



**AGENDA  
CITY OF LAKE WORTH BEACH  
REGULAR CITY COMMISSION MEETING  
CITY HALL COMMISSION CHAMBER  
TUESDAY, JANUARY 07, 2020 -- 6:00 PM**

**ROLL CALL:**

**INVOCATION OR MOMENT OF SILENCE:** led by

**PLEDGE OF ALLEGIANCE:** led by

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

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

- A. South Grade Elementary School presented by Ana Arce Gonzalez
- B. Quarterly update by Captain Todd Baer of PBSO
- C. South Palm Park Neighborhood Association Update by Cheryl Raskin
- D. Parking Award presented to Ricardo Espana

**COMMISSION LIAISON REPORTS AND COMMENTS:**

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

**APPROVAL OF MINUTES:**

- A. Special Meeting - November 7, 2019
- B. [Regular Meeting - December 3, 2019](#)

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

- A. [Change Order #2 to B&B Underground Construction for the District 1, Year 3 Neighborhood Road Program](#)
- B. [Resolution No. 01-2020 - authorizing the Lake Worth Beach Community Redevelopment Agency to issue a non-revolving credit facility in the amount of up to \\$1,500,000](#)
- C. [Utility Easement and Bill of Sale – Stateside Partners, LLC](#)

- D. [Utility Easement and Bill of Sale by and between Neighborhood Renaissance, Inc. and the City of Lake Worth Beach](#)
  
- E. [Utility Easement and Bill of Sale - Adopt A Family](#)
- F. [Work Order No. 4 with Globaltech, Inc. for Design-Build services for Radio System Upgrade Phase I](#)
  
- G. [Resolution No. XX-2020 – Local Agency Program Agreement 442094-1-58-01 with Florida Department of Transportation](#)

**PUBLIC HEARINGS:**

- A. [Quasi Judicial Ordinance No. 2019-15 – Second Reading - Changing the Zoning of Properties Located at 109 North Golfview Road, 121 North Golfview Road and 125 North Golfview Road](#)

**UNFINISHED BUSINESS:**

- A. Follow up on Snook Island discussion requested by Vice Mayor Amoroso

**NEW BUSINESS:**

- A. [Ordinance No. 2020-01 amending Chapter 2, Article XIX “Chronic Nuisance Property Code”, Division 1 “Chronic nuisance services,” by repealing ordinance 2017-12 and replacing it with a new ordinance to insert provisions unintentionally removed from Ordinance 2017-12 and providing for additional nuisance activities](#)
- B. [Utility Easements and a Bill of Sale by and between Adopt-A-Family of the Palm Beaches, Inc. and the City of Lake Worth Beach](#)

**LAKE WORTH ELECTRIC UTILITY:**

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

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

- 1) [First Amendment to Work Order No. 1 with The L.E. Myers Co., for Phase -1 1W13 System Hardening](#)

**PUBLIC HEARING:**

**NEW BUSINESS:**

**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)

**MINUTES**  
**CITY OF LAKE WORTH BEACH**  
**REGULAR MEETING OF THE CITY COMMISSION**  
**TUESDAY, DECEMBER 3, 2019 -- 6:00 PM**

The meeting was called to order by Mayor Triolo on the above date at 6:01 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

1. **ROLL CALL:** Present were Mayor Pam Triolo; Vice Mayor Andy Amoroso; and Commissioners Scott Maxwell, Herman Robinson and Omari Hardy. Also present were City Manager Michael Bornstein, City Attorney Christy Goddeau and City Clerk Deborah Andrea.
2. **INVOCATION OR MOMENT OF SILENCE:** on behalf of Mayor Pam Triolo.
3. **PLEDGE OF ALLEGIANCE:** led by Commissioner Scott Maxwell.
4. **AGENDA - Additions/Deletions/Reordering:**  
There were no changes to the agenda.
5. **PRESENTATIONS:** (there is no public comment on Presentation items)
  - A. Update of Highland Elementary School: Elena Villani, Principal at Highland Elementary School, reported about activities and programs at the school including the K-5 dual language program, advanced math classes, VPK and Head Start programs, and a world-class music program. She stated the demographics of the school, 96% of whom received a free or reduced lunch program, and about 110 students who were considered homeless. She said that the parents participated at all events, spoke about all the wonderful things at the school including the partnerships and grants and announced the wish list for the school.  
  
Commissioner Hardy asked about the retention percentage. He commented that there was a district and statewide teacher retention problem due to low pay.  
  
Ms. Villani replied that 13% of students had been retained due to the 3<sup>rd</sup> grade assessment.
  - B. Mayor Triolo read and presented a proclamation to James Barrow to commemorate his retirement from the Electric Utility department and Walt Gill, Electric Utility Assistant Director of Transmission & Distribution, presented a plaque.
  - C. Mayor Triolo read the proclamation declaring December 1, 2019 as World AIDS Day and presented it to members of Compass Community Center.

6. **COMMISSION LIAISON REPORTS AND COMMENTS:**

Commissioner Robinson: wished everyone the happiest of holidays and thanked Capt. Baer, City Manager Bornstein, Mayor Triolo and William Waters for trying to make improvements in the South Palm Park Neighborhood. He said that he looked forward to the Christmas parade, the street painting festival and the New Year.

Vice Mayor Amoroso: reported that he had challenged the Tree Board in April to plant 200

trees by 2020 and they had already planted 375 trees. He announced that the Farmers Market was open on Saturdays, bonfires were back, there would be a night market for holiday shopping, and the holiday parade. He stated that the tree lighting was great and he attended the Palm Beach and Florida League of Cities meetings. He said to remember the 2020 census and extended big birthday wishes to Greg Rice.

Commissioner Hardy: about a survey that had been sent to teachers regarding housing and said that it was depressing that teachers could not afford homes and there should be more affordable housing in the city. He reported that there was a bill in the legislature regarding allowing ADUs in all residential areas and he spoke about the County receiving the full Sadowski funding for affordable housing next year.

Commissioner Maxwell: stated that tree lighting ceremony had a great crowd and the City had the best Santa in the County. He urged everyone to attend the Christmas parade, which was one of the best in south Florida and wished everyone happy and festive holidays.

Mayor Triolo: said that the TPA had many meetings and was trying to separate from the County. She said that there had been many impact fee discussions regarding the money going to the County and not the City that was most affected. She thanked everyone for coming out to the tree lighting and encouraged everyone to attend to the holiday parade.

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

Cheryl Raskin spoke as the president of the South Palm Park Neighborhood Association to invite the residents to the lighting of the median on South Palmway.

Todd Townsend said that a parking study guru was not needed; the City needed a one-story parking garage behind the theater going to Federal Highway. He spoke in opposition to a hotel at the beach, expressing preference for a visitors' center with an observation tower to look at the Atlantic Ocean.

Ramsay MacLeod spoke about concerns and problems created by fixing the roads and said that she had not heard back from anyone in the City. She stated that they want to know the city was responding to the neighborhood and how the money was being spent.

**8. APPROVAL OF MINUTES:**

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

- A. Regular Meeting - October 15, 2019
- B. Work Session - October 17, 2019
- C. Special Meeting - October 29, 2019

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

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

**Action:** Motion made by Commissioner Hardy and seconded by Vice Mayor Amoroso to approve the Consent Agenda.

- A. Agreement with USA Services of Florida, Inc. for the Citywide Street Sweeping services
- B. Resolution No. 67-2019 - approve and authorize the adoption of the 2020 Palm Beach County Local Mitigation Strategy
- C. Authorize Drinking Water State Revolving Fund Amendment 2 to Loan Agreement DW501730 for the 2-inch watermain phase 4 replacement project
- D. Authorization for Acquisition of Real Property for the Development of the Royal Poinciana Neighborhood Park
- E. Resolution No. 68-2019 - authorizing the Lake Worth Beach Community Redevelopment Agency to issue a non-revolving credit facility in the amount of up to \$1,500,000
- F. Resolution No. 69-2019 - 2nd Budget Amendment for FY 2020 Budget

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

**10. PUBLIC HEARINGS:**

- A. Ordinance No. 2019-10 - Second Reading - Ballot language for up to a 30 year lease on Municipal Beach Complex by referendum on March 17, 2020

City Attorney Goddeau read the ordinance by title only.

ORDINANCE NO. 2019-10 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, CALLING FOR A REFERENDUM OF THE QUALIFIED ELECTORS OF THE CITY OF LAKE WORTH BEACH TO BE HELD ON MARCH 17, 2020, AS TO WHETHER ARTICLE II, SECTION 3 OF THE CITY OF LAKE WORTH BEACH CHARTER, ENTITLED "CITY-OWNED PROPERTY EAST OF THE A1A ROADWAY", SHALL BE AMENDED TO ALLOW FOR A LEASE OF UP TO 30 YEARS; PROVIDING FOR NOTICE AND ADVERTISING OF THE REFERENDUM; PROVIDING FOR REFERENDUM CANVASSING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING LAWS; PROVIDING FOR AN EFFECTIVE DATE.

**Action:** Motion made by Commissioner Hardy and seconded by Vice Mayor Amoroso to approve Ordinance No. 2019-10 Ballot language for up to a 30 year lease on Municipal Beach Complex by referendum on March 17, 2020.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

- B. Ordinance No. 2019-12 - Second Reading - Ballot language for up to a 30 year lease on

Parks, City-Owned Waterfront Property and City-Owned Downtown Property by referendum on March 17, 2020

City Attorney Goddeau read the ordinance by title only.

ORDINANCE NO. 2019-12 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, CALLING FOR A REFERENDUM OF THE QUALIFIED ELECTORS OF THE CITY OF LAKE WORTH BEACH TO BE HELD ON MARCH 17, 2020, AS TO WHETHER ARTICLE II, SECTION 4 OF THE CITY OF LAKE WORTH BEACH CHARTER, ENTITLED "SALE OF PARKS, CITY-OWNED WATERFRONT PROPERTY, AND CITY-OWNED DOWNTOWN PROPERTY ONLY BY REFERENDUM", SHALL BE AMENDED TO ALLOW FOR A LEASE OF UP TO 30 YEARS; PROVIDING FOR NOTICE AND ADVERTISING OF THE REFERENDUM; PROVIDING FOR REFERENDUM CANVASSING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING LAWS; PROVIDING FOR AN EFFECTIVE DATE.

**Action:** Motion made by Commissioner Hardy and seconded by Vice Mayor Amoroso to approve Ordinance 2019-12 - Ballot language for up to a 30 year lease on Parks, City-Owned Waterfront Property and City-Owned Downtown Property by referendum on March 17, 2020. The Motion and Second were withdrawn and this item was postponed until December 12, 2019.

City Manager Bornstein told the Commission that the issue did not poll favorably and he did not recommend going forward.

Comments/requests summary:

1. Commissioner Robinson asked if there would be an opportunity to have the item on the November ballot or to have the item on the ballot twice.

City Manager Bornstein replied that the current window was for the March 17, 2020 ballot and there would be an opportunity to reconsider the issue later next year. He stated that the polling consultant advised that the issue could hurt the previous one that would move forward.

Commissioner Hardy withdrew his motion and Vice Mayor Amoroso withdrew his second.

**Action:** Motion made by Commissioner Hardy and seconded by Vice Mayor Amoroso to postpone the issue until the December 12, 2019 meeting.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

- C. Ordinance No. 2019-11 - Second Reading - Ballot language to extend the Jewell-Steinhardt Cove Nature Preserve lease with Palm Beach County to a total term of 99 years

City Attorney Goddeau read the ordinance by title only.

ORDINANCE NO. 2019-11 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, CALLING FOR A REFERENDUM OF THE QUALIFIED ELECTORS OF THE CITY OF LAKE WORTH BEACH TO BE HELD ON MARCH 17, 2020, AS TO WHETHER TO EXTEND THE LEASE TERM TO ALLOW PALM BEACH COUNTY TO MANAGE THE JEWELL-STEINHARDT COVE FOR A TOTAL TERM OF NINETY-NINE (99) YEARS; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE VOTERS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING AN EFFECTIVE DATE.

**Action:** Motion made by Commissioner Hardy and seconded by Vice Mayor Amoroso to approve Ordinance No. 2019-11 on second reading - Ballot language to extend the Jewell-Steinhardt Cove Nature Preserve lease with Palm Beach County to a total term of 99 years.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

- D.** Ordinance No. 2019-13 - Second Reading - Amending Chapter 23, "Land Development Regulations," to authorize adoption of new Major Thoroughfare Design Guidelines by Resolution to replace the existing 2001 design guidelines

City Attorney Goddeau read the ordinance by title only.

ORDINANCE NO. 2019-13 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, REPEALING THE 2001 "DESIGN GUIDELINES FOR OLD TOWN HISTORIC DISTRICT AND MAJOR THOROUGHFARES" IN ITS ENTIRETY; AMENDING CHAPTER 23, "LAND DEVELOPMENT REGULATIONS", ARTICLE 2, "ADMINISTRATION", DIVISION 3 "PERMITS" SECTION 23.2-31 "SITE DESIGN QUALITATIVE STANDARDS" AND SEVERAL SECTIONS OF ARTICLE 3, "ZONING DISTRICTS" TO REMOVE ALL REFERENCES TO THE MAJOR THOROUGHFARES GUIDELINES FROM THE CODE OF ORDINANCES AND PROVIDING FOR THE ADOPTION OF NEW MAJOR THOROUGHFARE DESIGN GUIDELINES BY RESOLUTION; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE.

**Action:** Motion made by Commissioner Hardy and seconded by Commissioner Maxwell to approve Ordinance No. 2019-13 – Amending Chapter 23 Land Development Regulations to authorize adoption of new Major Thoroughfare Design Guidelines by Resolution to replace the existing 2001 Design guidelines major thoroughfares.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

**E. Ordinance No. 2019-14 - Second Reading - Amendments to Chapter 23, "Land Development Regulations," of the City of Lake Worth Beach Code of Ordinances**

City Attorney Goddeau read the ordinance by title only.

ORDINANCE 2019-14 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 "LAND DEVELOPMENT REGULATIONS," ARTICLE 2 "ADMINISTRATION" DIVISION 3, "PERMITS," SECTION 23.2-33 "CITY OF LAKE WORTH SUSTAINABLE BONUS INCENTIVE PROGRAM" TO COMPLY WITH THE CITY'S COMPREHENSIVE PLAN AND BY AMENDING SECTION 23.2-35 "DEVELOPMENT OF SIGNIFICANT IMPACT" TO INCREASE REVIEW THRESHOLDS; BY AMENDING ARTICLE 3 "ZONING DISTRICTS," DIVISION 6, "PLANNED DEVELOPMENT," SECTION 23.3-25 "PLANNED DEVELOPMENT DISTRICT" TO INCLUDE A TRANSFER DEVELOPMENT RIGHTS PROGRAM; BY AMENDING ARTICLE 4 "DEVELOPMENT STANDARDS," SECTION 23.4-13 "MEDIUM AND HIGH INTENSITY CONDITIONAL USES," TO ELIMINATE LOT SIZE REQUIREMENTS IN INDUSTRIAL/MANUFACTURING FACILITIES AND CREATE REGULATIONS FOR RECYCLING FACILITIES; AND FOR OTHER PURPOSES; AND PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE.

**Action:** Motion made by Commissioner Hardy and seconded by Vice Mayor Amoroso to approve Ordinance No. 2019-14 – amendments to Chapter 23 of the City of Lake Worth Beach Code of Ordinances.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

**11. UNFINISHED BUSINESS:**

There were no Unfinished Business items on the agenda.

**12. NEW BUSINESS:**

**A. Resolution No. 66-2019 - Adoption of new Major Thoroughfare Design Guidelines to replace 2001 major thoroughfare design guidelines**

City Attorney Goddeau did not read the resolution.

RESOLUTION NO. 66-2019 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, ADOPTING THE CITY OF LAKE WORTH BEACH MAJOR THOROUGHFARE DESIGN GUIDELINES AS A SUPPLEMENT TO THE CITY'S LAND DEVELOPMENT REGULATIONS, CHAPTER 23 OF THE CODE OF ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.

**Action:** Motion made by Commissioner Maxwell and seconded by Commissioner Hardy to approve Resolution No. 66-2019 - adopting new major thoroughfare design guidelines.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

Comments/requests summary:

1. Commissioner Robinson spoke in favor of consistency and not making changes on a yearly basis.

**Vote:**

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

- B.** Ordinance No. 2019-16 - First Reading - approve Ballot question about Gulfstream Hotel block height and set the second reading and public hearing for December 12, 2019

City Attorney Goddeau read the ordinance by title only.

ORDINANCE NO. 2019-16 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, CALLING FOR A REFERENDUM OF THE QUALIFIED ELECTORS OF THE CITY OF LAKE WORTH BEACH TO BE HELD ON MARCH 17, 2020, AS TO WHETHER ARTICLE IV, SECTION 11 OF THE CITY OF LAKE WORTH BEACH CHARTER, ENTITLED "BUILDING HEIGHT LIMITATION", SHALL BE AMENDED TO ALLOW A MAXIMUM HEIGHT LIMITATION OF 87 FEET (WHICH MATCHES THE HEIGHT OF THE HISTORIC GULFSTREAM HOTEL) INSTEAD OF 65 FEET, FOR THOSE PROPERTIES LOCATED NORTH OF 1ST AVENUE SOUTH AND SOUTH OF LAKE AVENUE AND EAST OF SOUTH LAKESIDE DRIVE AND WEST OF SOUTH GOLFVIEW ROAD AND AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING FOR NOTICE AND ADVERTISING OF THE REFERENDUM; PROVIDING FOR REFERENDUM CANVASSING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING LAWS; PROVIDING FOR AN EFFECTIVE DATE.

**Action:**

Motion made by Commissioner Hardy and seconded by Vice Mayor Amoroso to approve Ordinance No. 2019-16 on first reading - approving Ballot Language for Gulfstream Hotel block height by referendum on March 17, 2020 and setting the second reading and public hearing for December 12, 2019.

Comments/requests summary:

1. Commissioner Hardy expressed pleasure that the item had polled well and said that it was essential to move forward.
2. Commissioner Robinson suggested changing the wording to not to exceed the existing heights.

City Manager Bornstein stated that the consultant would be available for questions at the December 12 meeting but the Commission could still vote to move the ordinance as it was to the second hearing.

Mayor Triolo announced that this was the time for public comment.

Lynn Anderson asked how this ordinance was different from the one passed in 2013 that

was not enacted because of a State law. She said she was in favor of only one ballot question for March, for term limits.

Todd Townsend said that the spot behind the hotel would be a great place to build a hotel that would join the beach to the town and it should be able to be very high.

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

**13. CITY ATTORNEY'S REPORT:**

City Attorney Goddeau did not provide a report.

**14. CITY MANAGER'S REPORT:**

City Manager Bornstein did not provide a report:

**15. ADJOURNMENT:**

**Action:** Motion made by Commissioner Hardy and seconded by Commissioner Maxwell to adjourn the meeting at 7:11 PM.

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

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Pam Triolo, Mayor

ATTEST:

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Deborah M. Andrea, CMC, City Clerk

Minutes Approved: January 7, 2020

A digital audio recording of this meeting will be available in the Office of the City Clerk.

# EXECUTIVE BRIEF

**AGENDA DATE:** – City Commission Regular Meeting

**DEPARTMENT:** Public Works

**TITLE:**

Change Order #2 to B&B Underground Construction for the District 1, Year 3 Neighborhood Road Program

**SUMMARY:**

Change Order #2 authorizes B&B Underground Construction, Inc. to construct the additional roadway improvements associated with Virginia Drive and South Ridge Road at a cost not to exceed \$300,770.75.

**BACKGROUND AND JUSTIFICATION:**

The Neighborhood Road Program District 1, Year 3 project is under construction currently and nearing completion. During construction, it became evident that both Virginia Drive and South Ridge Road needed additional roadway work beyond the plan design to ensure proper stormwater flow and roadway structural integrity. Virginia Drive required additional engineering design and roadway construction based on the existing roadway profile and flooding of the existing right of way. South Ridge Road from Palmetto Street to the north dead end required additional roadway reconstruction to ensure the structural integrity of the roadway was maximized. South Ridge Road was scheduled for Year 4 of the Neighborhood Road Program and is being expedited to Year 3 as the contractor is already working on watermain improvements on the roadway and will complete the roadway work ahead of the original schedule to minimize resident impact. The associated change order costs include a \$35,000 contingency item for unforeseen work, and the total change order will not exceed \$300,770.75.

**MOTION:**

Move to approve/disapprove Change Order #2 to B&B Underground Construction at a cost not to exceed \$300,770.75.

**ATTACHMENT(S):**

Fiscal Impact Analysis

Change Order #2 – B&B Underground Construction (D1,Y3)

## FISCAL IMPACT ANALYSIS

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

<b>Fiscal Years</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Capital Expenditures	300,770.75	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>300,770.75</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:

<b>Public Services</b>						
<b>Account Number</b>	<b>Account Description</b>	<b>FY2020 Budget</b>	<b>Project #</b>	<b>Pre Exp; Balance</b>	<b>Expenditure for this item</b>	<b>Post Exp; Balance</b>
308-5020-519-63-15	Improve other than Build / Infrastructure	585,057	NR1901	1,307,595.77	300,770.75	1,006,824.02

### C. Department Fiscal Review: \_\_\_\_\_



**PUBLIC SERVICES DEPARTMENT**  
1749 3<sup>rd</sup> Avenue South  
Lake Worth Beach, FL 33460  
TEL: 561-586-1720

## **CHANGE ORDER**

**Contractor:** B&B Underground Construction, Inc.

**Project Name:** District 1, Year 3 B Neighborhood Road Program

**Change Order Number:** 02

**Change Order Effective Date:** 1/7/20      **Contractor Phone:** 561-249-0341

**Change Order Type:** Unit Price

### **Description of Change:**

This Change Order is for the construction of additional roadway improvements on South Ridge Road from the northerly dead end to Palmetto Street. The City is requesting that additional roadway work on S. Ridge Rd. consisting of full width roadway milling and paving, selective base repairs, sidewalk removal and replacement, and associated restoration work be completed, in an amount not to exceed \$300,770.75.

South Ridge Road was recently under construction for watermain upgrades from the northerly end at 6<sup>th</sup> Ave South to Palmetto Street. A portion of this roadway is already scheduled for paving in Year 4 of the Neighborhood Road Program. Upon installation of the water main it was determined that the existing pavement was approximately 3/4" thick but inconsistent in profile grade due to potholes, settlement, and base failures. The additional roadway work will reconstitute the structural integrity of the roadway, provide for continuous ADA sidewalk access, and restore a poorly rated roadway to good condition.

Also being included in this Change Order request is the inclusion of a General Allowance of \$35,000 which will cover any unforeseen construction costs associated with the work.

Attached Exhibit A illustrates the scope and associated costs.



IN WITNESS WHEREOF the parties hereto have made and executed this Change Order to the District 1, Year 3 B Neighborhood Road Program 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  
/mpa

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

CONTRACTOR: **B&B UNDERGROUND CONSTRUCTION, INC.**

By: \_\_\_\_\_  
*[Signature]*

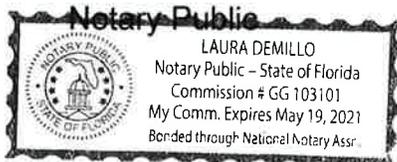
Print Name: STEPHEN DECKER

Title: PRESIDENT

[Corporate Seal]

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 4th day of December, 2019 by Stephen Decker, as President (title), of B&B Underground Construction a Florida corporation 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.



