Distribution System Remediation**

THIS WORK ORDER for System Hardening and Reliability Improvements ("Work Order" hereafter) is made on \_\_\_\_\_, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth, Florida 33460 ("City") and **The L. E. Myers Co.**, a Florida corporation ("Contractor").

**1.0 Project Description:**

The City desires the Contractor to provide all goods, services, materials and equipment identified herein related to the System Hardening and Reliability Improvements project generally described as: **IR Distribution System Remediation** (the "Project"). The Project is more specifically described in the proposal prepared by The L.E. Myers Co., dated October 29<sup>th</sup>, 2020

**2.0 Scope**

Under this Work Order, the Contractor will provide the City of Lake Worth 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 **40** calendar days from the Effective Date of this Amendment. Final completion of all services and work (and all punch-list items (if any)) under this Amendment shall be within **45** 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 100 dollars (\$100 .00) for each day that expires after the time specified in this Work Order.

#### **4.0 Compensation**

This Work Order is issued for a not to exceed amount of \$ 278,406.10. 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: City will provide all materials to complete the job.

---

#### **5.0 Project Manager**

The Project Manager for the Contractor is Raymond Richards, phone: 407-466-4663; email: [RRichards@mygroup.com](mailto:RRichards@mygroup.com); and, the Project Manager for the City is Paul Nicholas, phone: 561-533-7353; email: [pnicholas@lakeworthbeachfl.gov](mailto:pnicholas@lakeworthbeachfl.gov).

#### **6.0 Progress Meetings**

The Contractor shall schedule periodic progress review meetings with the City Project Manager as necessary but every 14 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 RFP; 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

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.

## 7.0 Authorization

This Work Order is pursuant to the System Hardening and Reliability Improvements Contract for between the City of Lake Worth and the Contractor, dated May 15, 2018 ("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.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF the parties hereto have made and executed this Work Order to the System Hardening and Reliability Improvements Agreement as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Michael Bornstein, City Manager

ATTEST:

By: \_\_\_\_\_  
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

CONTRACTOR: The L.E. Myers Company

By: [Signature]

Print Name: Raymond Richards

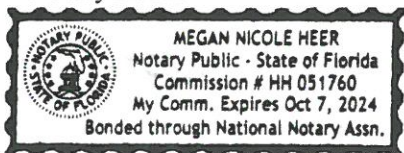
Title: DISTRICT MANAGER

[Corporate Seal]

STATE OF Florida )  
COUNTY OF Lake )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of November, 2020, by Raymond Richards, who was physically present, as District Manager (title), of The L.E. Myers Company, A Florida Corporation, which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following Driver's License as identification.

Notary Public



Megan Heer  
Print Name: Megan Heer  
My commission expires: October 7, 2024



**EXHIBIT "1"**  
**Contractors Proposal**



The L.E. Myers Co.  
24925 State Road 46  
Sorrento, FL 32776

407-466-4663 Phone

Raymond Richards  
District Manager

Equal Opportunity Employer

October 29th, 2020  
Paul Nicholas  
Engineering Manager  
City of Lake Worth.

**RE: RI Remediation**  
Prices effective until December 31, 2020

Dear Paul:

Thank you for allowing us the opportunity to work with you and the City of Lake Worth for your upcoming IR Remediation Project. L.E. Myers recognizes that this work is critical to your system and we are committed to working hand and hand with the City to achieve the success of this project as well as their system wide program goals.

The L.E. Myers Co. shares the City's insistence and commitment to providing a safe working culture and environment for our employees and the public.

Our work plan includes utilizing conventional equipment to repair various electrical connections on Lake Worth's electrical infrastructure.

**Daily Pricing Breakdown:**

- Labor \$ 5,030.78
- Equip. \$ 923.68
- MOT \$ 2,000.00
- Total \$ 7,954.46

**Weekly Schedule of Values:**

Days	Costs NTE
5	\$ 39,772.30
10	\$ 79,544.60
15	\$119,316.90
20	\$159,089.20
25	\$198,861.50
30	\$238,633.80
35	\$278,406.10
40	\$318,178.40
45	\$357,950.70
50	\$397,723.00
55	\$437,495.30
60	\$477,267.60

**Assumptions / Clarifications:**

- Night work is not included.
- All materials to be furnished by others, and on site prior to mobilization.
- All MOT will be the responsibility of L.E. Myers Co.
- Does Not Include Restoration of Sidewalks.

### Crew Composition:

Our crew structure will be compromised of one (1), four (4) man crew, and below we will detail their composition:

#### Crew 1:

This crew's primary purpose is to repair various electrical connections identified by the IR inspections. They will be equipped with conventional aerial equipment to support these operations.

- 1-FM, 2-JL, 1-Ap
  - Pick-up
  - 55' Material Handler Bucket
  - 55' Material Handler Bucket

### Schedule:

Estimated durations for this project, have not been determined. Our schedule of values, shown above, is based on weekly intervals. Upon a mutually agreeable duration, the NTE amount can be used to establish a PO value. Our earliest available start date is November 9<sup>th</sup>, 2020. Portal to portal time will be billed at applicable rates.

We hope this meets with your approval. If you have any questions, do not hesitate to contact Raymond Richards @ 407-466-4663.

Sincerely,  
The L. E. Myers Co.

Raymond Richards  
District Manager



Danny Gessman  
Regional Vice President



# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** November 17<sup>th</sup>, 2020

**DEPARTMENT:** Electric Utility

**TITLE:**

First Amendment to the agreement with Leidos Engineering LLC for additional cost of rate design consulting services for Fiscal Year 2021

**SUMMARY:**

The First Amendment authorizes Leidos Engineering LLC to renew and extend the term of the Agreement to two (2) years with the possibility to extend for additional two (2) one (1) year terms under same terms and conditions.

**BACKGROUND AND JUSTIFICATION:**

The Electric Utility Department entered into an agreement with Leidos Engineering LLC (“Leidos”) to provide consulting services related to Electric Utility rates design study.

The purpose of this First Amendment is to renew the terms and conditions for the provision of additional services by the Consultant to the City. Leidos has submitted a proposal of for services for the new fiscal year sought by the City. The Electric Utility has reviewed the consultant’s proposal and concluded the estimated cost of services is reasonable.

**MOTION:**

Move to approve/disapprove First Amendment to the existing agreement with Leidos Engineering LLC for additional cost of rate study consulting services for the Fiscal Year 2021 in the amount not to exceed \$45,000.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
First Amendment

**FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Capital Expenditures	0	0	0	0	0
Operating Expenditures	45,000	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
 Net Fiscal Impact	 45,000	 0	 0	 0	 0
 No. of Addn'l Full-Time Employee Positions	 0	 0	 0	 0	 0

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
401-6010-531-31-90	Professional Services		\$45,000	\$45,000	-\$45,000	\$0.00

**FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT**  
**(Electrical Utility Cost of Service Study)**

THIS FIRST AMENDMENT (“Amendment”) to the Professional Services Agreement for Electrical Utility Cost of Service Study is made as of \_\_\_\_\_, by and between the City of Lake Worth Beach, Florida, a municipal corporation of the State of Florida (“CITY”) and Leidos Engineering, LLC, a Delaware Limited Liability Company authorized to do business in the State of Florida (“CONSULTANT”).

**WHEREAS**, the City issued Request for Proposal RFP 20-202 in order to obtain consulting services for an Electric Utility Cost of Service Study and related services (“RFP”); and

**WHEREAS**, on March 5, 2020, the CITY awarded the RFP to the CONSULTANT and entered into a Professional Services Agreement for Consultant to provide Electric Utility Cost of Service Study to the CITY (“Agreement”); and

**WHEREAS**, the CITY’s City Manager authorized the Agreement for the first year; and

**WHEREAS**, the CITY and the CONSULTANT wish to amend the Agreement to extend the terms of the Agreement to align with the RFP’s term of three (3) years with possibility to extend for additional two (2) one (1) year terms with all other terms and conditions remaining the same; and,

**WHEREAS**, the CITY finds amending the Agreement as set forth herein is in the best interest of the CITY and serves a valid public purpose.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged by each party hereto, the CITY and the CONSULTANT agree to amend the Agreement, as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Term of Agreement.** The parties agree that the term of the Agreement is hereby extended for two (2) years. The City Manager may approve the additional two (2), one (1) year terms under the same terms and conditions.
3. **Scope of Services.** The parties agree that the CONSULTANT shall perform all services as specified in the Agreement.
4. **Amount Not To Exceed.** The maximum not to exceed amount for this Agreement is \$45,000.00 (Forty-Five Thousand Dollars) annually. The CITY shall not reimburse the CONSULTANT for any additional costs incurred as a direct or indirect result of the CONSULTANT providing the services as specified in the Agreement to the CITY. If the CITY needs any additional services from the CONSULTANT that are not specified in the Agreement, the CONSULTANT and CITY shall mutually agree in writing to such additional services and the cost for the same prior to such additional services being provided.
5. **E-Verify.** Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONSULTANT shall:
  - a. 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;
- b. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;
  - c. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;
  - d. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
  - e. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
  - f. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, CONSULTANT may not be awarded a contract 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.

6. **Entire Agreement.** The CITY and the CONSULTANT agree that the Agreement and this First Amendment set 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 First Amendment may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. All other terms and conditions of the Agreement (except as amended herein) remain in full force and effect.

7. **Counterparts.** This First Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Either or both parties may sign this First Amendment electronically and send the same via facsimile or email and such signature is as valid as the original signature of such party.

**REST OF PAGE LEFT BLANK INTENTIONALLY  
SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the parties hereto have made and executed this First Amendment to the Professional Services Agreement for Electric Utility Cost of Service Study on the day and year first above written.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

By: \_\_\_\_\_  
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

**LEIDOS ENGINEERING, LLC D/B/A R.W. BECK  
GROUP INC,**

By: C. Rios November 4, 2020

[Corporate Seal]

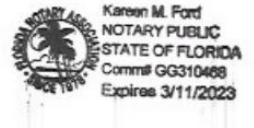
Print Name: Carolina Rios

Title: Sr. Contracts Representative

STATE OF FLORIDA                    )  
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 4th day of November, 2020, by Carolina Rios, who was physically present, as Sr. Contracts Representative (title), of **LEIDOS ENGINEERING, LLC, D/B/A R.W. BECK GROUP INC.** a Florida limited liability company, and who is personally known to me or who has produced the following N/A as identification

Notary Public: Karen M. Ford



Print Name: Karen M. Ford  
My commission expires: 3-11-2023