Laura Demillo  
Print Name: Laura Demillo  
My commission expires: 5/19/21



**"EXHIBIT A"**

# EXHIBIT A

City of Lake Worth  
 NEIGHBORHOOD ROAD PROGRAM  
 DISTRICT 1-YEAR 3 PROJECT 2 - S. RIDGE ST. SCHEDULE OF VALUES  
 November 14, 2019

ITEM	ITEM DESCRIPTION	QUANTITY	UNIT	PROPOSED UNIT PRICE	COST
<b>GENERAL CONDITIONS</b>					
1	MOBILIZATION	1	LS	\$ 11,875.00	\$ 11,875.00
2	BONDS & INSURANCE	1	LS	\$ 7,412.00	\$ 7,412.00
3	MAINTENANCE OF TRAFFIC	1	LS	\$ 3,500.00	\$ 3,500.00
4	LAYOUT, SURVEY & RECORD DRAWINGS	1	LS	\$ 3,200.00	\$ 3,200.00
<b>SUBTOTAL</b>	<b>GENERAL CONDITIONS</b>				<b>\$ 25,987.00</b>
<b>ROADWAY WORK</b>					
5	REMOVAL EXISTING ASPHALT	5733	SY	\$ 9.60	\$ 55,036.80
6	ADD BASE ROCK TO ROADWAY AND GRADE	2643	SY	\$ 16.90	\$ 44,666.70
7	1.5" TYPE SP 9.5 ASPHALT CONCRETE	5733	SY	\$ 11.25	\$ 64,496.25
8	ADJUST INLETS	3	EA	\$ 450.00	\$ 1,350.00
9	GEOTECHNICAL TESTING	1	LS	\$ 400.00	\$ 400.00
<b>SUBTOTAL</b>	<b>ROADWAY WORK</b>				<b>\$ 165,949.75</b>
<b>CONCRETE WORK</b>					
10	REMOVE EXISTING CONCRETE (SIDEWALK/DRIVEWAYS)	452	SY	\$ 9.00	\$ 4,068.00
11	CONCRETE SIDEWALKS (4" THICK) (SHORT LOAD CHARGES	454	SY	\$ 45.00	\$ 20,430.00
12	CONCRETE DRIVEWAYS (6" THICK) (SHORT LOAD CHARGES	216	SY	\$ 60.00	\$ 12,960.00
13	REMOVE EXISTING F CURB	702	LF	\$ 9.00	\$ 6,318.00
14	INSTALL D CURB	702	LF	\$ 29.00	\$ 20,358.00
15	HEADER CURB REPAIR	220	LF	\$ 19.00	\$ 4,180.00
<b>SUBTOTAL</b>	<b>CONCRETE WORK</b>				<b>\$ 68,314.00</b>
<b>STRIPING SIGNAGE AND SOD</b>					
16	STRIPING (MINIMUM)	1	LS	\$ 3,200.00	\$ 3,200.00
17	SIGNAGE	6	EA	\$ 320.00	\$ 1,920.00
18	SOD	200	SY	\$ 2.00	\$ 400.00
<b>SUBTOTAL</b>	<b>STRIPING &amp; SOD</b>				<b>\$ 5,520.00</b>
<b>SUBTOTAL</b>	<b>PROJECT CONSTRUCTION</b>				<b>\$ 265,770.75</b>
	Contingency Allowance	1	LS	\$ 35,000.00	\$ 35,000.00
	<b>PROJECT TOTAL</b>				<b>\$ 300,770.75</b>

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** January 7, 2020

**DEPARTMENT:** City Manager

**TITLE:**

Resolution No. 01-2020 - authorizing the Lake Worth Beach Community Redevelopment Agency to issue a non-revolving credit facility in the amount of up to \$1,500,000

**SUMMARY:**

The resolution proposes to authorize the Lake Worth Community Redevelopment Agency (“CRA”) to issue a non-revolving credit facility in the amount of up to \$1,500,000 for property acquisition.

**BACKGROUND AND JUSTIFICATION:**

Section 163.385, Florida Statutes, authorizes community redevelopment agencies to issue a line of credit to finance the undertaking of any community redevelopment authorized under Chapter 163, Part III, Florida Statutes. A line of credit must be approved by the local governing body, which in this instance is the City of Lake Worth Beach City Commission.

The CRA seeks to retain the line of credit in the form from PNC Community Development Company, LLC (“PNC”), which will make the disbursements to the CRA. The amount of the non-revolving credit facility is not to exceed \$1,500,000 and is to be payable from and secured solely by the CRA’s redevelopment trust fund and the tax increment financing revenue (as defined in section 163.340(22), Florida Statutes) required to be deposited therein.

Over the past three years, the CRA has been successful in assembling property in the District. To date, twenty properties were acquired, several with assistance from the City. They had success to date, but there is still much to be done. At this time, there is an opportunity for the CRA to maximize redevelopment efforts in the Downtown, making it a win-win for businesses and those wishing to live and work in the downtown. To assemble additional properties in the District, the CRA is asking for a non-revolving credit facility from PNC bank due to their favorable rates and past assistance.

A summary of terms and conditions by PNC is included for review. A sinking fund will be created to help pay off future debt.

**MOTION:**

Move to approve/disapprove Resolution No. 01-2020 - authorizing the Lake Worth Beach Community Redevelopment Agency to issue a non-revolving credit facility in the amount of up to \$1,500,000.

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A  
Resolution 01-2020  
PNC Terms and Conditions



**PRELIMINARY MEMORANDUM OF TERMS AND CONDITIONS  
FOR  
City of Lake Worth Beach Community Redevelopment Agency  
November 18, 2019**

**This Preliminary Memorandum of Terms and Conditions is not a commitment or an offer to lend and does not create any obligation on the part of the Bank. The Bank will not be deemed to extend any commitment to the Borrower unless and until a formal commitment letter is issued. This outline is only a brief description of the principal terms of suggested facilities and is intended for discussion purposes only.**

**Borrower:** City of Lake Worth Beach Community Redevelopment Agency (“**Borrower**”)

**Lender:** PNC Bank, National Association (“**Bank**”)

**Credit Facility:** A non-revolving credit facility of up to \$1,500,000.

**Purpose:** To acquire properties within the boundaries of the City of Lake Worth Beach Community Redevelopment Agency.

**Amortization:** Draw-downs available for a period of up to twelve (12) months after closing (the “**Draw Period**”). Interest only during the Draw Period, payable quarterly. At the end of the Draw Period, the principal drawn shall be converted into an eight (8) year fully-amortizing term loan, payable in eight (8) equal annual installments, on a mortgage style basis, amortized over a period of eight (8) years, with any remaining balance due at maturity. Draw-downs available until the earlier of twelve (12) months after the closing date or when the facility is fully drawn.

In addition to regularly scheduled principal payments, Borrower shall make a mandatory deposit of \$225,000 into a sinking fund at closing which will then be applied to the first scheduled payment of principal and interest on January 23, 2021.

**Maturity:** Nine (9) years) from the closing date.

**Interest Rates:** Draw Period.

Fully fluctuating at the One Year Treasury Rate plus two hundred and fifty (250) basis points (2.50%), fluctuating daily. Indicative rate of 4.03% as of 11/18/19.

Term Loan Period.

A fixed rate to be determined by Bank as of the expiration of the Draw Period as offered by the Bank in its discretion. Indicative rate of 4.01% as of 11/18/19.

Interest will be calculated on the daily outstandings on a 360 day year for the actual number of days elapsed and will be due monthly in arrears

Customary yield protection and prepayment cost recovery provisions will be included in the definitive loan documents.

**Default Rate:** 3% over the effective interest rate.

**Collateral:** The Credit Facilities will be secured by:

- (a) A pledge of the assets of the Borrower consisting of:
  - (i) Increment revenue (as defined in Section 163.340(22), Florida Statutes (the "Pledged TIF Revenues"), deposited in the Issuer's Redevelopment Trust Fund established by Ordinance NO. 2000-33 of the City Commission of the City of Lake Worth, Florida which shall secure repayment of the loan.

The Credit Facilities will be cross-collateralized and cross-defaulted with all other present and future obligations of the Borrower to the Bank.

**Commitment/  
Closing Fee:** 1.0% of the aggregate amount of the Credit Facilities \$15,000. The Commitment Fee shall be non-refundable.

**Expenses:** All expenses incurred by the Bank, including appraisal, environmental, searches, construction consultant, recording of UCC filings and other security interests, and audit and reasonable legal fees (inside and outside), and any other expenses in reference to structuring, documenting, closing, monitoring or enforcing the Credit Facilities, shall be for the account of the Borrower and payable at closing and otherwise on demand.

**Conditions  
Precedent:** Including, but not limited to, the following, with all documents to be satisfactory in form and substance to the Bank:

- (a) No material adverse change in the condition, financial or otherwise, operations, properties, assets or prospects of the Borrower.
- (b) No material threatened or pending litigation or material contingent obligations.
- (c) Execution of loan documentation.
- (d) With respect to each Borrower, (i) a copy of any trust agreement, partnership or operating agreement, if any; (ii) a copy of the certificate of formation filed with the Secretary of State of the jurisdiction in which such entity was formed; and (iii) verification of good standing with respect to such entity in the jurisdiction in which such entity was formed [and in the jurisdiction in which the Property is located].
- (e) A certificate, to be dated as of the Closing Date as to the incumbency of officers, partners, or members, as appropriate, of the Borrower.
- (f) Resolutions of the Borrower evidencing approval of the Credit Facilities and all steps necessary to consummate the Credit Facilities including, without limitation, execution of the Loan Documents.
- (g) Delivery of evidence of legally binding insurance covering such risks as are required by the Bank, naming the Bank as lender loss payee or additional insured, as appropriate.
- (h) Delivery of an executed certificate of beneficial ownership and such other documentation and other information requested in connection with applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act.
- (i) Evidence that all actions necessary or, in the opinion of the Bank, desirable, to perfect and protect the security interest of the Bank have been taken.
- (j) Delivery of legal opinions required by the Bank relating to the Borrower and the Credit Facilities.

**Reporting  
Covenants:**

- (a) Borrower’s Annual Report within one hundred twenty (120) days of the end of the fiscal year.
- (b) Borrower’s operating budget as soon as available, but not later than October 31<sup>st</sup> of each year.

- (c) Borrower's projections of Pledged TIF Revenues for the applicable fiscal year as soon as available, but not later than October 31<sup>st</sup> of each year.
- (d) City of Lake Worth Beach's Comprehensive Annual Financial report, including the audited financial statement of the Borrower, together with a covenant compliance certificate demonstrating the Borrower's compliance with the debt service coverage ratio covenant.
- (e) Within forty-five (45) days after the Bank's request, such financial and other business information that the Bank may request from time to time concerning the Borrower

**Covenants:**

Affirmative and negative covenants, including the reporting covenants listed above, will be specified by the Bank for inclusion in the Loan Documents. Covenants are expected to include but may not be limited to (a) limitation on sale of assets; (b) limitation on additional indebtedness, liens and leases; (c) prohibition on change in business; (d) prohibition on change of control; (e) prohibition on mergers, division and acquisitions; (f) prohibition against distributions to shareholders; and (g) limitation on loans and advances.

Financial covenants are expected to include but may not be limited to:

- (c) The Borrower will maintain as of the end of each fiscal year a Debt Service Coverage Ratio of at least 1.10 to 1.00.

As used herein:

**"Cash Flow"** means net income minus capital expenditures plus depreciation plus amortization plus other non-cash items minus distributions of the Borrower to its partners.

**"Current Maturities"** means the scheduled payments of principal on all indebtedness for borrowed money having an original term of more than one year (including but not limited to amortization of capitalized lease obligations), as shown on the Borrower's financial statements as of one year prior to the date of determination.

**"Debt Service Coverage Ratio"** means the ratio of: (i) Cash Flow of the Borrower plus interest expense to (ii) the total of Current Maturities of the Borrower plus interest expense.

**Depository:**

The Borrower will establish and maintain, with the Bank, a depository account with a minimum of \$225,000 for the sinking fund payment due.

**Documentation:** Loan Documents in form and substance satisfactory to the Bank must be executed and delivered containing representations, warranties, covenants, indemnities, conditions to lending, events of default and other provisions as are appropriate in the Bank's opinion and specified by the Bank.

**Governing Law:** Submission to **Florida** jurisdiction

**USA PATRIOT  
Act Notice:**

Pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. 107 56), the Bank is required to obtain, verify and record information that identifies the Borrower and, potentially, other loan parties, which information may include, without limitation, the name and address of the Borrower and any such loan parties and other information that will allow the Bank to identify the Borrower and other loan parties in accordance with the USA PATRIOT Act.

**Miscellaneous:** (a) Waiver of jury trial.

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RESOLUTION NO. 01-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AUTHORIZING THE LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY TO ISSUE A NON-REVOLVING CREDIT FACILITY IN THE AMOUNT OF UP TO \$1,500,000.00 FOR PROPERTY ACQUISITION AND OTHER COMMUNITY REDEVELOPMENT AGENCY PROJECTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 2, 2000, the City Commission of the City of Lake Worth Beach adopted Ordinance Number 2000-33 providing for the funding of the redevelopment trust fund to finance or refinance community redevelopment within the Lake Worth Beach Community Redevelopment Area; and

WHEREAS, on July 18, 2000, the City Commission of the City of Lake Worth Beach adopted Resolution Number 40-2000 defining the Community Redevelopment Area and making a finding of the existence of conditions in the City that warrant the expansion of the redevelopment district in accordance with Florida Statutes; and

WHEREAS, on January 2, 2001, the City Commission of the City of Lake Worth Beach approved and adopted the Lake Worth Beach Community Redevelopment Plan for the Community Redevelopment Area; and

WHEREAS, the City Commission, pursuant to Section 163.385, Florida Statutes, pursuant to this resolution, supports the Agency’s property acquisition and program funding goals, and adopts this resolution to authorize the issuance of the facility; and

WHEREAS, the City Commission of the City of Lake Worth Beach finds that the adoption of this resolution is in the best interest of the health, safety, and welfare of the citizens, businesses, and residents of the City of Lake Worth Beach.

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

Section 1. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution.

Section 2. Pursuant to the requirements of Section 163.385, Florida Statutes, the City Commission hereby authorizes the Lake Worth Beach Community Redevelopment Agency (the “Agency”) to issue a non-revolving credit facility in the principal amount of not exceeding \$1,500,000, and having such other terms and conditions as authorized by the Agency.

Section 3. This resolution shall take effect immediately upon its passage.

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

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- 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 7<sup>th</sup> day of January, 2020.

LAKE WORTH BEACH CITY COMMISSION

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

ATTEST:

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

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** January 7, 2020

**DEPARTMENT:** Water Utilities

**TITLE:**

Utility Easement and Bill of Sale – Stateside Partners, LLC

**SUMMARY:**

Stateside Partners will dedicate a Utility Easement and Bill of Sale to the City of Lake Worth Beach in accordance with the conditions of approval of the 127 N Dixie Hwy Building Department Permit.

**BACKGROUND AND JUSTIFICATION:**

Stateside Partners recently completed the retail complex at 127 N Dixie Hwy. The project included improvements to the water and sewer service system as well as a fire line and hydrant to serve the Starbucks shop. To meet this condition a watermain extension from N H Street was necessary to run a 6-inch watermain on to the property. The existing watermain running through the platted alleyway that is surrounded by the project and now part of the complex access was also upsized and replaced.

By the Bill of Sale, the City of Lake Worth Beach will own and maintain water utility located in the public right of way and the dedicated Utility Easements. The easements are dedicated to provide unrestricted access to the City of Lake Worth Beach for all associated utility maintenance, repair and new installations. This item provides for both legal ownership and access to the water systems.

**MOTION:**

Move to approve/disapprove the Utility Easement and Bill of Sale between Stateside Partners, LLC. and the City of Lake Worth Beach.

**ATTACHMENT(S):**

Fiscal Impact Analysis – Not Applicable  
Utility Easement  
Bill of Sale  
Map

Return to:  
City of Lake Worth  
City Clerk  
7 North Dixie Hwy.  
Lake Worth, FL 34460

### UTILITY EASEMENT

THIS UTILITY EASEMENT is made this \_\_\_\_ day of FEBRUARY 20<sup>18</sup>, by and between STATESIDE PARTNERS LLC (“Grantor”) and **CITY OF LAKE WORTH**, a Florida municipal corporation (“City”).

### WITNESSETH

WHEREAS, the Grantor is the owner of property generally located at 127 N. DIXIE HIGHWAY, Lake Worth, Florida, and as legally described in Exhibit “A” attached hereto and incorporated herein (the “Property”); and

WHEREAS, the City desires an unrestricted and nonexclusive easement for public utility purposes through the Property as described and mapped in Exhibit “B” attached hereto and incorporated herein (the “Easement Area”); and

WHEREAS, the public utilities to be placed in the Easement Area may provide services to and from the Property and other properties which may or may not abut and be contiguous to the Easement Area; and

WHEREAS, the Grantor is willing to grant such easement.

NOW, THEREFORE, for and in consideration of the mutual covenants and other valuable consideration, the sufficiency and receipt of which is acknowledged by Grantor and the City, the Grantor grants unto the City, its licensees, agents, successors and assigns:

A perpetual, unrestricted and nonexclusive easement in, over, under, through, upon and across the Easement Area for the purpose of providing utility services to and from properties or lands or maintain the same, which may include the Property, also for the City to provide utility service to properties which may not be contiguous to the Easement Area, including the right to lay, or cause to be laid, and to maintain utility pipes, mains, appurtenances and devices; to maintain, repair, rebuild, operate and control utility transmission lines; the right to clear said Easement Area and keep it clear of brush, trees, and permanent structures and fire hazards; together with all rights of ingress and egress necessary for the full and complete use, occupation, and enjoyment of the Easement Area hereby granted, and all rights and privileges incident thereto; and, the permanent, full and free right and authority to own, construct, operate, maintain, repair, install, rebuild and replace utility facilities within the Easement Area.

TO HAVE AND TO HOLD the said Easement, unto the City, its licensees, agents, successors and assigns forever. It being expressly understood, however, that in the event the City, its licensees, successors and assigns, abandons or vacates the easement herein granted, that the same shall revert back to Grantor, its heirs, successors or assigns.

By accepting this Easement, the City agrees: (a) to perform all work undertaken by the City within the Easement Area in a good and workmanlike manner and to promptly complete all work within the Easement Area; (b) to restore any of the Property disturbed by work undertaken by the City for purposes of construction, removal, demolition and/or maintenance to its condition that existed prior to the commencement of such work; (c) to not unreasonably interfere with the use of the Property by Grantor or any of Grantor's tenants, invitees or guests; and (d) to be responsible for all costs associated with the City's construction, removal, demolition and/or maintenance pursuant to this Easement.

Signed, sealed and delivered  
In the presence of:

Melanie Priest  
Signature of Witness

Melanie Priest  
Printed Name of Witness

Candace LaFontaine  
Signature of Witness

Candace LaFontaine  
Printed Name of Witness

Norman Weinstein (Owner)

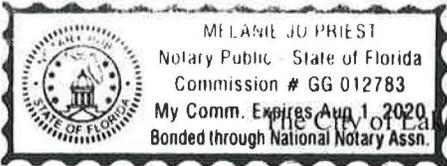
STATESIDE PARTNERS LLC  
Print Name: NORMAN WEINSTEIN  
Print Title: MANAGER

[Corporate Seal]

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
FEBRUARY \_\_\_\_\_, 2018, by NORMAN WEINSTEIN, who is personally known to me or who has  
produced \_\_\_\_\_ as identification and who did not take an oath.

Melanie Priest  
Notary Public



The City of Lake Worth accepted the foregoing Easement on \_\_\_\_\_, 2018.

City of Lake Worth

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

Approved as to form and legal sufficiency:

ATTEST:

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

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

**EXHIBIT "A"**  
Legal Description of Property

See attached.



CFN 20140261206  
 OR BK 26916 PG 0973  
 RECORDED 07/15/2014 14:03:42  
 Palm Beach County, Florida  
 AMT 335,000.00  
 Doc Stamp 2,345.00  
 Sharon R. Bock, CLERK & COMPTROLLER  
 Pgs 0973 - 974; (2pgs)

Prepared by and return to:  
 Daniel T. Wurtenberger, Esq.  
 Kopelowitz Ostrow P.A.  
 200 SW 1st Avenue Suite 1200  
 Fort Lauderdale, FL 33301  
 954-525-3100  
 File Number: 12646-001

[Space Above This Line For Recording Data]

## Warranty Deed

This Warranty Deed made this 10th day of July, 2014 between Jeffrey M. Liggio and Susan Liggio, husband and wife whose post office address is 1615 Forum Place, West Palm Beach, FL 33401, grantor, and STATESIDE PARTNERS LLC, a Florida limited liability company whose post office address is 2700 N. Military Trail, Suite 225, Boca Raton, FL 33431, grantee:

(Whenever 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, trusts and trustees)

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:

A parcel of land being a portion of Lots 13 through 19, inclusive, Block 16, The Palm Beach Farms Co. Plat No. 2, The Townsite of Lucerne (now 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, Page 29 and being more particularly described as follows: Beginning at the Northwest corner of said Lot 13; run along the Northerly line of said Lot 13, North 90° 00' 00" East, a distance of 112.00 feet to a point on a line being 53.00 feet West of and parallel with the centerline of North Dixie Highway; thence along said parallel line, South 00° 00' 00" West, a distance of 175.00 feet; thence leaving said line and along the Southerly line of said Lot 19, North 90° 00' 00" West, a distance of 112.00 feet to the Southwest corner of said Lot 19; thence along the Westerly line of Lots 19, 18, 17, 16, 15, 14 and 13, North 00° 00' 00" West, a distance of 175.00 feet to the Point of Beginning.

Parcel Identification Number: 38-43-44-21-15-016-0130

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 whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2013.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

DoubleTimes

REVISIONS:


**DESCRIPTION:**

**EASEMENT "A"**

A PORTION OF LOTS 4 - 9, BLOCK 16, THE PALM BEACH FARMS COMPANY, PLAT NO. 2, TOWNSITE OF LUCERNE, NOW KNOW AS LAKE WORTH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 29, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 9, BLOCK 16; THENCE S.00°00'00"E. ALONG THE EAST LINE OF LOTS 4-9, BLOCK 16, A DISTANCE OF 150.00 FEET TO THE SOUTHEAST CORNER OF LOT 4; THENCE N.90°00'00"W. ALONG THE SOUTH LINE OF LOT 4, A DISTANCE OF 7.00 FEET; THENCE N.00°00'00"W., A DISTANCE OF 6.64 FEET; THENCE N.90°00'00"W., A DISTANCE OF 18.46 FEET; THENCE N.67°29'57"W., A DISTANCE OF 29.78 FEET; THENCE N.90°00'00"W., A DISTANCE OF 82.03 FEET TO THE WEST LINE OF BLOCK 16; THENCE N.00°00'00"W., A DISTANCE OF 15.00 FEET; THENCE N.90°00'00"E., A DISTANCE OF 85.01 FEET; THENCE S.67°29'57"E., A DISTANCE OF 29.78 FEET; THENCE N.90°00'00"E., A DISTANCE OF 15.47 FEET; THENCE N.00°00'00"W. ALONG A LINE PARALLEL WITH AND 7.00 FEET WEST OF THE EAST LINE OF LOTS 4-9, BLOCK 16, A DISTANCE OF 80.97 FEET; THENCE N.90°00'00"E., A DISTANCE OF 2.00 FEET; THENCE N.00°00'00"W. ALONG A LINE PARALLEL WITH AND 5.00 FEET WEST OF THE EAST LINE OF LOTS 4-9, BLOCK 16, A DISTANCE OF 47.39 FEET TO THE NORTH LINE OF LOT 9; THENCE N.90°00'00"E., ALONG THE NORTH LINE OF LOT 9, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,909 SQUARE FEET.

**EASEMENT "B"**

A PORTION OF LOTS 17, 18 AND 19, BLOCK 16, THE PALM BEACH FARMS COMPANY, PLAT NO. 2, TOWNSITE OF LUCERNE, NOW KNOW AS LAKE WORTH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 29, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 11, BLOCK 16; THENCE S.00°00'00"E. ALONG THE WEST LINE OF LOTS 11-17, BLOCK 16, A DISTANCE OF 165.78 FEET TO THE POINT OF BEGINNING; THENCE N.90°00'00"E., A DISTANCE OF 4.90 FEET; THENCE S.60°53'48"E., A DISTANCE OF 76.99 FEET; THENCE S.29°06'12"W., A DISTANCE OF 10.00 FEET; THENCE N.60°53'48"W., A DISTANCE OF 74.39 FEET; THENCE N.00°00'00"W., A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 793 SQUARE FEET.

SHEET 1 OF 2

**DESCRIPTION**

*Michael J. Miller*  
 MICHAEL J. MILLER #4034  
 PROFESSIONAL SURVEYOR  
 & MAPPER  
 FLORIDA LICENSE NO. 4064

This sketch is not valid without embossed surveyor's seal and/or an authenticated electronic signature and authenticated electronic seal.



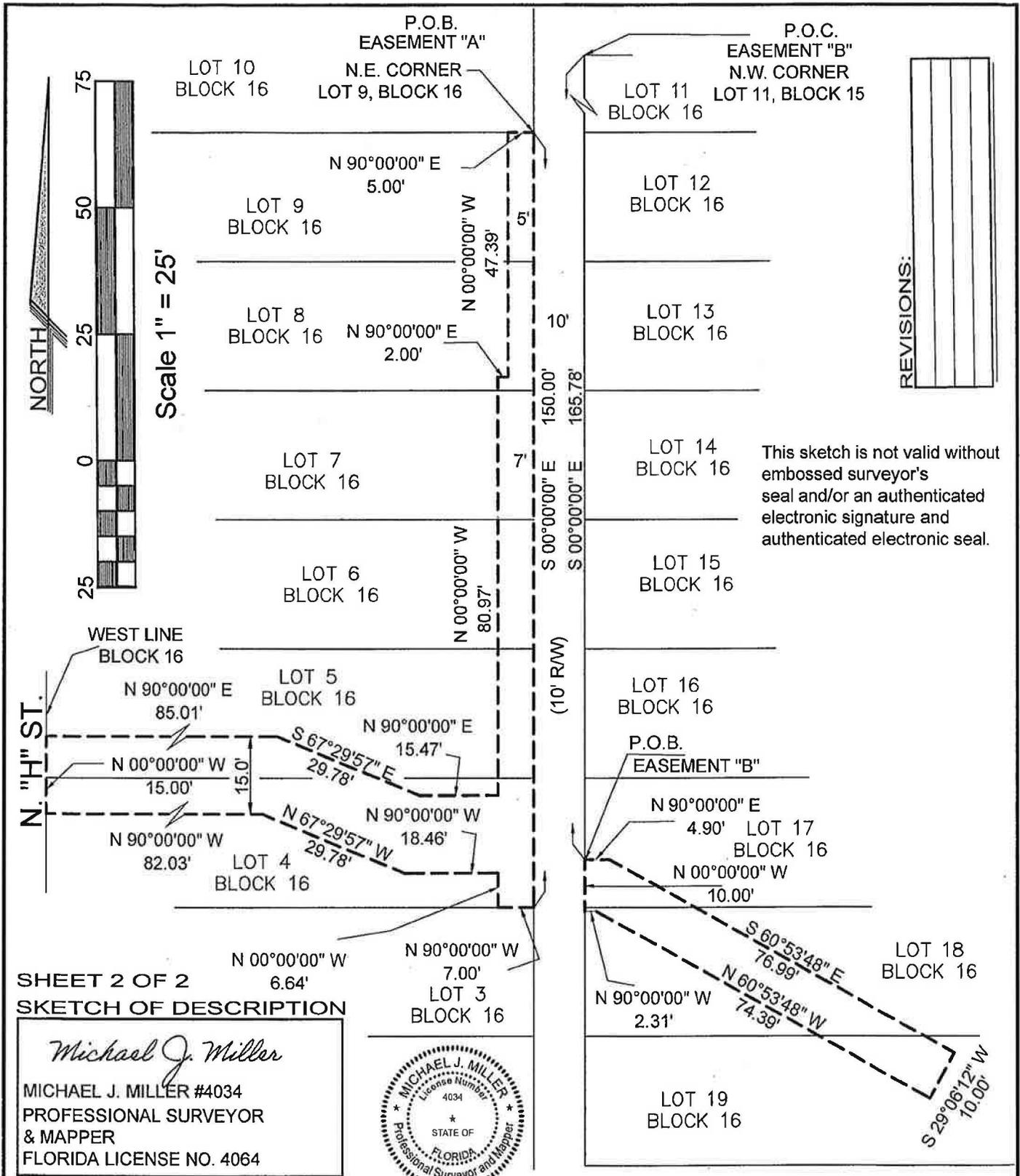
SCALE:	1" = 25'
DRAWN BY:	MJM
FIELD WK:	
DATE:	01/31/2018

**MILLER LAND SURVEYING**  
 1121 LAKE AVENUE  
 LAKE WORTH, FLORIDA 33460  
 PHONE: (561) 586-2669 - FAX: (561) 582-0151  
 www.millersurveying.com  
 e-mail: orders@millersurveying.com

REF:	
PRIOR	
JOB NO.	Y180090
<b>S - 48,427</b>	

**EXHIBIT "B"**  
Legal Description and Survey of Easement Area

See attached Survey



This sketch is not valid without embossed surveyor's seal and/or an authenticated electronic signature and authenticated electronic seal.

SHEET 2 OF 2  
 SKETCH OF DESCRIPTION

*Michael J. Miller*  
 MICHAEL J. MILLER #4034  
 PROFESSIONAL SURVEYOR  
 & MAPPER  
 FLORIDA LICENSE NO. 4064



SCALE:	1" = 25'
DRAWN BY:	MJM
FIELD WK:	
DATE:	01/31/2018

**MILLER LAND SURVEYING**  
 1121 LAKE AVENUE  
 LAKE WORTH, FLORIDA 33460  
 PHONE: (561) 586-2669 - FAX: (561) 582-0151  
 www.millersurveying.com  
 e-mail: orders@millersurveying.com

REF:	
PRIOR	
JOB NO.	Y180090
<b>S - 48,427</b>	

Return to:  
City of Lake Worth  
Attn: City Clerk's Office  
7 N. Dixie Highway  
Lake Worth, FL 33460

**BILL OF SALE**

**BY** Stateside Partners LLC **TO THE CITY OF LAKE WORTH**

**KNOW ALL MEN BY THESE PRESENTS** that STATESIDE PARTNERS LLC, a Florida company (hereinafter "Seller") for the sum of TEN and No/100 Dollars (\$10.00) and other good and valuable considerations paid by THE CITY OF LAKE WORTH, a Florida municipal corporation (hereinafter "Buyer"), the receipt of which is hereby acknowledged by Seller, has granted, bargained, sold, transferred, assigned, set over and delivered, and by these presents does grant, bargain, sell, transfer, assign, set over and deliver, unto Buyer, its successors and assigns, the following:

\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_ and related assets as located in Exhibit "A", attached hereto and made a part hereof .

Seller represents for itself, its successors and assigns that all expenses in connection with construction and installation of the NEW WATER MAIN system have been paid in full and the same is free from liens and debts. Seller agrees to indemnify and hold Buyer harmless from any lawful claims of any party for labor and/or materials arising out of construction and installation of the system.

Seller further represents for itself, its successors and assigns that it has exclusive ownership, possession, control and marketable title to the NEW WATER MAIN System and the System is subject to no mortgage, pledge, lien, charge, security interest, encumbrance or restriction.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, this Bill of Sale from STATESIDE PARTNERS LLC to the City of Lake Worth shall be effective as of the \_\_\_\_\_ day of FEBRUARY, 2018.

WITNESSES:

Candace LaFontaine  
Witness Signature

Candace LaFontaine  
Print Name of Witness Above

Melanie Priest  
Witness Signature

Melanie Priest  
Print Name of Witness Above

SELLER: Norman Weinstein  
Seller Signature

NORMAN WEINSTEIN, MANAGER  
Print Name of Seller Above

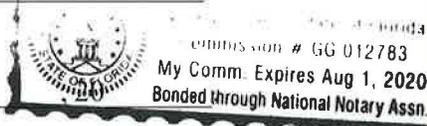
[Corporate Seal]

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of FEBRUARY, 2018, by NORMAN WEINSTEIN, as MANAGER of STATESIDE PARTNERS LLC, who is personally known to me or who produced \_\_\_\_\_ and \_\_\_\_\_ as identification.

My commission expires: Aug 1, 20

Melanie Priest  
Notary Signature



The City of Lake Worth accepted the foregoing Bill of Sale on \_\_\_\_\_

City of Lake Worth

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

ATTEST:

Approved as to form and legal sufficiency:

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

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

**EXHIBIT "A"**

**RECORD OF ASSETS OF WATER MAIN SYSTEM**

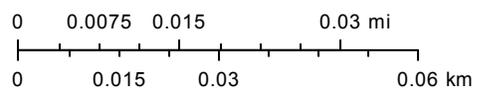


38434421150160040



December 26, 2019

1:1,128



Palm Beach County  
None

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** January 7, 2020

**DEPARTMENT:** Water Utilities

**TITLE:**

Utility Easement and Bill of Sale by and between Neighborhood Renaissance, Inc. and the City of Lake Worth Beach

**SUMMARY:**

Neighborhood Renaissance, Inc. will dedicate a Utility Easement and Bill of Sale to the City of Lake Worth Beach in accordance with the conditions of approval of the West Village Artist Lofts Building Department Permit

**BACKGROUND AND JUSTIFICATION:**

Neighborhood Renaissance Inc. recently completed the mixed use West Village Artist Lofts complex. The project included extensions to the water and sewer service system as well as fire protection. The project property was platted with tracks that establish an overlying nonexclusive easement for the installation, operation and maintenance of utilities. A majority of the water distribution system was installed within this track but there is a service main laid on the very southern edge of the track and thus required additional coverage to maintain adequate space for maintenance purposes. The dedication easement covers this additional maintenance space.

By the Bill of Sale, the City of Lake Worth Beach will own and maintain water and sewer utilities located in the track and the dedicated Utility Easement. The easements are dedicated to provide unrestricted access to the City of Lake Worth Beach for all associated utility maintenance, repair and new installations. This item provides for both legal ownership and access to the water systems

**MOTION:**

Move to approve/disapprove the Utility Easement and Bill of Sale between Neighborhood Renaissance, Inc. and the City of Lake Worth Beach

**ATTACHMENT(S):**

Fiscal Impact Analysis – Not Applicable

Utility Easement

Bill of Sale

Map

Brian Shields – Director

Christy Goddeau – City Attorney

Michael Bornstein – City Manager

Return to:  
City of Lake Worth  
City Clerk  
7 North Dixie Hwy.  
Lake Worth, FL 34460

### UTILITY EASEMENT

THIS UTILITY EASEMENT is made this 8 day of November 2018, by and between Neighborhood Renaissance, Inc. (“Grantor”) and **CITY OF LAKE WORTH**, a Florida municipal corporation (“City”).

### WITNESSETH

WHEREAS, the Grantor is the owner of property generally located at 1110 Lucerne Avenue, Lake Worth, Florida, and as legally described in Exhibit “A” attached hereto and incorporated herein (the “Property”); and

WHEREAS, the City desires an unrestricted and nonexclusive easement for public utility purposes through the Property as described and mapped in Exhibit “B” attached hereto and incorporated herein (the “Easement Area”); and

WHEREAS, the public utilities to be placed in the Easement Area may provide services to and from the Property and other properties which may or may not abut and be contiguous to the Easement Area; and

WHEREAS, the Grantor is willing to grant such easement.

NOW, THEREFORE, for and in consideration of the mutual covenants and other valuable consideration, the sufficiency and receipt of which is acknowledged by Grantor and the City, the Grantor grants unto the City, its licensees, agents, successors and assigns:

A perpetual, unrestricted and nonexclusive easement in, over, under, through, upon and across the Easement Area for the purpose of providing utility services to and from properties or lands or maintain the same, which may include the Property, also for the City to provide utility service to properties which may not be contiguous to the Easement Area, including the right to lay, or cause to be laid, and to maintain utility pipes, mains, appurtenances and devices; to maintain, repair, rebuild, operate and control utility transmission lines; the right to clear said Easement Area and keep it clear of brush, trees, and permanent structures and fire hazards; together with all rights of ingress and egress necessary for the full and complete use, occupation, and enjoyment of the Easement Area hereby granted, and all rights and privileges incident thereto; and, the permanent, full and free right and authority to own, construct, operate, maintain, repair, install, rebuild and replace utility facilities within the Easement Area.

TO HAVE AND TO HOLD the said Easement, unto the City, its licensees, agents, successors and assigns forever. It being expressly understood, however, that in the event the City, its licensees, successors and assigns, abandons or vacates the easement herein granted, that the same shall revert back to Grantor, its heirs, successors or assigns.

By accepting this Easement, the City agrees: (a) to perform all work undertaken by the City within the Easement Area in a good and workmanlike manner and to promptly complete all work within the Easement Area; (b) to restore any of the Property disturbed by work undertaken by the City for purposes of construction, removal, demolition and/or maintenance to its condition that existed prior to the commencement of such work; (c) to not unreasonably interfere with the use of the Property by Grantor or any of Grantor's tenants, invitees or guests; and (d) to be responsible for all costs associated with the City's construction, removal, demolition and/or maintenance pursuant to this Easement.

Signed, sealed and delivered  
In the presence of:

[Signature]  
Signature of Witness

Michael Pecar  
Printed Name of Witness

[Signature]  
Signature of Witness

Carlos L. Toledo  
Printed Name of Witness

Terri Murray (Owner)

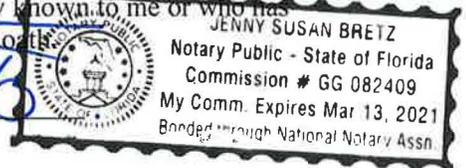
Neighborhood Renaissance, Inc.  
Print Name: Terri Murray  
Print Title: Executive Director

[Corporate Seal]

STATE OF FLORIDA )  
COUNTY OF Palm Beach )

The foregoing instrument was acknowledged before me this 8 day of November, 2018, by Terri Murray, who is personally known to me or who has produced \_\_\_\_\_ as identification and who did not take an oath.

Jenny S. Bretz  
Notary Public



The City of Lake Worth accepted the foregoing Easement on \_\_\_\_\_, 20\_\_.

City of Lake Worth

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

ATTEST:

Approved as to form and legal sufficiency:

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

\_\_\_\_\_  
Christy J. Goddeau, City Attorney



947 Clint Moore Road  
Boca Raton, Florida 33487

SURVEYING & MAPPING  
Certificate of Authorization No. LB7264

Tel: (561) 241-9988  
Fax: (561) 241-5182

## SKETCH AND LEGAL DESCRIPTION (NOT A SURVEY) WEST VILLAGE ARTIST LOFT - UTILITY EASEMENT

### LEGAL DESCRIPTION

THE NORTH 5.00 FEET OF LOTS D,E,F,G, AND H OF "WEST VILLAGE ARTIST LOFT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 125 AT PAGES 49 AND 50, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN THE CITY OF LAKE WORTH, PALM BEACH COUNTY, FLORIDA.

### NOTES

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. NO SEARCH OF THE PUBLIC RECORDS WAS PERFORMED OR REFERENCED IN THE PREPARATION OF THIS SURVEY.
3. THE BEARINGS ARE RELATIVE TO AN ASSUMED BEARING OF NORTH 90°00'00" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF LUCERNE AVENUE, ACCORDING TO SAID PLAT..



**LOCATION MAP**  
(NOT TO SCALE)

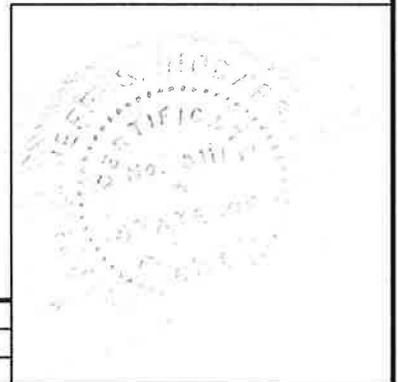
### ABBREVIATIONS

VG	•	VALLEY GUTTER
C.B.S.	•	CONCRETE BLOCK STRUCTURE
CONC.	•	CONCRETE
COR.	•	CORNER
D.E.	•	DRAINAGE EASEMENT
F.F. ELEV.	•	FINISHED FLOOR ELEVATION
I.R.	•	IRON ROD
I.R.C.	•	IRON ROD AND CAP
L.B.	•	LICENSED BUSINESS
L.S.	•	LICENSED SURVEYOR
O.R.B.	•	OFFICIAL RECORDS BOOK
P.B.	•	PLAT BOOK
P.B.C.R.	•	PALM BEACH COUNTY RECORDS
PG.	•	PAGE
P.S.M.	•	PROFESSIONAL SURVEYOR & MAPPER
U.E.	•	UTILITY EASEMENT

### CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH AND DESCRIPTION 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 SKETCH AND LEGAL DESCRIPTION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION.

  
JEFFREY S. MODAPP  
SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. LS5111



Project Name: LAKE WORTH ARTIST LOFT	DATE: 11/19/2018
JOB NO. 17145	DWG BY: JSH
	CK'D By: AR
	SHEET 1 OF 2

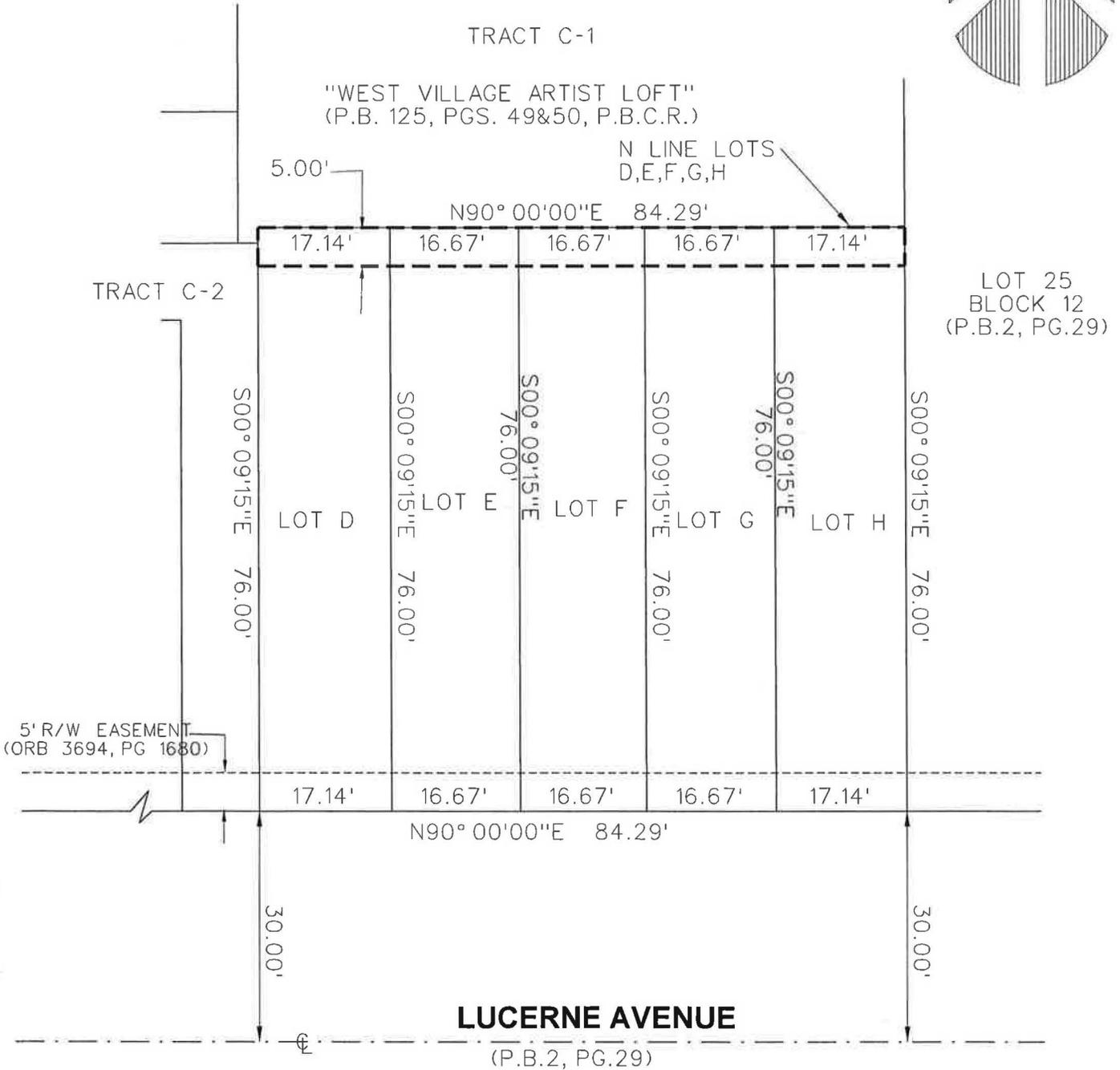


947 Clint Moore Road  
Boca Raton, Florida 33487

SURVEYING & MAPPING  
Certificate of Authorization No. LB7264

Tel: (561) 241-9988  
Fax: (561) 241-5182

### SKETCH AND LEGAL DESCRIPTION (NOT A SURVEY) WEST VILLAGE ARTIST LOFT - UTILITY EASEMENT



JOB NO.	17145	Project Name:	LAKE WORTH ARTIST LOFT	DWG BY:	JSH	SCALE:	1"=20'
		CK'D By:	AR	DATE:	11/19/2018	SHEET	2 OF 2

Return to:  
City of Lake Worth  
Attn: City Clerk's Office  
7 N. Dixie Highway  
Lake Worth, FL 33460

**BILL OF SALE**

**BY** Neighborhood Renaissance, Inc. **TO THE CITY OF LAKE WORTH**

**KNOW ALL MEN BY THESE PRESENTS** that Neighborhood Renaissance, Inc., a Florida company (hereinafter "Seller") for the sum of TEN and No/100 Dollars (\$10.00) and other good and valuable considerations paid by THE CITY OF LAKE WORTH, a Florida municipal corporation (hereinafter "Buyer"), the receipt of which is hereby acknowledged by Seller, has granted, bargained, sold, transferred, assigned, set over and delivered, and by these presents does grant, bargain, sell, transfer, assign, set over and deliver, unto Buyer, its successors and assigns, the following:

---

80 LF of 4" DIP watermain, 30 LF of 2" PVC watermain, 3 gate valves, 9 water meters/services 3 sanitary sewer manholes, 109 LF of 8" PVC sanitary sewer

---

\_\_\_\_\_ and related assets as located in Exhibit "A", attached hereto and made a part hereof .

Seller represents for itself, its successors and assigns that all expenses in connection with construction and installation of the W. Village Artist Lofts water/sewer system have been paid in full and the same is free from liens and debts. Seller agrees to indemnify and hold Buyer harmless from any lawful claims of any party for labor and/or materials arising out of construction and installation of the system.

Seller further represents for itself, its successors and assigns that it has exclusive ownership, possession, control and marketable title to the W. Village Artist Lofts water/sewer System and the System is subject to no mortgage, pledge, lien, charge, security interest, encumbrance or restriction.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, this Bill of Sale from Neighborhood Renaissance, Inc. to the City of Lake Worth shall be effective as of the 8 day of November, 20 18.

WITNESSES:

[Signature]

Witness Signature

Michael Pecar

Print Name of Witness Above

[Signature]

Witness Signature

Carlos L. Toledo

Print Name of Witness Above

SELLER: Terri Murray  
Seller Signature

Terri Murray, Executive Director

Print Name of Seller Above

[Corporate Seal]

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 8 day of November, 20 18, by Terri Murray, as Executive Director of Neighborhood Renaissance, Inc., who is personally known to me or who produced \_\_\_\_\_ and \_\_\_\_\_ as identification.

My commission expires: March 13, 2021

Jenny S. Bretz  
Notary Signature



The City of Lake Worth accepted the foregoing Bill of Sale on \_\_\_\_\_, 20 \_\_\_\_\_.

City of Lake Worth

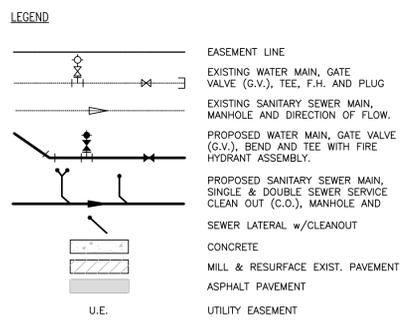
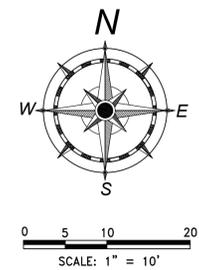
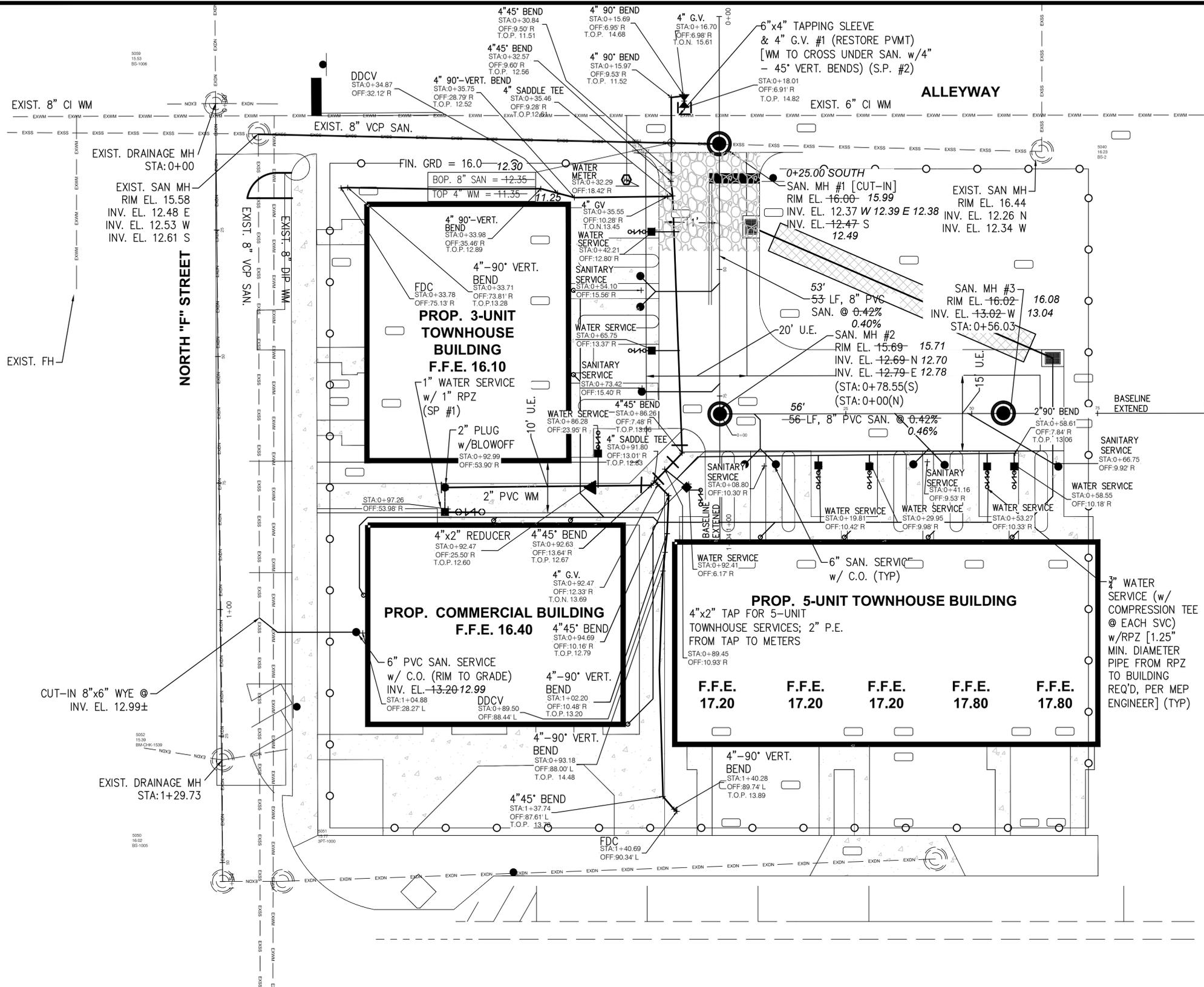
\_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Pam Lopez, City Clerk

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

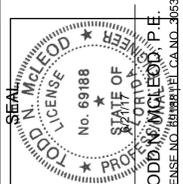


- NOTES:**
1. ALL WATER & SEWER FACILITIES SHALL BE CONSTRUCTED AND TESTED IN ACCORDANCE WITH CITY OF LAKE WORTH UTILITIES DEPARTMENT STANDARDS, LATEST EDITION.
  2. UTILITY LOCATIONS SHOWN BASED ON INFORMATION PROVIDED BY CLW PUBLIC SERVICES & UTILITIES DEPARTMENTS. CONTRACTOR TO FIELD VERIFY LOCATION OF ALL EXISTING UTILITIES, AND MUST CALL 811 AT LEAST 48 HRS PRIOR TO EXCAVATION.
  3. ALL UN-LANDSCAPED/UNPAVED AREAS SHALL BE SODDED UNLESS OTHERWISE NOTED.
  4. FIRE PROTECTION FOR RESIDENTIAL BUILDINGS SHALL BE PROVIDED FROM POTABLE WATER SERVICE, REFER TO MEP PLANS.
  5. CONTRACTOR SHALL PROVIDE ENGINEER AND CITY A MINIMUM OF 48 HOURS NOTICE FOR ALL INSPECTIONS.
  6. ALL RPZ BACKFLOW PREVENTERS SHALL BE USC APPROVED.

NOTE: ALL WATER MAIN PIPE, INCLUDING FITTINGS, INSTALLED ON OR AFTER AUGUST 28, 2003, EXCEPT PIPE INSTALLED UNDER CONSTRUCTION PERMIT FOR WHICH THE DEPARTMENT RECEIVED A COMPLETE APPLICATION BEFORE AUGUST 28, 2003, SHALL BE COLOR CODED OR MARKED USING BLUE AS A PREDOMINANT COLOR TO DIFFERENTIATE DRINKING WATER FROM RECLAIMED OR OTHER WATER. UNDERGROUND PLASTIC PIPE SHALL BE SOLID-WALL BLUE PIPE. SHALL HAVE A CO-EXTRUDED BLUE EXTERNAL SKIN, OR SHALL BE WHITE OR BLACK WITH BLUE STRIPES INCORPORATED INTO, OR APPLIED TO, THE PIPE WALL; AND UNDERGROUND METAL OR CONCRETE PIPE SHALL HAVE BLUE STRIPES APPLIED TO THE PIPE WALL. PIPE STRIPED DURING MANUFACTURING OF THE PIPE SHALL HAVE CONTINUOUS STRIPES THAT RUN PARALLEL TO THE AXIS OF THE PIPE, THAT ARE LOCATED AT NO GREATER THAN 90-DEGREE INTERVALS AROUND THE PIPE, AND THAT WILL REMAIN INTACT DURING AND AFTER INSTALLATION OF THE PIPE. IF TAPE OR PAINT IS USED TO STRIPE PIPE DURING INSTALLATION OF THE PIPE, THE TAPE OR PAINT SHALL BE APPLIED IN A CONTINUOUS LINE THAT RUNS PARALLEL TO THE AXIS OF THE PIPE AND THAT IS LOCATED ALONG THE TOP OF PIPE. FOR PIPES WITH AN INTERNAL DIAMETER OF 24 INCHES OR GREATER, TAPE OR PAINT SHALL BE APPLIED IN CONTINUOUS LINES ALONG EACH SIDE OF THE PIPE AS WELL AS ALONG THE TOP OF THE PIPE. ABOVEGROUND PIPE AT DRINKING WATER TREATMENT PLANTS SHALL BE COLOR CODED AND LABELED IN ACCORDANCE WITH SUBSECTION 62-555.320(10), F.A.C., AND ALL OTHER ABOVEGROUND PIPE SHALL BE PAINTED BLUE OR COLOR CODED OR MARKED LIKE UNDERGROUND PIPE.



**McLeod • McCarthy & Associates, P.A.**  
Civil Engineers  
The Forum III  
1655 Palm Beach Lakes Blvd, Ste. 712  
West Palm Beach, FL 33401  
P: 561.689.9500  
F: 561.689.8080  
www.mcleodmccarthy.com



FIELD: DRAWN: P. Saffold  
DESIGNED: TMM  
APPROVED: TMM  
PROJECT #: 16-007  
DRAWING #:

NO.	DATE	REVISIONS	REVIEWER/CLW COMMENTS
2			3817 /1/18/17
1			

**WATER & WASTEWATER PLAN**  
**WEST VILLAGE ARTIST LOFTS**  
110 N. "F" STREET  
CITY OF LAKE WORTH, FLORIDA

SCALE: AS SHOWN  
DATE: 11/15/16

SHEET  
**05**  
OF 13

I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON COMPLIES WITH MINIMUM TECHNICAL STANDARDS FOR SURVEYS AS CONTAINED IN CHAPTER 61G17-6, 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 SURVEYED UNDER MY DIRECTION.

JEFF S. HODAPP  
SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. LS5111  
LAST DATE OF FIELD WORK : SEPTEMBER 17, 2018

# RECORD AS-BUILT SURVEY

LUCERNE AVENUE



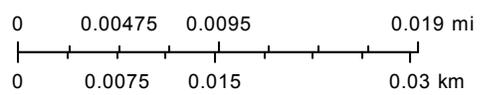
947 Clint Moore Road  
Boca Raton, Florida, 33487  
Certificate of Authorization No. LB7264  
Tel: (561) 241-9988  
Fax: (561) 241-5182

38434421480030000



December 26, 2019

1:576



# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** January 7, 2020

**DEPARTMENT:** Water & Electric Utilities

**TITLE:**

Utility Easements and a Bill of Sale by and between Adopt-A-Family of the Palm Beaches, Inc. and the City of Lake Worth Beach

**SUMMARY:**

Adopt-A-Family of the Palm Beaches will dedicate two separate Utility Easements and Bill of Sale to the City of Lake Worth Beach in accordance with the conditions of approval of the 3<sup>rd</sup> Avenue Homes Building Department Permit.

**BACKGROUND AND JUSTIFICATION:**

Adopt-A-Family of the Palm Beaches is in the process constructing a multifamily complex at 1711 3<sup>rd</sup> Ave N. The project site is planned to help single mothers on restricted incomes. Improvements to the water and sewer system included private service plumbing and fire lines. To meet a condition required by Palm Beach County Fire Marshall a fire hydrant assembly was required at the corner of 3<sup>rd</sup> Ave N and N. A St. By the Bill of Sale, the City of Lake Worth Beach will own and maintain water utility located in the public right of way and the fifteen-foot wide Utility Easement.

In addition, existing power service and overhead lines ran through the middle of this property. There were improvements that made some of the overhead lines underground since they could not be easily relocated. An easement was required to be dedicated for these utilities.

The easements are dedicated to provide unrestricted access to the City of Lake Worth Beach for all associated utility maintenance, repair and new installations. This item provides for both legal ownership and access to the water and electric systems.

**MOTION:**

Move to approve/disapprove the Utility Easement and Bill of Sale between Adopt-A-Family of the Palm Beaches, Inc. and the City of Lake Worth Beach.

**ATTACHMENT(S):**

Fiscal Impact Analysis – Not Applicable

Utility Easement

Utility Easement

Bill of Sale

Map

Return to:  
City of Lake Worth Beach  
City Clerk  
7 North Dixie Hwy.  
Lake Worth Beach, FL 34460

### UTILITY EASEMENT

THIS UTILITY EASEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **ADOPT-A-FAMILY OF THE PALM BEACHES, INC.** ("Grantor") and **CITY OF LAKE WORTH BEACH**, a Florida municipal corporation ("City").

### WITNESSETH

WHEREAS, the Grantor is the owner of property generally located at 1711 3rd Avenue North, Lake Worth Beach, Florida, and as legally described in Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, the City desires an unrestricted and nonexclusive easement for public utility purposes through the Property as described and mapped in Exhibit "B" attached hereto and incorporated herein (the "Easement Area"); and

WHEREAS, the public utilities to be placed in the Easement Area may provide services to and from the Property and other properties which may or may not abut and be contiguous to the Easement Area; and

WHEREAS, the Grantor is willing to grant such easement.

NOW, THEREFORE, for and in consideration of the mutual covenants and other valuable consideration, the sufficiency and receipt of which is acknowledged by Grantor and the City, the Grantor grants unto the City, its licensees, agents, successors and assigns:

A perpetual, unrestricted and nonexclusive easement in, over, under, through, upon and across the Easement Area for the purpose of providing utility services to and from properties or lands or maintain the same, which may include the Property, also for the City to provide utility service to properties which may not be contiguous to the Easement Area, including the right to lay, or cause to be laid, and to maintain utility pipes, mains, appurtenances and devices; to maintain, repair, rebuild, operate and control utility transmission lines; the right to clear said Easement Area and keep it clear of brush, trees, and permanent structures and fire hazards; together with all rights of ingress and egress necessary for the full and complete use, occupation, and enjoyment of the Easement Area hereby granted, and all rights and privileges incident thereto; and, the permanent, full and free right and authority to own, construct, operate, maintain, repair, install, rebuild and replace utility facilities within the Easement Area.

TO HAVE AND TO HOLD the said Easement, unto the City, its licensees, agents, successors and assigns forever. It being expressly understood, however, that in the event the City, its licensees, successors and assigns, abandons or vacates the easement herein granted, that the same shall revert back to Grantor, its heirs, successors or assigns.

By accepting this Easement, the City agrees: (a) to perform all work undertaken by the City within the Easement Area in a good and workmanlike manner and to promptly complete all work within the Easement Area; (b) to restore any of the Property disturbed by work undertaken by the City for purposes of construction, removal, demolition and/or maintenance to its condition that existed prior to the commencement of such work; (c) to not unreasonably interfere with the use of the Property by Grantor or any of Grantor's tenants, invitees or guests; and (d) to be responsible for all costs associated with the City's construction, removal, demolition and/or maintenance pursuant to this Easement.

Signed, sealed and delivered

In the presence of:

Teresa Vazquez  
Signature of Witness

TERESA VAZQUEZ  
Printed Name of Witness

Victoria Uhlman  
Signature of Witness

Victoria Uhlman  
Printed Name of Witness

Matthew Constantine (Owner)

Print Name: MATTHEW CONSTANTINE  
Print Title: CEO

[Corporate Seal]

STATE OF FLORIDA )  
COUNTY OF Palm Beach )

The foregoing instrument was acknowledged before me this 21st day of November 2019 by Matthew Constantine, who is personally known to me or who has produced Identification as identification and who did not take an oath.



**Maria Evangelista**  
Comm. #GG328752  
Expires: July 28, 2023  
Bonded Thru Aaron Notary

Maria Evangelista  
Notary Public

The City of Lake Worth Beach accepted the foregoing Easement on \_\_\_\_\_, 20\_\_.

City of Lake Worth Beach

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

ATTEST:

Approved as to form and legal sufficiency:

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

\_\_\_\_\_  
Glen Torcivia, City Attorney

Star  
11/21/19

**EXHIBIT "A"**  
Legal Description of Property

**DESCRIPTION**

PARCEL 2:

THE WEST 50 FEET OF THE NORTH 95 FEET OF LOT 2, BLOCK 34, SAWYER'S SUBDIVISION OF THE WEST HALF OF SECTION 21, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 4,749.7 SQUARE FEET/0.1090 ACRES MORE OR LESS.

PARCEL 3:

THE EAST 50 FEET OF THE NORTH 150 FEET OF LOT 2, BLOCK 34, SAWYER'S SUBDIVISION OF THE WEST HALF OF SECTION 21, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 7,500.0 SQUARE FEET/0.1722 ACRES MORE OR LESS.

PARCEL 4:

LOT 4 AND 5, LESS THE EAST 5 FEET THEREOF, OF SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.

CONTAINING 7,804.8 SQUARE FEET/0.1792 ACRES MORE OR LESS.

PARCEL 5:

LOTS 2 AND 3, LESS THE EAST 5 FEET THEREOF, SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.

CONTAINING 8,170.1 SQUARE FEET/0.1876 ACRES MORE OR LESS.

PARCEL 6:

LOT 1, LESS THE EAST 5 FEET THEREOF, SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.

CONTAINING 4,750.0 SQUARE FEET/0.109 ACRES MORE OR LESS.

TOTAL AREA OF ALL PARCELS COMBINED = 32,974.7 SQUARE FEET/0.7570 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

**EXHIBIT "B"**

Legal Description and Survey of Easement Area

# PERIMETER

947 Clint Moore Road  
Boca Raton, Florida 33487

SURVEYING & MAPPING  
Certificate of Authorization No. LB7264

Tel: (561) 241-9988  
Fax: (561) 241-5182

## SKETCH AND LEGAL DESCRIPTION NOT A SURVEY ADOPT-A-FAMILY - UTILITY EASEMENT

### LEGAL DESCRIPTION

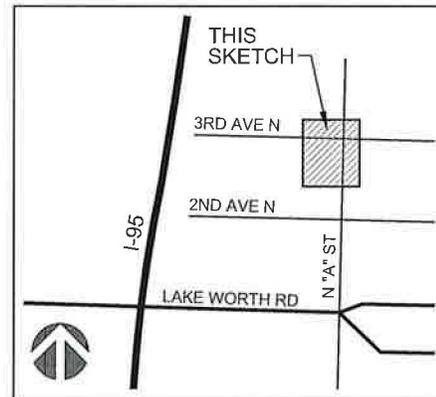
A PORTION OF LOT 1 "SUBDIVISION OF LOT 1, BLOCK 34" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 11, AT PAGE 27, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER SAID LOT 1; THENCE SOUTH 00°20'23" EAST, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 22.86 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 90°00'00" WEST, A DISTANCE OF 7.00 FEET; THENCE NORTH 00°20'23" WEST, A DISTANCE OF 19.25 FEET TO A POINT ON THE ARC OF A CIRCULAR CURVE TO THE RIGHT AT WHICH THE RADIUS BEARS SOUTH 38°03'32" WEST; THENCE SOUTHEASTERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 18.00 FEET AND A CENTRAL ANGLE OF 52°19'48", A DISTANCE OF 16.44 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00°20'23" EAST, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

SAID LAND SITUATE IN THE CITY OF LAKE WORTH, PALM BEACH COUNTY, FLORIDA.

### NOTES

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. NO SEARCH OF THE PUBLIC RECORDS WAS MADE IN THE PREPARATION OF THIS SKETCH AND DESCRIPTION.



**LOCATION MAP**

(NOT TO SCALE)

### ABBREVIATIONS

⊕	=	CENTERLINE
Δ	=	DELTA(CENTRAL ANGLE)
L	=	ARC LENGTH
P.B.C.R.	=	PALM BEACH COUNTY RECORDS
P.B.	=	PLAT BOOK
PG.	=	PAGE
R	=	RADIUS
R/W	=	RIGHT OF WAY

### SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH AND DESCRIPTION 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.

*(Signature)*  
JEFF S. MODAPP  
SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. LS5111

PROJECT NAME: ADOPT-A-FAMILY	DATE: 09/17/2019
JOB NO. 18219	DWG BY: AJR
	CK'D BY: JSH
	SHEET 1 OF 2

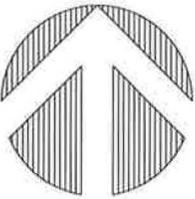
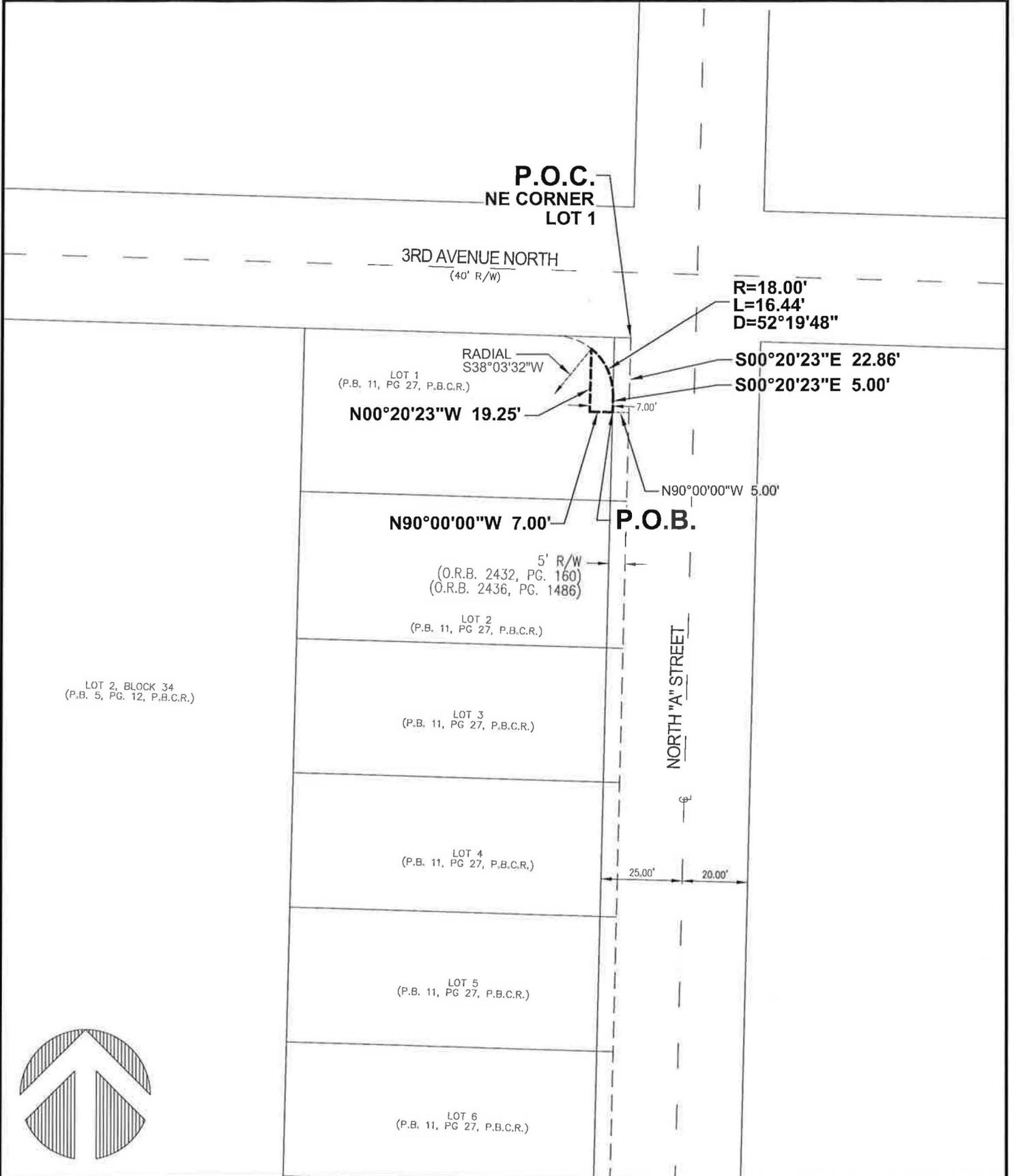


# PERIMETER

947 Clint Moore Road  
Boca Raton, Florida 33487

SURVEYING & MAPPING  
Certificate of Authorization No. LB7264

Tel: (561) 241-9988  
Fax: (561) 241-5182



JOB NO. 18219	PROJECT NAME: ADOPT-A-FAMILY	DWG BY: AJR	SCALE: 1" = 40'	
		CK'D BY: JSH	DATE: 09/09/2019	SHEET 2 OF 2

Return to:  
City of Lake Worth Beach  
Attn: City Clerk's Office  
7 N. Dixie Highway  
Lake Worth Beach, FL 33460

**BILL OF SALE**

**BY** Adopt-A-Family of the Palm Beaches, Inc. **TO THE CITY OF LAKE WORTH BEACH**

**KNOW ALL MEN BY THESE PRESENTS** that Adopt-A-Family of the Palm Beaches, Inc., a Florida company (hereinafter "Seller") for the sum of TEN and No/100 Dollars (\$10.00) and other good and valuable considerations paid by THE CITY OF LAKE WORTH BEACH, a Florida municipal corporation (hereinafter "Buyer"), the receipt of which is hereby acknowledged by Seller, has granted, bargained, sold, transferred, assigned, set over and delivered, and by these presents does grant, bargain, sell, transfer, assign, set over and deliver, unto Buyer, its successors and assigns, the following:  
2-6x6 wet taps w/ Tapping Valves, 115' of 6" DIP, 6-6" MJ 45 bends w/ Mega lugs, 2-6" Gate valves on edge of sidewalk.

\_\_\_\_\_ and related assets as located in Exhibit "A", attached hereto and made a part hereof .

Seller represents for itself, its successors and assigns that all expenses in connection with construction and installation of the Water System system have been paid in full and the same is free from liens and debts. Seller agrees to indemnify and hold Buyer harmless from any lawful claims of any party for labor and/or materials arising out of construction and installation of the system.

Seller further represents for itself, its successors and assigns that it has exclusive ownership, possession, control and marketable title to the Water System System and the System is subject to no mortgage, pledge, lien, charge, security interest, encumbrance or restriction.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, this Bill of Sale from Adopt-A-Family of The Palm the City of Lake Worth Beach shall be effective as of the 11 day of December, 2019.

WITNESSES:

Victoria Uhlman  
Witness Signature

Victoria Uhlman  
Print Name of Witness above

Jodi A MacNess  
Witness Signature

Jodi A MacNess  
Print Name of Witness above

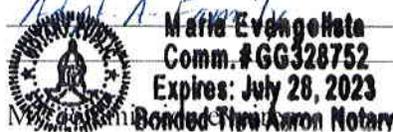
SELLER: Matthew Constantine

Matthew V. Constantine, CEO, Adopt-A-Family

[Corporate Seal]

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me this 11th day of December, 2019, by Matthew Constantine as CEO of Adopt-A-Family, who is personally known to me or who produced Comm. #GG328752 and \_\_\_\_\_ as identification.



Maria Evangelista  
Notary Signature

The City of Lake Worth Beach accepted the foregoing Bill of Sale on \_\_\_\_\_, 20

City of Lake Worth Beach

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

ATTEST:

Approved as to form and legal sufficiency:

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

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

**EXHIBIT "A"**

**RECORD OF ASSETS**

2-6x6 Wet Taps w/ Tapping Valves, 115' of 6" DIP, 6-6" MJ 45 bends w/ Mega Lugs, 2-6" Gate valves on edge of sidewalk.

Return to:  
City of Lake Worth Beach  
City Clerk  
7 North Dixie Hwy.  
Lake Worth Beach, FL 34460

### **UTILITY EASEMENT**

THIS UTILITY EASEMENT is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between **ADOPT-A-FAMILY OF THE PALM BEACHES, INC.** (“Grantor”) and **CITY OF LAKE WORTH BEACH**, a Florida municipal corporation (“City”).

### **WITNESSETH**

WHEREAS, the Grantor is the owner of property generally located at 1711 Third Avenue North, Lake Worth Beach, Florida, and as legally described in Exhibit “A” attached hereto and incorporated herein (the “Property”); and

WHEREAS, the City desires an unrestricted and nonexclusive easement for public utility purposes through the Property as described and mapped in Exhibit “B” attached hereto and incorporated herein (the “Easement Area”); and

WHEREAS, the public utilities to be placed in the Easement Area may provide services to and from the Property and other properties which may or may not abut and be contiguous to the Easement Area; and

WHEREAS, the Grantor is willing to grant such easement.

NOW, THEREFORE, for and in consideration of the mutual covenants and other valuable consideration, the sufficiency and receipt of which is acknowledged by Grantor and the City, the Grantor grants unto the City, its licensees, agents, successors and assigns:

A perpetual, unrestricted and nonexclusive easement in, over, under, through, upon and across the Easement Area for the purpose of providing utility services to and from properties or lands or maintain the same, which may include the Property, also for the City to provide utility service to properties which may not be contiguous to the Easement Area, including the right to lay, or cause to be laid, and to maintain utility pipes, mains, appurtenances and devices; to maintain, repair, rebuild, operate and control utility transmission lines; the right to clear said Easement Area and keep it clear of brush, trees, and permanent structures and fire hazards; together with all rights of ingress and egress necessary for the full and complete use, occupation, and enjoyment of the Easement Area hereby granted, and all rights and privileges incident thereto; and, the permanent, full and free right and authority to own, construct, operate, maintain, repair, install, rebuild and replace utility facilities within the Easement Area.

TO HAVE AND TO HOLD the said Easement, unto the City, its licensees, agents, successors and assigns forever. It being expressly understood, however, that in the event the City, its licensees, successors and assigns, abandons or vacates the easement herein granted, that the same shall revert back to Grantor, its heirs, successors or assigns.

By accepting this Easement, the City agrees: (a) to perform all work undertaken by the City within the Easement Area in a good and workmanlike manner and to promptly complete all work within the Easement Area; (b) to restore any of the Property disturbed by work undertaken by the City for purposes of construction, removal, demolition and/or maintenance to its condition that existed prior to the commencement of such work; (c) to not unreasonably interfere with the use of the Property by Grantor or any of Grantor's tenants, invitees or guests; and (d) to be responsible for all costs associated with the City's construction, removal, demolition and/or maintenance pursuant to this Easement.

Signed, sealed and delivered  
In the presence of:

[Signature]  
Signature of Witness  
Jessica Pagan  
Printed Name of Witness

[Signature] (Owner)

Print Name: Matthew Constantine  
Print Title: CEO

[Signature]  
Signature of Witness

[Corporate Seal]

Victoria Uhlman  
Printed Name of Witness

STATE OF FLORIDA )  
COUNTY OF Palm Beach )

The foregoing instrument was acknowledged before me this 8th day of November, 2022, by Matthew Constantine who is personally known to me or who has produced Comm. #GG328752 as identification and who did not take an oath.



Comm. #GG328752  
Expires: July 28, 2023  
Bonded Thru Aaron Notary

[Signature]  
Notary Public

The City of Lake Worth Beach accepted the foregoing Easement on \_\_\_\_\_, 20\_\_.

City of Lake Worth Beach

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

ATTEST:

Approved as to form and legal sufficiency:

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

[Signature]  
Glen Torcivia, City Attorney

**EXHIBIT "A"**  
Legal Description of Property

**DESCRIPTION**

PARCEL 2:

THE WEST 50 FEET OF THE NORTH 95 FEET OF LOT 2, BLOCK 34, SAWYER'S SUBDIVISION OF THE WEST HALF OF SECTION 21, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 4,749.7 SQUARE FEET/0.1090 ACRES MORE OR LESS.

PARCEL 3:

THE EAST 50 FEET OF THE NORTH 150 FEET OF LOT 2, BLOCK 34, SAWYER'S SUBDIVISION OF THE WEST HALF OF SECTION 21, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 7,500.0 SQUARE FEET/0.1722 ACRES MORE OR LESS.

PARCEL 4:

LOT 4 AND 5, LESS THE EAST 5 FEET THEREOF, OF SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.

CONTAINING 7,804.8 SQUARE FEET/0.1792 ACRES MORE OR LESS.

PARCEL 5:

LOTS 2 AND 3, LESS THE EAST 5 FEET THEREOF, SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.

CONTAINING 8,170.1 SQUARE FEET/0.1876 ACRES MORE OR LESS.

PARCEL 6:

LOT 1, LESS THE EAST 5 FEET THEREOF, SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.

CONTAINING 4,750.0 SQUARE FEET/0.109 ACRES MORE OR LESS.

TOTAL AREA OF ALL PARCELS COMBINED = 32,974.7 SQUARE FEET/0.7570 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

**EXHIBIT "B"**  
Legal Description and Survey of Easement Area

# PERIMETER

947 Clint Moore Road  
Boca Raton, Florida 33487

SURVEYING & MAPPING  
Certificate of Authorization No. LB7264

Tel: (561) 241-9988  
Fax: (561) 241-5182

## SKETCH AND LEGAL DESCRIPTION NOT A SURVEY - UTILITY EASEMENT

### LEGAL DESCRIPTION

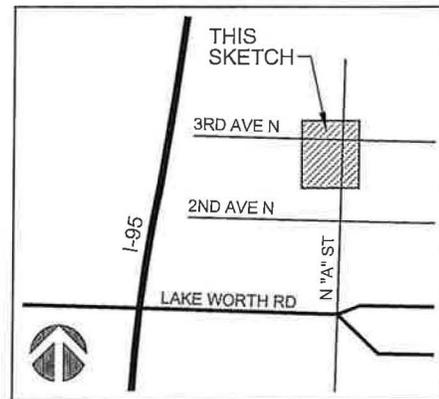
A PORTION OF LOT 2 BLOCK 34, "SAWYER'S SUBDIVISION" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, AND A PORTION OF LOTS 1, 2, 3, 4, 5, "SUBDIVISION OF LOT 1, BLOCK 34" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 11, AT PAGE 27, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHEAST CORNER SAID LOT 2 BLOCK 34; THENCE NORTH 90°00'00" WEST, ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 5.00 FEET; THENCE SOUTH 00°20'23" EAST, ALONG A LINE 5.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 2 BLOCK 34, A DISTANCE OF 150.00 FEET; THENCE NORTH 90°00'00" EAST, A DISTANCE OF 5.00 FEET; THENCE SOUTH 00°20'23" EAST ALONG THE WEST LINE OF SAID LOTS 4 AND 5; A DISTANCE OF 68.16 FEET; THENCE NORTH 90°00'00" EAST, ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 5.00 FEET; THENCE NORTH 00°20'23" WEST, ALONG A LINE 5.00 FEET EAST OF AND PARALLEL WITH THE EAST SIDE OF SAID LOTS 1, 2, 3, 4, 5, A DISTANCE OF 218.00 FEET; THENCE NORTH 90°00'00" WEST, ALONG THE NORTH LINE OF SAID LOT 1; A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN THE CITY OF LAKE WORTH, PALM BEACH COUNTY, FLORIDA.

### NOTES

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. NO SEARCH OF THE PUBLIC RECORDS WAS MADE IN THE PREPARATION OF THIS SKETCH AND DESCRIPTION.



**LOCATION MAP**

(NOT TO SCALE)

### ABBREVIATIONS

⊕	=	CENTERLINE
P.B.C.R.	=	PALM BEACH COUNTY RECORDS
P.B.	=	PLAT BOOK
PG.	=	PAGE
R/W	=	RIGHT OF WAY

### SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH AND DESCRIPTION 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.

*(Signature)*  
JEFF S. HOYAPP  
SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. LS5111

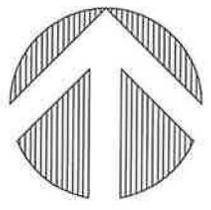
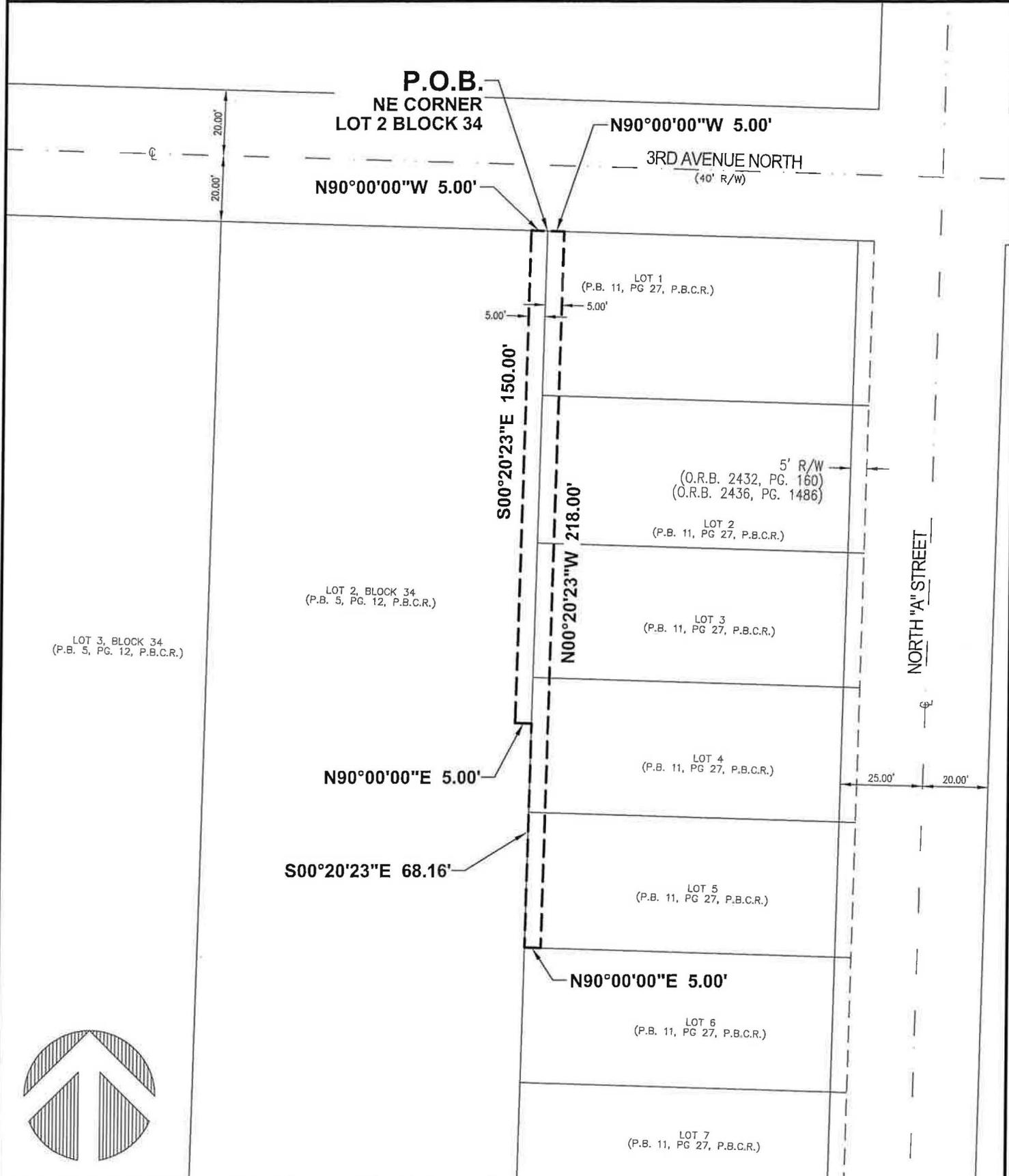
PROJECT NAME: ADOPT-A-FAMILY	DATE: 09/17/2019
JOB NO. 18219	DWG BY: AJR
	CK'D BY: JSH
	SHEET 1 OF 2

# PERIMETER

947 Clint Moore Road  
Boca Raton, Florida 33487

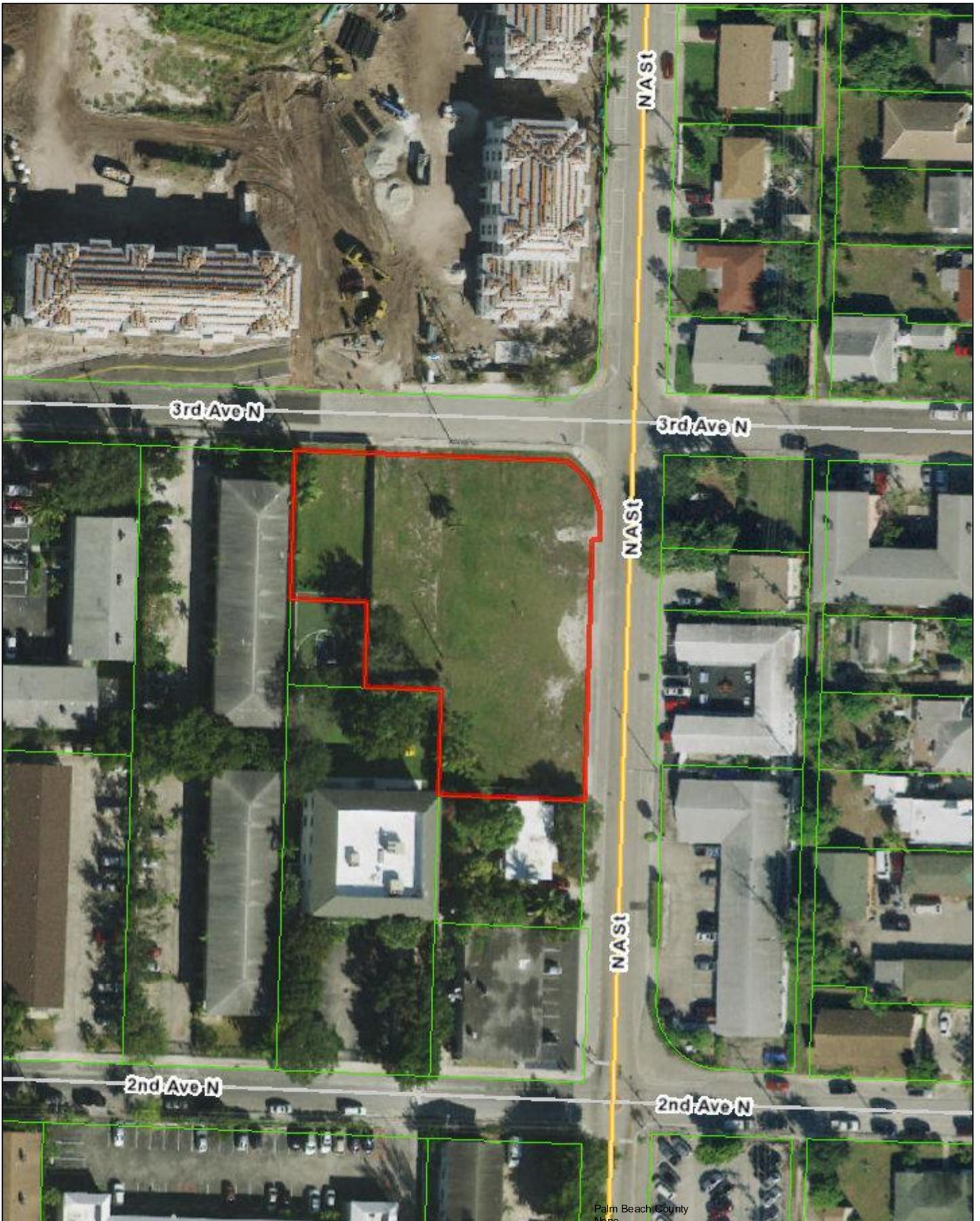
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Tel: (561) 241-9988  
Fax: (561) 241-5182



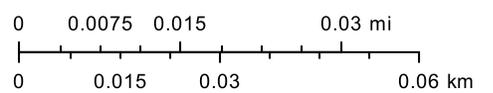
JOB NO. 18219	PROJECT NAME: ADOPT-A-FAMILY	DWG BY: AJR	SCALE: 1" = 40'
		CK'D BY: JSH	DATE: 09/09/2019
			SHEET 2 OF 2

38434421020340022



December 2, 2019

1:1,128



# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** January 7, 2020

**DEPARTMENT:** Water Utilities

**TITLE:**

Work Order No. 4 with Globaltech, Inc. for Design-Build services for Radio System Upgrade Phase I

**SUMMARY:**

This Work Order No. 4 authorizes Peterson, Inc. to provide Design-Build services for Radio System Upgrade Phase I in the amount not to exceed \$223,737.85.

**BACKGROUND AND JUSTIFICATION:**

The project is for the Water Utility's Radio and Telemetry system upgrades. The radio system is centered at the water treatment plant and communicates data and commands to the City of Lake Worth Beach Water Utility's wells, booster pump stations and wastewater lift stations. The existing radios are on an analog system. With additional monitoring and telemetry recently added at these field locations, the current system is unable to manage the data, causing equipment not to respond. This is Phase I which involves upgrades to the Water Treatment Plant, North and South Booster Pump Stations, the Floridan-Wells #2 and #3, and the Master Pump Station.

Work Order No. 4 authorizes Globaltech to complete design, permitting and construction services for the Water Utility Radio System Upgrade Phase I as part of the RFQ 17-304 Design-Build Contract.

**MOTION:**

Move to approve/disapprove Work Order No. 4 with Globaltech, Inc. for Design-Build services for Radio System Upgrade Phase I in an amount not to exceed \$223,737.85.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Work Order 04 Utility System Upgrades

## FISCAL IMPACT ANALYSIS

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

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	223,737.85	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
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
422-7022-533.63-00	Water Utility Services Improve Other Than Build				\$186,440.75	
406-7490-535.63-15	Improve Other Than Build/ Infrastructure				\$37,297.10	

### C. Department Fiscal Review: \_\_\_\_\_

Brian Shields - Director  
 Candace Dale – Finance  
 Christy Goddeau – Legal  
 Michael Bornstein – City Manager

**DESIGN-BUILD FOR UTILITY RADIO SYSTEM UPGRADE PHASE 1  
WATER TREATMENT PLANT, F-WELLS, BOOSTER PUMP STATIONS AND MASTER  
PUMP STATION  
WORK ORDER NO. 04**

THIS WORK ORDER FOR CONSTRUCTION SERVICES (“Work Order” hereafter) is made on the \_\_\_\_ day of \_\_\_\_\_, 2020, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth, Florida 33460 (“City” hereafter) and **Globaltech, Inc.**, a Florida corporation (“Contractor” hereafter).

**1.0 Project Description:**

The City desires the Contractor to provide those design-build services and work as identified herein related to the Radio and Telemetry system centered at the Water Treatment Plant (WTP), which involves the North and South Booster Pump Stations, the Floridan-Wells #2 and #3, and the Master Pump Station (MPS). The project is more generally described as: Utility Radio System Upgrade Phase 1 (the “Project”).

**2.0 Scope**

Under this Work Order, the Contractor will provide the City of Lake Worth Beach with design-build services for the Project as specified in the Contractor’s proposal attached hereto and incorporated herein as “Exhibit 1” Scope of Services and “Exhibit 2” Cost Breakdown.

**3.0 Schedule and Liquidated Damages**

Substantial completion of all services and work under this Work Order shall be within 300 calendar days from the Effective Date of this Work Order. Final completion of all services and work (and all punch-list items (if any)) under this Work Order shall be within 345 calendar days from the Effective Date of this Work Order. The Effective Date of this Work Order is the date following the parties’ execution of this Work Order and the City’s delivery of a Notice to Proceed to the Contractor via e-mail, facsimile or other form of delivery as documented by the City. Substantial completion occurs when the services and work has progressed to the point where, in the opinion of the City, the work is sufficiently complete in accordance with the Contract Documents and this Work Order, so that the Project can be utilized for the purposes for which it is intended. Final completion occurs when all services and work (including punch-list items) has been completed and the project becomes fully operational and accepted by the City.

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

#### 4.0 Compensation and Direct Purchases

This Work Order is issued for a lump sum, not to exceed amount of \$223,737.85 (Two hundred twenty-three thousand seven hundred thirty-seven dollars and eighty-five cents). The attached Exhibit 2 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:

To be determined at the 30% design milestone.

#### 5.0 Project Manager

The Project Manager for the Contractor is Nico Shaner, phone: 404-226-7645; email: nshaner@globaltechdb.com and, the Project Manager for the City is Tim Sloan, phone: 561-586-1710; email: tsloan@lakeworthbeachfl.org.

#### 6.0 Progress Meetings

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

#### 7.0 Contractor's Representations

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

7.1 Contractor has familiarized itself with the nature and extent of the Design-Build criteria, 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, available 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 RFQ; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes unless specifically included in the Scope of Services.

7.3 Contractor has reviewed and checked all information and data shown or indicated in the Design-Build criteria and in 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 prior to commencing work. If required, 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 the cost shall be included in the Work Order price, within the Work Order time and in accordance with the other terms and conditions of the Contract Documents.

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

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

## **8.0 Warranty**

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

## **9.0 Authorization**

This Work Order is issued pursuant to the Design-Build Contract for Water System Ground Storage Tanks and Related Improvements between the City of Lake Worth Beach and the Contractor, dated December 5, 2017 ("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

SIGNATURE PAGE FOLLOWS

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

**CITY OF LAKE WORTH BEACH, FLORIDA**

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

ATTEST:

Approved as to form and legal sufficiency:

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

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

*per 12/23/19*

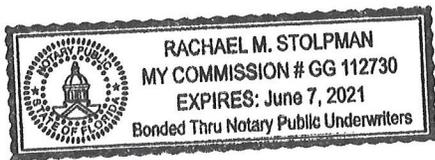
**Contractor: Globaltech, Inc.**

By: \_\_\_\_\_  
Name: Troy L. Lyn, P.E.  
Title: Executive Vice President

[Corporate Seal]

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of December, 2019, by Troy L. Lyn, P.E., as Executive Vice President of Globaltech, Inc., a corporation 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

## “EXHIBIT 1”

### Detailed Scope of Services Utility Radio System Upgrade Phase 1

1. Prepare engineering drawings and submittals as required to depict work and products, obtain building department permits, and prepare record drawings. Engineering services shall include the following:
  - a. Engineering project management activities to include project and progress meetings, permit applications, project correspondence, and status reports.
  - b. Issuance of purchase specifications and solicitation of vendor quotations
  - c. Perform Radio survey for WTP.
  - d. Facilitate the procurement of a new FCC radio frequency for use at the WTP and remote stations.
  - e. Perform RTU upgrade at the North Booster Pump Station (NBPS) utilizing existing RTU enclosure. Provide and install new antenna and antenna cable on existing antenna mast.
  - f. Perform RTU upgrade at the South Booster Pump Station (SBPS) utilizing existing RTU enclosure. Provide and install new antenna and antenna cable on existing antenna mast.
  - g. Perform RTU upgrade at Floridan Well No. 2 (F-Well #2) utilizing existing RTU enclosure. Provide and install new antenna and antenna cable on existing antenna mast.
  - h. Perform RTU upgrade at Floridan Well No. 3 (F-Well #3) utilizing existing RTU enclosure. Provide and install new antenna and antenna cable on existing antenna mast.
  - i. Perform RTU upgrade at the Master Pump Station (MPS) utilizing existing RTU enclosure. Provide and install new antenna and antenna cable on existing antenna mast
  - j. Perform Master Radio Equipment upgrade at the WTP
  - k. Perform all required programming and SCADA modifications to integrate new equipment into existing SCADA System.
  - l. Obtain building department permits as required.
  - m. Prepare and review of submittals and RFI's as needed.
  - n. Site visits to review construction progress and compliance.
  - o. Startup services as required.
  - p. Consolidated O&M manuals and/or drawings for vendor supplied equipment as required.

The following specific construction activities and services will be performed:

#### By Divisions:

##### Div 1 General Requirements:

- A. Project management for all design-build activities including project meetings, preparation of agendas and meeting minutes, management of crew and site resources, procurement oversight, coordination of activities with Owner's operations.
- B. Preparation of project progress schedules in Primavera P6 format with monthly updates

##### Div 2 Sitework

- A. Mobilization
  1. Significant sitework is not anticipated. Rental equipment may include bucket truck for removal and installation of antennas and antenna cable.

### Div 3 Concrete

- A. Significant concrete work is not anticipated. Small patching may be required at building penetrations. An allowance shall be included with this work authorization for any unforeseen, buy required concrete work.

### Div 5 Miscellaneous Metals

- A. Significant metal work is not anticipated. An evaluation on existing antenna masts and towers shall be performed and an allowance for new antenna masts, towers, and concrete work shall be included with this work authorization.

### Div 16/17 Electrical/I&C

- A. No new conduit is anticipated.
- B. New subpanels for existing RTU enclosures shall be provided. Any removed equipment shall be returned to Lake Worth WTP.
- C. Coordination with radio survey company shall be facilitated to obtain reference data for frequency and equipment selection.
- D. Coordination with FCC and required regulatory compliance shall be facilitated to obtain new radio frequency for WTP and remote sites. New radio frequency is expected to be in the 220 MHz range

### Assumptions

- A. All permits fees are to be paid by the City of Lake Worth Beach.
- B. NBPS, SBPS, MPS, F-Wells, may be required to shut down temporarily while work is performed. These shutdowns shall be coordinated in advance with operations staff.
- C. An allowance has been set aside for concrete work, radio antenna towers, and required electrical work to install any new radio support equipment that may be necessary to complete the radio system upgrade.

**“EXHIBIT 2”**

**Cost Breakdown**



## Exhibit 2 Cost Breakdown

12/04/19

City of Lake Worth  
172189 LW Radio System Upgrade - Phase I

Assembly#	Description	Unit	Quantity	Cost	Ext. Cost	Ext. Price
<b>Job: 172189 LW Radio System Upgrade - Phase I</b>						
<b>Bid Item: 1 General Requirements</b>						
3	General Conditions	LOT				
	Submittal Labor	HR	10.0	101.00	1,010.00	1,010.00
	Progress Meetings	HR	10.0	156.00	1,560.00	1,560.00
	Construction Scheduler	HR	10.0	94.00	940.00	940.00
	Construction PM 4	HR	10.0	156.00	1,560.00	1,560.00
	Construction PM 3	HR	10.0	129.00	1,290.00	1,290.00
	Construction PM 1	HR	60.0	90.00	5,400.00	5,400.00
	Purchasing & Subcontract	HR	20.0	129.00	2,580.00	2,580.00
	Construction Assistant	HR	30.0	90.00	2,700.00	2,700.00
				<b>Bid Item Totals:</b>	<b>17,040.00</b>	<b>17,040.00</b>
<b>Bid Item: 17 I&amp;C</b>						
	I&C (N & S Booster Pump Station)	LOT	2.00	16,772.00	33,544.00	41,275.89
	I&C (Floridan Well)	LOT	2.00	14,669.00	29,338.00	36,100.41
	I&C (Master Pump Station)	LOT	1.00	9,500.00	9,500.00	11,689.75
	I&C (WTP Master Radio)	LOT	1.00	13,600.00	13,600.00	16,734.80
	I&C (WTP Radio Survey & License)	LOT	1.00	16,100.00	16,100.00	19,811.05
				<b>Bid Item Totals:</b>	<b>102,082.00</b>	<b>125,611.90</b>
<b>Bid Item: 100 Engineering</b>						
	Engineering	LOT	1.00	10,572.00	10,572.00	10,572.00
				<b>Bid Item Totals:</b>	<b>10,572.00</b>	<b>10,572.00</b>
<b>Bid Item: 101 Allowance</b>						
3000	Antenna Tower Installation	LOT	5.00	11,916.00		
L	Concrete Cutting, Removal & Excavation	CR-D	7.50	1,800.00	13,500.00	13,500.00
L	Waste Hauling	LOT	5.00	350.00	1,750.00	2,153.38

Takeoff Worksheet

12/04/19

Continued...

Assembly#	Description	Unit	Quantity	Cost	Ext. Cost	Ext. Price
L	Concrete & Misc Materials	LOT	5.00	400.00	2,000.00	2,461.00
L	Concrete Pour & Antenna Installation	CR-D	5.00	1,800.00	9,000.00	9,000.00
L	Rohn Antenna Tower Assembly	EA	5.00	2,000.00	10,000.00	12,305.00
L	Electrical	LOT	5.00	3,000.00	15,000.00	16,500.00
L	Misc Tools & Equipment	LOT	5.00	750.00	3,750.00	4,614.38
L	Construction PM 1	HR	30.0	90.00	2,700.00	2,700.00
L	Construction Superintendent	HR	20.0	94.00	1,880.00	1,880.00
				<b>Bid Item Totals:</b>	<b>59,580.00</b>	<b>65,113.76</b>
<b>Bid Item:</b>	<b>102 Bonds &amp; Insurance</b>					
	Bonds & Certifications	LOT	1.00	4,695.82	4,695.82	5,400.19
				<b>Bid Item Totals:</b>	<b>4,695.82</b>	<b>5,400.19</b>
				<b>Grand Totals:</b>	<b>193,969.82</b>	<b>223,737.85</b>

**EXHIBIT 2**  
**Work Order #04**  
**Radio System Upgrade Phase 1**

	E7	E4	E3	E2	E1	CADD	Admin1	Total Labor	Subconsultant Services	Subconsultant
Contractual Labor Rates \$/Hr.	\$190.00	\$157.00	\$131.00	\$109.00	\$88.00	\$112.00	\$55.00			
<b>Task 1 Radio System Upgrade</b>										
Project Coordination		10					2	\$1,680.00		
<b>Subtotal Task 1</b>	0	10	0	0	0	0	2	\$1,680.00	\$0.00	
<b>Task 2 Services During Construction</b>										
Project Coordination	4	16			2		8	\$3,888.00		
Submittal Review/Coordination		6			2			\$1,118.00		
Construction Site Visit		6			10			\$1,822.00		
Record Drawing								\$0.00		
Progress Meetings	4	4			2			\$1,564.00		
<b>Subtotal Task 2</b>	8	32	0	0	16	0	8	\$8,392.00	\$0.00	
<b>Total</b>	<b>8</b>	<b>42</b>	<b>0</b>	<b>0</b>	<b>16</b>	<b>0</b>	<b>10</b>	<b>\$10,072.00</b>	<b>\$0.00</b>	
Subconsultants									\$0.00	
Markup									\$0.00	
Total Subconsultant									\$0.00	
Reimbursable Expenses									\$500.00	
Total									\$10,572.00	

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** – January 7, 2020      **DEPARTMENT:** Water Utilities

**TITLE:**

Resolution No. XX-2020 – Local Agency Program Agreement 442094-1-58-01 with Florida Department of Transportation

**SUMMARY:**

The resolution approves and authorizes the Local Agency Program Agreement 442094-1-58-01 between the Florida Department of Transportation and the City that sets forth the terms and conditions for the use of \$3,000,000 in Federal Aid grant funds from the Federal Highway Administration Transportation Alternative Program for infrastructure improvements related to Phase 2 of the development of the Lake Worth Beach Park of Commerce.

**BACKGROUND AND JUSTIFICATION:**

Resolution No. XX-2020 approves and authorizes the Mayor to execute the Local Agency Program Agreement 442094-1-58-01 between the Florida Department of Transportation and the City for Federal Aid grant funding in an amount not to exceed \$3,000,000 from the Federal Highway Administration Transportation Alternatives Program for infrastructure improvements to the Lake Worth Beach Park of Commerce Phase 2. The Agreement sets for the terms and conditions for the use of this funding for Federal-Aid participation in costs related to the scope of work approved for this project.

Participating costs for this project are described as follows:

- the installation of two left turn lanes north of 2<sup>nd</sup> Avenue North on Boutwell Road going onto 4<sup>th</sup> Avenue North westbound and south of 7<sup>th</sup> avenue North on Boutwell Road going onto 4<sup>th</sup> Avenue North eastbound;
- the installation of curb and gutter throughout the entire project east and west of Boutwell Road, including 4<sup>th</sup> Avenue North and 7<sup>th</sup> Avenue North;
- the installation of a 5' sidewalk on the east side of Boutwell Road from Lake Worth Road to 7<sup>th</sup> Avenue North;
- the installation of a 5' sidewalk on the west side of Boutwell Road from Lake Worth Road to 4<sup>th</sup> avenue North;
- shoulder stabilization, drainage, pedestrian lighting, signage and pavement markings throughout the project including the 4<sup>th</sup> Avenue North west of Boutwell Road and 7<sup>th</sup> Avenue North east of Boutwell Road; and
- the installation of enhanced advance warnings for the stop signs at the intersection of Boutwell Road and 7<sup>th</sup> Avenue North.

As a condition for the receipt of these Federal-Aid grant funds, the City must attain Local Agency Program project specific certification to demonstrate that the City has the capacity to conduct the

project in accordance with applicable federal regulations. On December 17, 2019, the City received notice from the Florida Department of Transportation that the City has successfully fulfilled all requirements and qualifications for project-specific certification.

In addition, there are non-participating costs included in the scope of work for the project for which the City will be responsible. The estimated value of these costs is \$1,409,971. The City will be further responsible for any additional expenses necessary to complete the project. Construction of all improvements in the scope of work for the project must be completed by December 31, 2021.

**MOTION:**

Move to approve/disapprove Resolution No. XX-2020 to approve and authorize the Mayor to execute the Local Agency Program Agreement 442094-1-58-01 between the Florida Department of Transportation and the City for Phase 2 of the Lake Worth Beach Park of Commerce.

**ATTACHMENT(S):**

Fiscal Impact Analysis

Resolution

Local Agency Program Agreement 442094-1-58-01

# EXECUTIVE BRIEF REGULAR MEETING

## FISCAL IMPACT ANALYSIS

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

<b>Fiscal Years</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Capital Expenditures	2,204,986	2,204.985	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues	1,500,000	1,500.000	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
<b>Net Fiscal Impact</b>	<b>704,986</b>	<b>704,985</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:

<u>Budget Account</u>	<u>Description</u>	<u>Agenda Expense</u>
180.9700.	FDOT Federal Aid	\$3,000,000
402-9010-581.91-30	Water Fund FY2020	\$60,000
402-9010-581.91-30	Water Fund FY 2021	\$141,000
403-9010-535.91-35	Sewer Fund FY 2020	\$65,000
403-9010-535.91-35	Sewer Fund FY 2021	\$165,000
408-9010-581.95-35	Storm Water Fund FY 2020	\$225,000
408-9010-581.95-35	Storm Water Fund FY 2021	\$52,000
422-7034-535.63-60	Improve, Other than Build FY 2020	\$233,991
423-7231-535.63-15	Infrastructure	\$233,990
428-5090-538.63-15	Infrastructure	\$233,990

### C. Department Fiscal Review: \_\_\_\_\_

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT**

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FPN: <u>442094-1-58-01</u>	FPN: _____	FPN: _____
Federal No (FAIN): <u>D419-074-B</u>	Federal No (FAIN): _____	Federal No (FAIN): _____
Federal Award Date: _____	Federal Award Date: _____	Federal Award Date: _____
Fund: <u>ACSU/FHPP/HPP/REPE</u>	Fund: _____	Fund: _____
Org Code: <u>55043010404</u>	Org Code: _____	Org Code: _____
FLAIR Approp: _____	FLAIR Approp: _____	FLAIR Approp: _____
FLAIR Obj: _____	FLAIR Obj: _____	FLAIR Obj: _____

County No: 93 Contract No: \_\_\_\_\_  
Recipient Vendor No: F596000358002 Recipient DUNS No: 076040070  
Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

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THIS LOCAL AGENCY PROGRAM AGREEMENT ("Agreement"), is entered into on \_\_\_\_\_, by and between the State of Florida Department of Transportation, an agency (This date to be entered by DOT only) of the State of Florida ("Department"), and City of Lake Worth Beach ("Recipient").

**NOW, THEREFORE**, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority:** The Department is authorized to enter into this Agreement pursuant to Section 339.12, Florida Statutes. The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D"** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.
2. **Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in Boutwell Rd from SR-802/Lake Worth Rd to 7<sup>th</sup> Ave North, as further described in **Exhibit "A"**, Project Description and Responsibilities attached to and incorporated in this Agreement ("Project"), to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.
3. **Term of Agreement:** The Recipient agrees to complete the Project on or before December 31<sup>st</sup>, 2021. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the term of this Agreement will not be reimbursed by the Department.
4. **Project Cost:**
  - a. The estimated cost of the Project is \$ 4,409,971.00. This amount is based upon the Schedule of Financial Assistance in **Exhibit "B"**, attached to and incorporated in this Agreement. **Exhibit "B"** may be modified by mutual execution of an amendment as provided for in paragraph 5.i.
  - b. The Department agrees to participate in the Project cost up to the maximum amount of \$3,000,000.00 and as more fully described in **Exhibit "B"**. This amount includes Federal-aid funds which are limited to the actual amount of Federal-aid participation. The Department's participation may be increased or reduced upon determination of the actual bid amounts of the Project by the mutual execution of an amendment. The Recipient agrees to bear all expenses in excess of the total cost of the Project and any deficits incurred in connection with the completion of the Project.
  - c. Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible Project costs is subject to:
    - i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;

- ii. Availability of funds as stated in paragraphs 5.l. and 5.m. of this Agreement;
- iii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- iv. Department approval of the Project scope and budget at the time appropriation authority becomes available.

## 5. Requisitions and Payments

- a. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**.
- b. Invoices shall be submitted by the Recipient in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable and verifiable units of deliverables as established in **Exhibit "A"**. Deliverables must be received and accepted in writing by the Department's Project Manager prior to payments. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
- c. The Recipient shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Recipient or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs. All costs charged to the Project, including any approved services contributed by the Recipient or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.
- d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F"**, Contract Payment Requirements.
- e. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes and the most current version of the Disbursement Handbook for Employees and Managers.
- f. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.  
 If this box is selected, advance payment is authorized for this Agreement and **Exhibit "H"**, Alternative Advance Payment Financial Provisions is attached and incorporated into this Agreement.

If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT**

Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

- g.** Agencies providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to an Recipient because of Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h.** The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i.** Prior to the execution of this Agreement, a Project schedule of funding shall be prepared by the Recipient and approved by the Department. The Recipient shall maintain said schedule of funding, carry out the Project, and shall incur obligations against and make disbursements of Project funds only in conformity with the latest approved schedule of funding for the Project. The schedule of funding may be revised by execution of a Local Agency Program ("LAP") Supplemental Agreement between the Department and the Recipient. The Recipient acknowledges and agrees that funding for this project may be reduced upon determination of the Recipient's contract award amount.
- j.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- k.** The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- l.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.
- m.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

## **6. Department Payment Obligations:**

Subject to other provisions of this Agreement, the Department will honor requests for reimbursement to the Recipient pursuant to this Agreement. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

- a. The Recipient shall have made misrepresentation of a material nature in its application, or any supplement or amendment to its application, or with respect to any document or data furnished with its application or pursuant to this Agreement;
- b. There is any pending litigation with respect to the performance by the Recipient of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement or payments to the Project;
- c. The Recipient shall have taken any action pertaining to the Project which, under this Agreement, requires the approval of the Department or has made a related expenditure or incurred related obligations without having been advised by the Department that same are approved;
- d. There has been any violation of the conflict of interest provisions contained in paragraph 14.f.; or
- e. The Recipient has been determined by the Department to be in default under any of the provisions of the Agreement.

The Department may suspend or terminate payment for that portion of the Project which the Federal Highway Administration ("FHWA"), or the Department acting in lieu of FHWA, may designate as ineligible for Federal-aid.

In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the Department's issuance of a Notice to Proceed ("NTP"), costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

## **7. General Requirements:**

The Recipient shall complete the Project with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement, and all applicable laws. The Project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's **Local Agency Program Manual** (FDOT Topic No. 525-010-300), which by this reference is made a part of this Agreement. Time is of the essence as to each and every obligation under this Agreement.

- a. A full time employee of the Recipient, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in responsible charge of the Project, which employee should be able to perform the following duties and functions:
  - i. Administers inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;

- ii. Maintains familiarity of day to day Project operations, including Project safety issues;
  - iii. Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
  - iv. Visits and reviews the Project on a frequency that is commensurate with the magnitude and complexity of the Project;
  - v. Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
  - vi. Directs Project staff, agency or consultant, to carry out Project administration and contract oversight, including proper documentation;
  - vii. Is aware of the qualifications, assignments and on-the-job performance of the Recipient and consultant staff at all stages of the Project.
- b. Once the Department issues the NTP for the Project, the Recipient shall be obligated to submit an invoice or other request for reimbursement to the Department no less than once every 90 days (quarterly), beginning from the day the NTP is issued. If the Recipient fails to submit quarterly invoices to the Department, and in the event the failure to timely submit invoices to the Department results in the FHWA removing any unbilled funding or the loss of state appropriation authority (which may include the loss of state and federal funds, if there are state funds programmed to the Project), then the Recipient will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Recipient waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of state appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Recipient for future LAP Projects. No cost may be incurred under this Agreement until after the Recipient has received a written NTP from the Department. The Recipient agrees to advertise or put the Project out to bid thirty (30) days from the date the Department issues the NTP to advertise the Project. If the Recipient is not able to meet the scheduled advertisement, the Department District LAP Administrator should be notified as soon as possible.
- c. If all funds are removed from the Project, including amounts previously billed to the Department and reimbursed to the Recipient, and the Project is off the State Highway System, then the Department will have to request repayment for the previously billed amounts from the Recipient. No state funds can be used on off-system projects, unless authorized pursuant to **Exhibit "I"**, State Funds Addendum, which will be attached to and incorporated in this Agreement in the event state funds are used on the Project.
- d. In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is required under applicable law to enable the Recipient to enter into this Agreement or to undertake the Project or to observe, assume or carry out any of the provisions of the Agreement, the Recipient will initiate and consummate, as provided by law, all actions necessary with respect to any such matters.
- e. The Recipient shall initiate and prosecute to completion all proceedings necessary, including Federal-aid requirements, to enable the Recipient to provide the necessary funds for completion of the Project.
- f. The Recipient shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department and FHWA may require. The Recipient shall make such submissions using Department-designated information systems.
- g. Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable federal and state laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by FHWA to the Department to proceed with the Project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately

supported and the Department shall notify the Recipient in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or Project costs in part or in total. For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Recipient shall promptly reimburse the Department for all such amounts within 90 days of written notice.

- h. For any project requiring additional right-of-way, the Recipient must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

## 8. Audit Reports:

The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of federal awards or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include, but not be limited to, on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to federal awards provided through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (“CFO”), or State of Florida Auditor General.
- b. The Recipient, a non-federal entity as defined by 2 CFR Part 200, as a subrecipient of a federal award awarded by the Department through this Agreement is subject to the following requirements:
  - i. In the event the Recipient expends a total amount of federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Recipient must have a federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “E”** to this Agreement provides the required federal award identification information needed by the Recipient to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining federal awards expended in a fiscal year, the Recipient must consider all sources of federal awards based on when the activity related to the federal award occurs, including the federal award provided through the Department by this Agreement. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
  - ii. In connection with the audit requirements, the Recipient shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
  - iii. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards, the Recipient is exempt from federal audit requirements for that fiscal year. However, the Recipient must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Recipient’s audit period for each applicable audit year. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-federal resources (*i.e.*, the cost of such an audit must be paid from the Recipient’s resources obtained from other than federal entities).

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- iv. The Recipient must electronically submit to the Federal Audit Clearinghouse ("FAC") at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, and this Agreement. However, the Department requires a copy of the audit reporting package also be submitted to [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
- v. Within six months of acceptance of the audit report by the FAC, the Department will review the Recipient's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the federal award provided through the Department by this Agreement. If the Recipient fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:
  - 1. Temporarily withhold cash payments pending correction of the deficiency by the Recipient or more severe enforcement action by the Department;
  - 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
  - 3. Wholly or partly suspend or terminate the federal award;
  - 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the federal awarding agency);
  - 5. Withhold further federal awards for the Project or program;
  - 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this federal award, the Recipient shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0450  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, the CFO, or State of Florida Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

## **9. Termination or Suspension of Project:**

The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. If the Department intends to terminate the Agreement, the Department shall notify the Recipient of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
- d. In the event the Recipient fails to perform or honor the requirements and provisions of this Agreement, the Recipient shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Recipient to comply with the Public Records provisions of Chapter 119, Florida Statutes.

**10. Contracts of the Recipient:**

- a. Except as otherwise authorized in writing by the Department, the Recipient shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties to this Agreement that participation by the Department in a project with the Recipient, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act, the federal Brooks Act, 23 C.F.R. 172, and 23 U.S.C. 112. At the discretion of the Department, the Recipient will involve the Department in the consultant selection process for all projects funded under this Agreement. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act and the federal Brooks Act.
- c. The Recipient shall comply with, and require its consultants and contractors to comply with applicable federal law pertaining to the use of Federal-aid funds. The Recipient shall comply with the provisions in the FHWA-1273 form as set forth in **Exhibit "G"**, FHWA 1273 attached to and incorporated in this Agreement. The Recipient shall include FHWA-1273 in all contracts with contractors performing work on the Project.
- d. The Recipient shall require its consultants and contractors to take emergency steps to close any public road whenever there is a risk to life, health and safety of the travelling public. The safety of the travelling public is the Department's first priority for the Recipient.

**11. Disadvantaged Business Enterprise (DBE) Policy and Obligation:**

It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Recipient and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Recipient and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

## **12. Compliance with Conditions and Laws:**

The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project. Execution of this Agreement constitutes a certification that the Recipient is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, and 2 C.F.R. Part 200 when applicable.

## **13. Performance Evaluations:**

Recipients are evaluated on a project-by-project basis. The evaluations provide information about oversight needs and provide input for the recertification process. Evaluations are submitted to the Recipient's person in responsible charge or designee as part of the Project closeout process. The Department provides the evaluation to the Recipient no more than 30 days after final acceptance.

- a. Each evaluation will result in one of three ratings. A rating of Unsatisfactory Performance means the Recipient failed to develop the Project in accordance with applicable federal and state regulations, standards and procedures, required excessive District involvement/oversight, or the Project was brought in-house by the Department. A rating of Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, with minimal District involvement/oversight. A rating of Above Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, and the Department did not have to exceed the minimum oversight and monitoring requirements identified for the project.
- b. The District will determine which functions can be further delegated to Recipients that continuously earn Satisfactory and Above Satisfactory evaluations.

## **14. Restrictions, Prohibitions, Controls, and Labor Provisions:**

During the performance of this Agreement, the Recipient agrees as follows, and agrees to require its contractors and subcontractors to include in each subcontract the following provisions:

- a. The Recipient will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Recipient pursuant thereto. The Recipient shall include the attached **Exhibit "C"**, Title VI Assurances in all contracts with consultants and contractors performing work on the Project that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.
- b. The Recipient will comply with all the requirements as imposed by the ADA, the regulations of the Federal Government issued thereunder, and assurance by the Recipient pursuant thereto.
- c. 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 on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with 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 from the date of being placed on the convicted vendor list.
- d. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

- e. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- f. Neither the Recipient nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the Recipient or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Recipient, the Recipient, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Recipient or the locality relating to such contract, subcontract or arrangement. The Recipient shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Recipient or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Recipient and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

- g. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

**15. Indemnification and Insurance:**

- a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.
- b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.
- c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [ENTITY] hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement.”

- d. The Recipient shall, or cause its contractor or consultant to carry and keep in force, during the term of this Agreement, a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$200,000 each occurrence, for the services to be rendered in accordance with this Agreement. The Recipient shall also, or cause its contractor or consultant to carry and keep in force Workers' Compensation Insurance as required by the State of Florida under the Workers' Compensation Law. With respect to any general liability insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of Florida. The Recipient shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Agreement. Policies that include Self Insured Retention will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

**16. Maintenance Obligations:** In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient

- shall
- shall not

maintain the improvements located on the Department right-of-way for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the state funding provided under this Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

**17. Miscellaneous Provisions:**

- a. The Recipient will be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Recipient will be responsible for securing any applicable permits. The Recipient shall include in all contracts and subcontracts for amounts in excess of \$150,000, a provision requiring compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
- b. The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.
- c. In no event shall the making by the Department of any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

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- d. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- e. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- g. In the event that this Agreement involves constructing and equipping of facilities, the Recipient shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Recipient a written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Recipient a written approval with said remainder of the Project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department.
- h. Upon completion of right-of-way activities on the Project, the Recipient must certify compliance with all applicable federal and state requirements. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.
- i. The Recipient will certify in writing, prior to Project closeout that the Project was completed in accordance with applicable plans and specifications, is in place on the Recipient's facility, adequate title is in the Recipient's name, and the Project is accepted by the Recipient as suitable for the intended purpose.
- j. The Recipient agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Recipient, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. If any funds other than federally-appropriated funds have been paid by the Recipient to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The Recipient shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.
- k. The Recipient may not permit the Engineer of Record to perform Construction, Engineering and Inspection services on the Project.
- l. The Recipient shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Recipient and FHWA requires reimbursement of the funds, the Recipient will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.
- m. The Recipient shall:

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- i. utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Recipient during the term of the contract; and
  - ii. expressly require any contractor and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- n. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- o. The Parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.
- p. If the Project is procured pursuant to Chapter 255 for construction services and at the time of the competitive solicitation for the Project 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

**18. Exhibits:**

- a. **Exhibits "A", "B", "C", "D", "E" and "F"** are attached to and incorporated into this Agreement.
- b.  If this Project includes Phase 58 (construction) activities, then **Exhibit "G"**, FHWA FORM 1273, is attached and incorporated into this Agreement.
- c.  Alternative Advance Payment Financial Provisions are used on this Project. If an Alternative Pay Method is used on this Project, then **Exhibit "H"**, Alternative Advance Payment Financial Provisions, is attached and incorporated into this Agreement.
- d.  State funds are used on this Project. If state funds are used on this Project, then **Exhibit "I"**, State Funds Addendum, is attached and incorporated into this Agreement. **Exhibit "J"**, State Financial Assistance (Florida Single Audit Act), is attached and incorporated into this Agreement.
- e.  This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then **Exhibit "K"**, Advance Project Reimbursement is attached and incorporated into this Agreement.
- f.  This Project includes funding for landscaping. If this Project includes funding for landscaping, then **Exhibit "L"**, Landscape Maintenance, is attached and incorporated into this Agreement.
- g.  This Project includes funding for a roadway lighting system. If the Project includes funding for roadway lighting system, **Exhibit "M"**, Roadway Lighting Maintenance is attached and incorporated into this Agreement.
- h.  This Project includes funding for traffic signals and/or traffic signal systems. If this Project includes funding for traffic signals and/or traffic signals systems, **Exhibit "N"**, Traffic Signal Maintenance is attached and incorporated into this Agreement.
- i.  A portion or all of the Project will utilize Department right-of-way and, therefore, **Exhibit "O"**, Terms and Conditions of Construction in Department Right-of-Way, is attached and incorporated into this Agreement.
- j.  The following Exhibit(s) are attached and incorporated into this Agreement: \_\_\_\_\_
- k. **Exhibit and Attachment List**
  - Exhibit A: Project Description and Responsibilities
  - Exhibit B: Schedule of Financial Assistance
  - Exhibit C: Title VI Assurances
  - Exhibit D: Recipient Resolution

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- Exhibit E: Federal Financial Assistance (Single Audit Act)
- Exhibit F: Contract Payment Requirements
- \* Exhibit G: FHWA Form 1273
- \* Exhibit H: Alternative Advance Payment Financial Provisions
- \* Exhibit I: State Funds Addendum
- \* Exhibit J: State Financial Assistance (Florida Single Audit Act)
- \* Exhibit K: Advance Project Reimbursement
- \* Exhibit L: Landscape Maintenance
- \* Exhibit M: Roadway Lighting Maintenance
- \* Exhibit N: Traffic Signal Maintenance
- \* Exhibit O: Terms and Conditions of Construction in Department Right-of-Way
  
- \* Additional Exhibit(s):

**\* Indicates that the Exhibit is only attached and incorporated if applicable box is selected.**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

RECIPIENT

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

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

Name:

Title:

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

Name: Steven C. Braun, P.E.

Title: Director of Transportation

Legal Review:

\_\_\_\_\_

**EXHIBIT "A"**

**PROJECT DESCRIPTION AND RESPONSIBILITIES**

FPN: 442094-1-58-01

This exhibit forms an integral part of the Local Agency Program Agreement between the State of Florida, Department of Transportation and

City of Lake Worth Beach (the Recipient)

**PROJECT LOCATION:**

- The project is on the National Highway System.
- The project is on the State Highway System.

**PROJECT LENGTH AND MILE POST LIMITS:** Project Length - 0.591  
Mile Post Limits - 93000177 from 0.010-0.370  
93900256 from 0.120-0.200  
93900257 from 0.299-0.450

**PROJECT DESCRIPTION:** Two left turn lanes, (1) North of 2<sup>nd</sup> Ave. on Boutwell Rd. going onto 4<sup>th</sup> Ave. West and (2) South of 7<sup>th</sup> Ave. on Boutwell Rd. going onto 4<sup>th</sup> Ave. East. There will also be curb and gutter throughout the entire project (East and West of Boutwell along with 4<sup>th</sup> and 7<sup>th</sup> Ave.) and a 5' sidewalk that will be installed from Lake Worth Rd. to 7<sup>th</sup> Ave. on the East side and another 5' sidewalk that will be installed from Lake Worth Rd. to 4<sup>th</sup> Ave. on the West side.

There will also be shoulder stabilization, drainage, pedestrian lighting, and signing and pavement markings throughout the project including the side streets of 4<sup>th</sup> Ave. West and 7<sup>th</sup> Ave. East. The Intersection of 7<sup>th</sup> Ave. will also have enhanced advance warnings for the stop signs as well.

**SPECIAL CONSIDERATIONS BY RECIPIENT:**

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

- a) Study to be completed by N/A .
- b) Design to be completed by N/A .
- c) Right-of-Way requirements identified and provided to the Department by N/A .
- d) Right-of-Way to be certified by N/A .
- e) Construction contract to be let by 4/1/2020 .
- f) Construction to be completed by 12/31/2021 .

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

**SPECIAL CONSIDERATIONS BY DEPARTMENT:** Issurance of the Notice to Proceed (NTP) to the City of Lake Worth Beach is subject to the resubmittal and approval of the signed and sealed plans and specifications. Agency LAP Project-Specific certification in progress/pending.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT**

**EXHIBIT "B"**  
**SCHEDULE OF FINANCIAL ASSISTANCE**

RECIPIENT NAME & BILLING ADDRESS: Michael Bornstein City of Lake Worth Beach 7 North Dixie Highway Lake Worth Beach, FL 33460	FINANCIAL PROJECT NUMBER: 442094-1-58-01
--	--

PHASE OF WORK By Fiscal Year	MAXIMUM PARTICIPATION			
	(1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	(4) FEDERAL FUNDS
<b>Design- Phase 38</b>				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Design Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>Right-of-Way- Phase 48</b>				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Right-of-Way Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>Construction- Phase 58</b>				
FY: 2019-2020 (Transportation Alternative)	\$ <u>3,000,000.00</u>	\$ _____	\$ _____	\$ <u>3,000,000.00</u>
FY: 2019-2020 (Local Funds)	\$ <u>1,409,971.00</u>	\$ <u>1,409,971.00</u>	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Construction Cost	\$ 4,409,971.00	\$ 1,409,971.00	\$ 0.00	\$ 3,000,000.00
<b>Construction Engineering and Inspection (CEI)- Phase 68</b>				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total CEI Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>(Insert Phase)</b>				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Phase Costs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>TOTAL COST OF THE PROJECT</b>	<b>\$ 4,409,971.00</b>	<b>\$ 1,409,971.00</b>	<b>\$ 0.00</b>	<b>\$ 3,000,000.00</b>

**COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

\_\_\_\_\_  
 District Grant Manager Name

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

**Exhibit "C"**  
**TITLE VI ASSURANCES**

During the performance of this contract, the consultant or contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as the "contractor") agrees as follows:

- (1.) Compliance with REGULATIONS:** The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") **Title 49, Code of Federal Regulations, Part 21**, as they may be amended from time to time, (hereinafter referred to as the **REGULATIONS**), which are herein incorporated by reference and made a part of this contract.
- (2.) Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the basis of race, color, national origin, or sex in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **REGULATIONS**, including employment practices when the contract covers a program set forth in **Appendix B** of the **REGULATIONS**.
- (3.) Solicitations for Sub-contractors, including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under sub-contract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the **REGULATIONS** relative to nondiscrimination on the basis of race, color, national origin, or sex.
- (4.) Information and Reports:** The contractor shall provide all information and reports required by the **REGULATIONS** or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation* or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such **REGULATIONS**, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the *Florida Department of Transportation*, or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT**

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Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. cancellation, termination or suspension of the contract, in whole or in part.

**(6.) Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (7) in every sub-contract, including procurements of materials and leases of equipment, unless exempt by the **REGULATIONS**, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contract or procurement as the *Florida Department of Transportation* or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**(7.) Compliance with Nondiscrimination Statutes and Authorities:** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

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**EXHIBIT “D”**

**RECIPIENT RESOLUTION**

The Recipient’s Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

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**EXHIBIT “E”**

**FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)**

**FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

**CFDA No.:** 20.205  
**CFDA Title:** Highway Planning and Construction  
Federal-Aid Highway Program, Federal Lands Highway Program  
**CFDA Program Site:** <https://www.cfda.gov/>  
**Award Amount:** **\$3,000,000.00**  
**Awarding Agency:** Florida Department of Transportation  
**Award is for R&D:** No  
**Indirect Cost Rate:** N/A

**FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE SUBJECT TO THE FOLLOWING:**

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards  
<http://www.ecfr.gov/>

**FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT MAY ALSO BE SUBJECT TO THE FOLLOWING:**

Title 23 – Highways, United States Code  
<http://uscode.house.gov/browse/prelim@title23&edition=prelim>

Title 49 – Transportation, United States Code  
<http://uscode.house.gov/browse/prelim@title49&edition=prelim>

Map-21 – Moving Ahead for Progress in the 21<sup>st</sup> Century, Public Law 112-141  
<http://www.gpo.gov/fdsys/pkg/PLAW-112publ141/pdf/PLAW-112publ141.pdf>

Federal Highway Administration – Florida Division  
<http://www.fhwa.dot.gov/fldiv/>

Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS)  
<https://www.fsr.gov/>

## **EXHIBIT "F"**

### **CONTRACT PAYMENT REQUIREMENTS**

#### **Florida Department of Financial Services, Reference Guide for State Expenditures *Cost Reimbursement Contracts***

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address [http://www.myfloridacfo.com/aadir/reference\\_guide/](http://www.myfloridacfo.com/aadir/reference_guide/).

**EXHIBIT "G"**

**FHWA FORM 1273  
FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC –  
COMPLIANCE WITH FHWA 1273.**

The FHWA-1273 version dated May 1, 2012 is appended in its entirety to this Exhibit. FHWA-1273 may also be referenced on the Department's website at the following URL address:  
<http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

Sub-recipients of federal grants awards for Federal-Aid Highway construction shall take responsibility to obtain this information and comply with all provisions contained in FHWA-1273.

## **EXHIBIT “L”**

### **LANDSCAPE MAINTENANCE**

**Paragraph 16** is modified to include the following provisions:

1. Until such time as the Project is removed from the right of way pursuant to paragraphs 3 and 4 of this Exhibit, the Recipient shall, at all times, maintain the Project in a reasonable manner and with due care in accordance with all applicable Department guidelines, standards, and procedures, hereinafter called “Project Standards.” Specifically, the Recipient agrees to:
  - a) Properly water and fertilize all plants, keeping them as free as practicable from disease and harmful insects;
  - b) Properly mulch plant beds;
  - c) Keep the premises free of weeds;
  - d) Mow and/or cut the grass to the proper length;
  - e) Properly prune all plants which responsibility includes removing dead or diseased parts of plants and/or pruning such parts thereof which present a visual hazard for those using the roadway; and
  - f) Remove or replace dead or diseased plants in their entirety, and remove or replace those plants that fall below original Project Standards.

The Recipient agrees to repair, remove or replace at its own expense all or part of the Project that falls below Project Standards in accordance with the provisions of this Exhibit. In the event any part or parts of the Project, including plants, has to be removed and replaced for whatever reason, then they shall be replaced by parts of the same grade, size, and specification as provided in the original plans for the Project. Furthermore, the Recipient agrees to keep litter removed from the project highway.

2. Maintenance of the Project shall be subject to periodic inspections by the Department. In the event that any of the aforementioned responsibilities are not carried out or are otherwise determined by the Department to not be in conformance with the applicable Project Standards, the Department, in addition to its right of termination under paragraph 9 of the Agreement, may at its option perform any necessary maintenance without the need of any prior notice and charge the cost thereof to the Recipient.
3. It is understood between the parties to this Agreement that any portion of or the entire Project may be removed, relocated, or adjusted at any time in the future as determined to be necessary by the Department in order that the adjacent state road be widened, altered, or otherwise changed to meet with the future criteria or planning of the Department. The Recipient shall be given notice regarding such removal, relocation, or adjustment and shall be allowed 60 days to remove all or part of the Project at its own cost. The Recipient will own that part of the Project it removed. After the 60-day removal period, the Department will become the owner of the unresolved portion of the Project, and the Department then may remove, relocate, or adjust the Project as it deems best, with the Recipient being responsible for the cost incurred for the removal of the Project.
4. This Exhibit shall remain in force during the life of the originally installed landscaping and/or the life of any replacement landscaping installed with the mutual consent of the parties hereto until superseded by a Landscape Maintenance Agreement between the Department and the Recipient.

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RESOLUTION NO. **XX-2020** OF THE CITY OF LAKE WORTH BEACH, FLORIDA, APPROVING THE LOCAL AGENCY PROGRAM AGREEMENT 442094-1-58-01 BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY IN THE AMOUNT NOT TO EXCEED \$3,000,000 IN FEDERAL-AID GRANT FUNDS FROM THE FEDERAL HIGHWAY ADMINISTRATION TRANSPORTATION ALTERNATIVE PROGRAM FOR PHASE 2 OF THE LAKE WORTH BEACH PARK OF COMMERCE PHASE 2; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City desires to make improvements related to Phase 2 of the Lake Worth Beach Park of Commerce, including the provision of safe use by pedestrians, bicyclists and other non-motorized forms of transportation; and

WHEREAS, the City has been awarded a Federal-aid grant in an amount not to exceed \$3,000,000 under the Federal Highway Administration Transportation Alternative Program made available through the Florida Department of Transportation; and

WHEREAS, the City has been project-specific certified by the Florida Department of Transportation to conduct this project; and

WHEREAS, the Florida Department of Transportation has prepared a Local Agency Program Agreement that sets forth the terms and conditions for the use of these Federal aid funds for participating costs included in the scope of work for this project; and

WHEREAS, the City desires to enter into this Local Agency Program Agreement with the Florida Department of Transportation for this purpose.

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

SECTION 1: The City Commission of the City of Lake Worth, Florida, hereby approves the Local Agency Program Agreement 442094-1-8-01 between the Florida Department of Transportation and the City in an amount not to exceed \$3,000,000 in Federal Highway Administration Transportation Alternative Program funds for Phase 2 of the Lake Worth Beach Park of Commerce project.

SECTION 2: The City Commission of the City of Lake Worth, Florida, hereby authorizes the Mayor to execute the original of the Local Agency Program Agreement 442094-1-58-01 between the Florida Department of Transportation and the City and all related documents for this stated purpose.

46 SECTION 3: Upon execution of the resolution, one copy shall be forwarded to the Water  
47 Utilities Department Director. The fully executed original shall be maintained by the City  
48 Clerk as a public record of the City.

49  
50 SECTION 4: This resolution shall become effective upon adoption.

51  
52 The passage of this resolution was moved by Commissioner  
53 \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and upon being  
54 put to a vote, the vote was as follows:

- 55 Mayor Pam Triolo
- 56 Vice Mayor Andy Amoroso
- 57 Commissioner Scott Maxwell
- 58 Commissioner Omari Hardy
- 59 Commissioner Herman Robinson

60  
61 Mayor Pam Triolo thereupon declared this resolution duly passed and adopted on  
62 the 13<sup>th</sup> day of January, 2020.

63 LAKE WORTH CITY COMMISSION

64  
65  
66 By: \_\_\_\_\_  
67 Pam Triolo, Mayor

68  
69 ATTEST:  
70  
71 \_\_\_\_\_  
72 Pamela J. Lopez, City Clerk

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** January 7, 2020

**DEPARTMENT:** Community Sustainability

**TITLE:**

Quasi Judicial Ordinance No. 2019-15 – Second Reading - Changing the Zoning of Properties Located at 109 North Golfview Road, 121 North Golfview Road and 125 North Golfview Road

**SUMMARY:**

This is a joint request by owners John Rinaldi, Thomas C. Greene, and Robert D. Knight to change the zoning of 109, 121, and 125 North Golfview Road from Multi-Family Residential (MF-20) to Downtown (DT). The properties have a future land use designation of Downtown Mixed Use (DMU).

Ordinance 2019-15 was approved on first reading at the December 12, 2019 by a vote of 4-1.

**BACKGROUND AND JUSTIFICATION:**

Mr. John Rinaldi, Mr. Thomas C. Greene, and Mr. Robert D Knight (collectively “Petitioner”) jointly propose to rezone the parcels located at 109, 121, and 125 North Golfview Road from their current zoning district of MF-20 to DT zoning. The parcels located at 109 and 125 North Golfview Road are each 50’x135’, equaling +/-6,750 square feet each, and the parcel located at 121 North Golfview Road is 150’x135’, equaling +/-20,260 square feet.

The request to rezone the properties at 109, 121, and 125 North Golfview Road to the DT zoning designation does not include a request from the petitioner for a specific development at this time. The subject properties are next to properties zoned Multi-Family Residential (MF-20) to the north, Downtown (DT) to the south, Public Recreation and Open Space (PROS) to the east, and MF-20 and DT to the west.

According to the City’s Land Development Regulations, the DT zoning district is designed for the commercial core of the City of Lake Worth Beach. The DT district is intended to provide for the establishment and expansion of a broad range of office, retail, service, commercial and high density residential uses. The establishment of certain uses is subject to a conditional use permit review to ensure they will not have a negative impact on nearby residential or commercial properties.

On October 2, 2019, the Planning and Zoning Board (PZB) reviewed the application to rezone to Downtown (DT), took public comment, and recommended denial with a 4-2 vote. The denial was based upon the Petitioner’s failure to establish by competent substantial evidence that the application is in compliance with the City of Lake Worth Beach Land Development Regulations (Chapter 23.2-36), inconsistent with the Comprehensive Plan, incompatible with the uses of adjacent properties, and would have a negative effect on the surrounding properties. The minutes of the meeting are attached for your review (discussion begins on page 7).

**MOTION:**

Move to approve/disapprove Ordinance No. 2019-15 - Changing the Zoning of Properties Located at 109 North Golfview Road, 121 North Golfview Road, and 125 North Golfview Road on second reading for with reasons as stated on the record.

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A

Proposed Ordinance No. 2019-15

October 2, 2019 Planning & Zoning Board Staff Report

October 2, 2019 Minutes of the Planning & Zoning Board

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ORDINANCE NO. 2019-15 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, CHANGING THE ZONING OF PROPERTIES LOCATED AT 109 NORTH GOLFVIEW ROAD, 121 NORTH GOLFVIEW ROAD, AND 125 NORTH GOLFVIEW ROAD AND MORE PARTICULARLY DESCRIBED IN EXHIBIT A AND SHOWN IN EXHIBIT B FROM A CITY OF LAKE WORTH BEACH ZONING OF LOW DENSITY MULTI-FAMILY RESIDENTIAL (MF-20) TO CITY OF LAKE WORTH BEACH ZONING OF DOWNTOWN (DT); AUTHORIZING STAFF TO AMEND THE ZONING MAP; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Policy 1.1.1.7 of the Future Land Use element of the City of Lake Worth Beach Comprehensive Plan describes Downtown (DT) as an implementing zoning district for the Downtown Mixed-Use future land use designation; and

WHEREAS, the properties located at 109 North Golfview Road, 121 North Golfview Road, and 125 North Golfview Road and more particularly described in Exhibit A (the "Property") have a future land use designation of Downtown Mixed-Use; and

WHEREAS, the three Property owners have petitioned the City of Lake Worth Beach (the "City") for a zoning map change from a City of Lake Worth Beach designation of Low Density Multi-Family Residential (MF-20) to a City of Lake Worth Beach designation of Downtown (DT); and

WHEREAS, City staff has reviewed the request and on October 2, 2019, the City's Planning and Zoning Board held a public hearing on the matter and recommended denial of such zoning change to the Property; and

WHEREAS, the City has duly noticed this Ordinance as required in Section 166.041, Florida Statutes; and

WHEREAS, the City Commission finds that rezoning the Property to Downtown (DT) is consistent with the land use designation of Downtown Mixed Use (DMU); and

WHEREAS, the City Commission further finds the petition to be in conformity with Section 23.2-36 of the Lake Worth Beach Code of Ordinances; and

WHEREAS, the City Commission has determined that the adoption of this Ordinance is in the best interest of the citizens and residents of the City of Lake Worth Beach.

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

Section 1. The foregoing recitals are hereby affirmed and ratified.

49 Section 2. The Property more particularly described in **Exhibit A** are hereby  
50 rezoned from Low Density Multi-Family Residential (MF-20) to Downtown (DT) within the  
51 City of Lake Worth Beach.

52  
53 Section 3. Staff is authorized to amend the Lake Worth Beach Official Zoning  
54 Map to reflect the changes as described in **Exhibit B.**

55  
56 Section 4. All ordinances or parts of ordinances in conflict herewith are hereby  
57 repealed.

58  
59 Section 5. If any provision of this ordinance, or the application thereof to any  
60 person or circumstance is held invalid, the invalidity shall not affect other provisions or  
61 applications of the ordinance which can be given effect without the invalid provision or  
62 application, and to this end the provisions of this Ordinance are declared severable,

63  
64 Section 6. This ordinance shall become effective ten (10) days after adoption.

65  
66 The passage of this ordinance was moved by \_\_\_\_\_,  
67 seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was  
68 as follows:

- 69  
70 Mayor Pam Triolo  
71 Vice Mayor Andy Amoroso  
72 Commissioner Omari Hardy  
73 Commissioner Scott Maxwell  
74 Commissioner Herman Robinson

75  
76 The Mayor thereupon declared this ordinance duly passed on first reading  
77 on the \_\_\_\_ of \_\_\_\_\_, 2019.

78  
79 The passage of this ordinance on second reading was moved by  
80 Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, as amended and  
81 upon being put to a vote, the vote was as follows:

- 82  
83 Mayor Pam Triolo  
84 Vice Mayor Andy Amoroso  
85 Commissioner Omari Hardy  
86 Commissioner Scott Maxwell  
87 Commissioner Herman Robinson

88  
89 The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_ day  
90 of \_\_\_\_\_, 2019.

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93 LAKE WORTH BEACH CITY COMMISSION

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

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ATTEST:

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Deborah M. Andrea, City Clerk

Exhibit A

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Lot 14, Block 34, in the TOWNSITE OF LUCERNE, according to the Palm Beach Farms Company Plat No. 2, recorded in Plat Book 2, at Pages 29 to 40, in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida. (The Townsite of Lucerne is now known as Lake Worth.)

Lots 11, 12, and 13, Block 34, TOWNSITE OF LUCERNE (now known as Lake Worth), according to the Palm Beach Farms Company's Plat No. 2, recorded in the office of the Clerk of the Circuit Court in Plat Book 2, Pages 29 through 40, inclusive, public records of Palm Beach County, Florida.

Lot 10, Block 34, The Palm Beach Farms Company Plat No. 2, Lucerne Townsite, n/k/a Lake Worth, according to the map or plat thereof as recorded in the Plat Book 2, Page 29, Public Records of Palm Beach County, Florida.

124  
125

Exhibit B



126



DATE: September 25, 2019

TO: Members of the Planning & Zoning Board

FROM: Andrew Meyer, Senior Community Planner

THRU: Mark Stivers, AICP, Deputy Director for Community Sustainability

SUBJECT: **PZB Project Number 19-01300001:** Consideration of a request for a **Rezoning** by John Rinaldi, Thomas Greene, and Robert Knight from Low Density Multi-Family Residential (MF-20) to a Downtown (DT) zoning designation for properties located at 109, 121, and 125 North Golfview Road, pursuant to Section 23.2-36 of the Land Development Regulations (LDRs). PCNs: 38-43-44-21-15-034-0140, 38-43-44-21-15-034-0110, and 38-43-44-21-15-034-0100. The PZB'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 this rezoning request.

PZB Meeting Date: October 2, 2019

**SYNOPSIS:**

<b>Applicant</b>	Mr. John Rinaldi, Mr. Thomas C. Greene, and Mr. Robert D Knight
<b>General Location</b>	North Golfview Road between Lucerne Avenue and 2 <sup>nd</sup> Avenue North
<b>Existing PCN Numbers</b>	38-43-44-21-15-034-0140, 38-43-44-21-15-034-0110, and 38-43-44-21-15-034-0100
<b>Existing Land Use</b>	Residential and Bed & Breakfast
<b>Current Zoning</b>	Multi-Family Residential (MF-20)
<b>Future Land Use Designation</b>	Downtown Mixed-Use (DMU)

**HISTORY**

Per the City's records and per Palm Beach Property Appraiser's records, the buildings among the three sites were originally constructed between the years 1925 and 1956.

Upon reviewing city records regarding the zoning history of the area of interest, the property was zoned Medium-Density Multifamily (MF-30) as early as September 20, 1990. Between this time and February 2, 2012, the city's zoning map was reworked, and as a result, the area of interest was rezoned from MF-30 to its current zoning designation of Low-Density Multi-Family Residential (MF-20).

As early as February 2005, the three parcels had a future land use designation of High-Density Residential. This remained until about September 2008, where the future land use for 109 North Golfview Road changed from High Density Residential to Downtown Mixed-Use, however the other two properties remained High-Density Residential. These designations

remained until August 7, 2012, where the two properties still with a future land use designation of High-Density Residential were changed to also have a future land use of Downtown Mixed-Use, matching the future land use of 109 North Golfview Road, and reflecting the current future land use designation of these three properties today.

**BACKGROUND/ PROPOSAL:**

Mr. John Rinaldi, Mr. Thomas C. Greene, and Mr. Robert D Knight (“Petitioners”) jointly propose to rezone the parcels addressed 109, 121, and 125 North Golfview Road from their current zoning district of MF-20 to DT zoning. The parcels located at 109 and 125 North Golfview Road are each 50’x135’, equaling +/-6,750 square feet each, and the parcel located at 121 North Golfview Road is 150’x135’, equaling +/-20,260 square feet.

The request to rezone the properties at 109, 121, and 125 North Golfview Road to the DT zoning designation, with no specific development being proposed at this time. The property located to the south of the three properties, addressed as 105 North Golfview Road, is currently zoned Downtown (DT).

**ANALYSIS:**

The City’s Comprehensive Plan is a document designed to guide the future actions of a community. It presents a vision for the future, with long-range goals and objectives for all activities that affect the local government. The Land Development Regulations (LDRs) or Zoning Regulations, implement the comprehensive plan by regulating the types of uses allowed for individual properties. Zoning regulations typically specify the areas in which residential, industrial, recreational, office, retail or commercial activities may take place.

**Downtown Mixed Use (DMU) Future Land Use, Downtown (DT) Zoning Designation & Low Density Multi-Family (MF20) Zoning Designation**

Currently, the Comprehensive Plan Future Land Use Map designates the subject properties with a Downtown Mixed Use (DMU) future land use designation. The Downtown Mixed Use category is intended to provide for a mixture of residential, office, service, commercial, and retail uses within the specific areas east of I-95. The implementing zoning districts for the DMU future land use are Downtown (DT) (40 dwelling units per acre maximum density allowed), Mixed Use East (MU-E) (30 dwelling units per acre maximum density allowed), Low Density Multi-Family Residential (MF-20), and Medium Density Residential (MF-30). The DMU land use category includes those properties which are bounded on the west by “A” Street and on the east by Golfview Road and on the north by 2<sup>nd</sup> Avenue North and, on the south by 1<sup>st</sup> Avenue South. The properties located at 109, 121, and 125 North Golfview Road lie within the DMU land use category.

Below is a tabular description of the land use designation, zoning district and current use of properties surrounding the subject properties:

Direction	Future Land Use	Zoning District	Current Use
North	Downtown Mixed Use (DMU)	Low Density Multi-Family (MF-20)	Multi-Family
South	Downtown Mixed Use (DMU)	Downtown (DT)	Multi-Family
East	PROS (Public Recreation and Open Space)	PROS (Public Recreation and Open Space)	Golf Course
West	Downtown Mixed Use (DMU)	Downtown (DT) / Low Density Multi-Family (MF-20)	Multi-Family

According to the City’s LDRs, the "DT, downtown zoning district" is designed for the commercial core of the City of Lake Worth. The DT district is intended to provide for the establishment and expansion of a broad range of office, retail, service, commercial and high density residential uses. The establishment of certain uses is subject to a conditional use permit review to ensure they will not have a negative impact on nearby residential or commercial properties.

The site of the proposed rezoning (109, 121, and 125 North Golfview Road) is currently existing multifamily and bed and breakfast uses located just north of and contiguous to the existing DT zoning district, and within the Downtown Mixed Use (DMU) future land use.

**Section 23.2-36: Rezoning of Land Amendments:**

An amendment to the official zoning map processed without the FLUM amendment shall be reviewed based on the following factors:

**1. 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 Response:** The proposed Rezoning shall be consistent and compatible with the intent of the DMU land use designation in that the implementing zoning districts are the DT (maximum density of 40 dwelling units per acre), MU-E, MF-30 and MF-20 districts. The DT zoning district encourages a mixture of use such as commercial, residential, office, retail and service oriented activities. As stated in Section 23.3-14 of the LDRs, the DT district implements in part the downtown mixed use land use category of the City's Comprehensive Plan.

The proposed rezoning is consistent with the following Policy and Objectives in the Comprehensive Plan:

**Policy 1.1.2.9:** Locational Criteria for the Downtown Mixed Use Designation - The Downtown Mixed Use land use designation is intended for mapping of areas considered to be the traditional downtown core. The area is primarily bounded on the north by 2nd Avenue North, the east by Golfview Road, the south by 1st Avenue South, and the west by H Street.

The subject sites located at 109, 121, and 125 North Golfview Road are within the Downtown Mixed Use designation.

**FLUE 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.

The DT Zoning District can allow for a selection of different high-quality retail, office, and mixed-use projects to promote and expand the prime retail and commercial area of the city.

**FLUE Objective 1.6.4:** To support redevelopment plans which recognize and respect the historic urban character of Downtown Lake Worth Beach and other historic districts and structures in the City and the surrounding neighborhoods.

Approval of the proposed rezoning is consistent with objective 1.6.4 as the property is not located within a historic district area and the uses permitted within the DT Zoning district is compatible with adjacent uses of multifamily residential and matches the character of Downtown Lake Worth Beach. It is noted that any future proposed development will be subject to the applicable review process(es).

**FLUE Objective 1.6.7:** To encourage infill development, redevelopment and renewal of blighted areas and to promote the rehabilitation and restoration of older structures.

Approval of the proposed Rezoning is consistent with objective 1.6.7, as it will promote infill development by providing the potential for uses to be incorporated into the existing uses within the subject properties.

**2. 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 Response:** The proposed Rezoning 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. Please refer to the tabular data table above. It is clear from the table that, the future land use, zoning and existing development on the surrounding properties and the overall development pattern in the immediate area, that the proposed Rezoning shall be compatible with the existing land use pattern and will not create an isolated zoning district or confer a special privilege to the Petitioners. This rezoning provides the petitioners flexibility to provide additional uses within Downtown Lake Worth Beach.

**3. 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 Response:** The proposed Rezoning supports the integration of a mix of land uses consistent with smart growth and sustainability initiatives. In particular, approval of the rezoning application 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 commercial activity in the area. A mix of compatible land uses is a smart growth principle that is a “critical component to achieving better places to live” according to the Smart Growth Network. As described above, the uses immediately surrounding the Property are primarily multi-family residential. Approval of the proposed Rezoning will allow for land uses that are complementary to the existing residential uses immediately surrounding the Property.

**4. Availability of Public Services/Infrastructure.** Requests for rezoning to planned zoning districts shall be subject to review pursuant to Section 23.5-2.

**Staff Response:** This criteria is applicable to requests to rezone to a planned zoning district only. As this Rezoning Application seeks approval to rezone the Property to the conventional DT zoning district, this criteria does not apply. That being said, all future requests for development by the Petitioners will be reviewed to ensure the provision of adequate public services and infrastructure necessary to support the subject properties.

**5. 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 Response:** The proposed Rezoning shall be compatible with the current and future use of adjacent and nearby properties and will not negatively affect the property values of adjacent and nearby properties. If approved, the allowed permitted uses in the DT Zoning district are types of uses which have the potential to be complementary to the bed and breakfast and multi-family uses, and can have the potential of increasing property values. Any uses of greater intensity would need a subsequent staff or board approval before its establishment.

**6. 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 Response:** This petition does not involve rezoning to a planned zoning district. Thus, this criteria does not apply to this petition.

**7. 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 Response:** The proposed rezoning to the conventional DT zoning district will further the economic development potential of the city. Approval of the Rezoning will encourage potential renovations and reuse of the existing building located at 109, 121, and 125 North Golfview Road, thus maintaining and expanding the allowed intensity of development on the Property and the potential for a use with high probable economic development benefits.

**8. 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 Response:** The rezoning request does not require review pursuant to the site development standards of Section 23.2-32 at this time, because the petitioner is only requesting a rezoning, and has not yet brought forward a development project. 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.

**CONSEQUENT ACTION:**

Recommend approval of the rezone application; recommend approval with conditions; continue the hearing to a date certain to request additional information; or recommend denial of the rezone application. 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 this rezoning request.

**STAFF RECOMMENDATION:**

Based on the analysis of the review criteria and the responses provided above, Staff has determined that the application is in compliance with review criteria for rezoning as outlined in LDR Section 23.2-36, and therefore recommends that the Planning and Zoning Board recommend approval to the City Commission for the Petitioner's request to rezone the property at 109, 121, and 125 North Golfview Road from Low Density Multi-Family Residential (MF-20) to a Downtown (DT) zoning district.

**POTENTIAL MOTIONS:**

I MOVE THAT THE BOARD FORWARD TO THE CITY COMMISSION A RECOMMENDATION TO **APPROVE** PZB Case No. 19-01300001: A request for a rezoning from a Low Density Multi-Family Residential (MF-20) Zoning Designation to a Downtown (DT) Zoning Designation for properties located at **109 North Golfview Road, 121 North Golfview Road, and 125 North Golfview Road**, based upon the competent substantial evidence that the application is in compliance with the City of Lake Worth Land Development Regulations Section 23.2-36 and the City's Comprehensive Plan.

I MOVE THAT THE BOARD FORWARD TO THE CITY COMMISSION A RECOMMENDATION TO **DENY** PZB Case No. 19-01300001: A request for a rezoning from a Low Density Multi-Family Residential (MF-20) Zoning Designation to a Downtown (DT) Zoning Designation for property located at **109 North Golfview Road, 121 North Golfview Road, and 125 North Golfview Road**, because the Applicant has not established by competent substantial evidence that the application is in compliance with the City of Lake Worth Land Development Regulations Section 23.2-36 and the City's Comprehensive Plan.

**ATTACHMENTS:**

- A. Location Map
- B. Zoning Map
- C. Ordinance 2019-XX
- D. Application Submittal



DEPARTMENT FOR COMMUNITY SUSTAINABILITY  
Planning Zoning Historic Preservation Division  
1900 2<sup>ND</sup> Avenue North  
Lake Worth Beach, FL 33461  
561-586-1687

**Agenda  
Regular Meeting  
City of Lake Worth  
Planning & Zoning Board  
City Hall Commission Room  
7 North Dixie Hwy; Lake Worth, FL**

**WEDNESDAY, OCTOBER 02, 2019 6:00 PM**

1. Roll Call and Recording of Absences: Present were: Greg Rice, Chairman; Anthony Marotta, Vice-Chair; Mark Humm, Daniel Tanner, Laura Starr, Brock Grill. Absent: Michael Glaser. Also present were: Alexis Rosenberg, Neighborhood Planner; Andrew Meyer, Senior Community Planner; Mark Stivers, Deputy Director for Community Sustainability; Pamala Ryan, Board Attorney; Sherie Coale, Board Secretary.

2. Pledge of Allegiance

3. Additions/Deletions/Reordering and Approval of the Agenda: None

4. Approval of Minutes:

A. August Regular Meeting Minutes

B. July Regular Meeting Minutes

**Motion:** M. Humm moves to approve the August 2019 and July 2019 Regular meeting minutes as presented, A. Marotta 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

5. Cases:

A. Swearing in of Staff and Applicants: Board Secretary administered oath to those wishing to give testimony.

B. Proof of Publication: Provided in meeting packet.

C. Withdrawals/Postponements: None

D. Consent: None

E. Public Hearings:

1. Board Disclosure

None

F. Cases-Unfinished Business:

1. PZB Project No. 19-00500004: Consideration of a request by Martin Arias of Kadassa Inc. for the approval of a Conditional Use Permit for a medium-intensity "fabrication services excluding retail display and sales" use at 1812 Aragon Avenue

**Staff:** A. Rosenberg presents case findings and staff analysis. Recap of the facts of the case based on the last meeting, more details are now available. Building permits are now part of the staff report. Originally constructed in 1978, there were 2 buildings. In 1981 there was a permit for an addition which connected building A & B. In 2010 there was a remodel for unit A, which then housed a bakery until approximately 2017. Kadassa now occupies that space. The active business contractor license (unit A) is for the approximate 800 square foot portion of the building, he does not work for Kadassa.

The waste container is a roll-off and is not regulated as a City dumpster. Site photos show wet curtains installed since last meeting as well as the slats in the fence. Additional vinyl screening in rear of property. A site visit and resultant photos show dust/sand debris along the street some of which may be coming from a building/property to the south. Parking-Public Services confirmed the street is owned by FDOT, who took possession @ 50 years ago and it remains with FDOT. As such the prevailing regulation is unless there are "No Parking" signs, parking would be allowed.

**Board Attorney:** As a continuation of the case from the previous meeting (August), the process is quasi-judicial, public comment was previously taken and that action was technically closed. Board asked staff to bring additional information regarding various aspects of the business and property, which they did. If the Board re-opens and starts the process over, all parties will be able to speak again including the public, affected parties as well as the applicant.

**Board:** G. Rice asks of staff: if they are currently operating? **Response:** yes. Do they have a business license? **Response:** No, they applied and were denied due to the need for a Conditional Use permit. Would the demolition dumpster be screened? Staff has proposed additional conditions (over and above those previously proposed). Staff reads additional conditions which include a 60-day limit to pay all fees. There are ten (10) additional conditions. Chairman clarifies that Board can modify, add, delete and change conditions.

D. Tanner- asks if the current location of the dumpster is acceptable? Staff indicates it is acceptable and not in the R-O-W. L. Starr requests additional information regarding the roll-off container vs. a dumpster and how it could be screened. Does not see screening on the gates. Staff verified the screening was installed on or about 8/7/2019. Staff explains the roll-off is provided by Solid Waste Management whereas a dumpster would be provided by city services; additional shrubs or trees could added to the site at that location but it would still be open on one side, not fully screened. Per code, permanent roll-offs can be located in the R-O-W (right of way); in this case the owner has chosen to keep the roll-off within their property lines. B. Grill has concerns about the business license and what assurances are there that fines will be paid?

M. Stivers states it is an open code compliance case and fees must paid in order to obtain the business license. B. Grill would like the fines to be paid before coming to the Board. They have had ample opportunity to pay the fees in the last two months. M. Humm questions why the applicant would pay the fees if a possibility exists that the Board would deny the project?

**Board Attorney:** Reminds Chair he has the option for allowing additional comment from the applicant, affected parties and the public since there is additional information available. In light of the additional information made available and persons present in the audience who may have interest, chairman allows additional comment from the public, affected parties and applicant.

**Applicant:** Jason Bono- feels he has done everything in good faith. All code issues have been resolved with the exception of this conditional use case. Will screen the dumpster and wants to be in harmonious concert with the neighboring businesses.

**Board:** L. Starr- how frequently does roll-off get picked up? **Applicant:** 1 time per month. As it is expensive, they try to get it filled before calling for pick-up. Occasionally overflowed by others. It is not a scheduled pick-up.

**Board Attorney:** Received communication from an affected party who requested additional time to speak.

**Affected Party Attorney:** Jason Mankoff of Ciklin Lubitz- representing Daniel Hiatt and Frederick Schmidt who jointly own 22,000 square feet and have eight (8) tenants. Requests denial. Applicant is responsible for meeting the burden of proof and fails to do so in the application. Mentions the application for business license was denied in 2017. Attorney presents and explains the photos from a site visit on Friday prior. The photos depict dust, parking issues, wet curtains that do not reduce the impact, dumpster, open gates, why is this the only lot that allows a roll-off for construction debris? It is high impact. This is a public dumping area, people know about the roll-off and take advantage of the availability. Parking spots are inaccessible and not available for parking as trucks back up into the area. There is a retail element to the operation and it unknown whether a wholesale element exists. A tenant auto upholsterer has to detail the cars he has worked on and is generally unable to keep overhead doors open. The site is not in harmony, nor compatible per the City Code. Points out perceived possible violations to the code i.e. runoff to storm water drain. Mentions that 'the staff report indicates "they have generally met" the substantial evidence requirement'.

**Board:** L. Starr: inquires as to when the Attorney was there? **Response:** Monday. A. Marotta has concerns about the relationship, previously alluded to, with a fabrication shop across the street with unresolved code issues. Defers response until later. B. Grill: asks who the attorney is representing? **Response:** Only the 2 clients with their longstanding tenants.

**Mr. Mankoff questions his clients:** Frederick Schmidt has owned the property for over 20 years and periodically visits the site, 1 or 2 times per week. The gate is generally open. Regarding the other fabrication company? They tried to get them to mitigate the dust. Is there a possible relationship between the two businesses? Not familiar with that.

Daniel Hiatt- visits the property daily as managing partner of the property with a property on each side of street. The gate is usually open and they have many suppliers and end users picking up product. Regarding the other fabrication company, due east of southern building, there was a constant battle. His tenants include: window tinting, engineering, junk king, high tech stereo and auto upholstery. The fabrication people on the south side finally left.

Why do you believe there is a relationship between the subject business and the property to the south? The owner of the property was one of the largest suppliers of slab Jaifa granite, Benny Installations was the name of the business. All the sub-contractors, suppliers and employees go back and forth, he sees the same people that were seen at the defunct business.

**Staff** asks questions of Attorney, D. Hiatt, and F. Schmidt.

M. Stivers states he has not heard or seen, as was mentioned, of any direct proof of a business relationship with prior tenant on the south side of the street. Attorney stated he would provide proof. Is that just a statement that was made?

**Affected Party Attorney** states there is no proof, but the intent is that his clients have had four years of dealing with a similar situation across the street and now there is the subject business without a license.

M. Stivers then reiterates that no proof can be shown that a relationship exists between the two businesses. No statement of any kind can be made connecting the two businesses.

D. Hiatt- it's a subcontract business, he sees the same people come to this place that came to the other tenant. He sees the same subcontractors with the same pickup trucks.

M. Stivers- They are similar businesses using similar contractors, that is the nature of the business with suppliers and contractors, therefore there is no relationship exists between the two businesses.

M. Stivers – Have you seen the gate closed during business hours? D. Hiatt and F. Schmidt- response is no from both parties.

M. Stivers states this can be a condition of approval, should the Board so choose, that the gate must be closed except in times of delivery and the screening shall be in place.

Applicant states the gate is generally open, occasionally closed when not expecting supplies.

Everyone agrees it is closed after hours.

**Board Attorney:** In moving forward with a decision, Board must weigh the credibility of the various parties.

**Affected Party Attorney:** asks M. Stivers what his role is within the Department. Response: Operational Director over Planning & Zoning, Historic Preservation, Code Enforcement, Building, and Business License divisions for the Department of Community Sustainability. J. Mankoff believes M. Stivers to be pro-business development and looking out to try to bring economic development to the City.

**Public Comment:** None, closed.

City stands at this time.

**Applicant:** The mesh screening, (wet curtains) have the misting water system on only when actively cutting so as not to waste water. Those photos may show it blowing in the wind when it is not on and there is no cutting. Describes the unpaved, white shellrock road to the east of subject property (near Tru-Green business) which kicks up dust. They have been there for 2 years operating without complaint (prior to the time that Benny left).

**Board:** A. Marotta- Regarding photos of pickup trucks with small slabs, is that part of a wholesale activity and they are being brought to the site?

**Applicant:** J. Bono explains they are leaving with the wholesale product.

Applicant points out that other businesses (Photo page 8) also have trucks with deliveries and supplies that back into sites, that is normal, typical business procedure. To say the subject property is the only business interrupting the flow of traffic is not accurate.

**Board:** G. Rice- (in reference to the photo on Page 7 indicating a white slab) Is that a finished countertop?

**Response:** That is an unfinished countertop, they are not backed into his property. Applicant clarifies that they work with multiple contractors. Applicant states the hard goods are chosen by an end user at another location. The goods are then delivered by a supplier for fabrication. There are no retail displays, the hard goods are at the distributor who then delivers to Kadassa.

L. Starr- isn't this retail?

**Response:** Applicant does not profess to being an attorney to know the definition of retail. Retail, in his opinion is buy a product sell a product. Their clientele is typically a contractor.

L. Starr- Do all cars park onsite? Is he a full time employee and is he there everyday?

**Response:** Yes and he does his best to make sure no one parks across street or in a spot that does not belong to them. Photos 2,3,4. There are two (2) vehicles in the on street parking spots (parked against traffic). Applicant believes the black vehicle is a contractor vehicle. He cannot control the way people park. B. Grill- Referring to page 8 photo, a very large shipment resembles what might be wholesale. Other photos (pages 6 and 7) look more like retail, small jobs. Applicant explains that is a contractor coming to pick up fabricated material. B. Grill views the single customer coming to the applicant contractor is working through fabricator as a single buyer which is retail.

M. Humm believes the installer is not performing a "retail" function by picking up a fabricated product. The end user is the homeowner, not the contractor picking it up. A. Marotta agrees that does not represent a retail action. Applicant doesn't display or sell individual pieces they do however on occasion install directly.

A. Marotta addressing staff: Regarding competent substantial evidence. With regard to the allusion to the 4 year code battle of neighboring property, has the applicant had any code complaints during that time?

M. Stivers- The lack of a business license was brought forward by code in 2017 but was denied due to the need for a Conditional Use permit.

**Board attorney-** was it in reference to a public or city generated complaint? Staff confirms the recorded date of a public complaint was in this year (2019). G. Rice inquires as to how long the code case has been open? June 3, 2019 was the recorded date of complaint. The complaint arose in 2019, the business was in operation at the location since 2017.

L. Starr- Asks for clarification on the difference between light industrial compared to medium and where are those areas? G. Rice asks for the exact zoning of the parcel as it stands today.

M. Stivers – This is the Industrial Park of Commerce (IPOC), with a full range of light to heavy industrial uses. The other zone is Artisanal Industrial (AI) which is more focused on arts manufacturing.

Board Attorney reads from the Code and definition of IPOC, some uses are permitted by right, others require administrative review but this case is considered medium to high intensity, that is why it is before Board. Code definition also allows for the establishment of "certain other uses that are compatible with industrial operations".

M. Stivers describes the boundaries of the IPOC zone. It was annexed into the City

M. Humm asks about the area and zoning near Pope Lane? That is the Artisanal Industrial Zone (AI). B. Grill questions the proximity to the school and is there a distance separation? M. Stivers states there is no standard for that. L. Starr confirms that light, medium and heavy industrial is allowed within IPOC. M. Stivers states code dictates according to size, low, medium and high intensity uses based upon square footage or size of the business. A. Rosenberg reiterates Aragon Ave, as well as the shellrock portion of the road, belongs to FDOT for the last fifty (50) years but City will not take ownership until FDOT improves the road.

**Affected Party Attorney:** The complaint did not come from his clients. Pictures show the slabs being delivered. I can send my contractor to buy it, that's retail. Intent of IPOC is confusing, size (square footage) is not a good basis for determining intensity. "Certain uses" does not mean all other uses. Code is clear in that all conditions must be met, indicates that all ten items are not met so it should be denied, lastly the applicant has the burden of proof.

M. Stivers-Traffic Concurrency Exception Area, there are two (2) in the City and one is in IPOC

**Motion:** M. Humm moves to approve PZB 19-00500004 subject to staff recommended conditions (14); D. Tanner 2<sup>nd</sup>. A. Marotta asks whether the two (2) additional conditions were to be included:

- The gate to be closed except when accepting deliveries.
- Additional Landscaping to be installed around one side and one end of the roll-off.

G. Rice states there is a need for roll offs but typically limited to @ 90 days. L. Starr- have there been instances where a dumpster enclosure is required by code. M. Stivers reminds Board that roll-off standards are different because they are not required to be screened, they are not city containers.

B. Grill believes it is not in the spirit of the code. Ridiculous that they have not had a business license for two (2) years.

M. Humm amends his motion to include the additional conditions; D. Tanner 2<sup>nd</sup> the amended motion.

**Roll Call Vote:** 5/1 motion to approve carries; L. Starr-yes, D. Tanner-yes A. Marotta-yes G. Rice-yes M. Humm Yes; B. Grill- nay.

#### G. Cases-New Business:

1. PZB Project No. 19-00000007: Consideration of a request by Emily Theodossakos of the Lake Worth Beach Community Redevelopment Agency and Glayson Leroy for the approval of three murals in the City as part of the annual FOCUS event

**Staff:** A. Rosenberg-The first proposed mural would located at the Tuppens business at 10<sup>th</sup> Ave North and Dixie Hwy. 1002 N Dixie Hwy. The second mural at 1121 Lucerne Avenue, the Hatch Building and last 1213 Lake Avenue.

**Applicant:** Emily Theodossakos, CRA- G. Rice asks if the mural at 1213 Lake Avenue will be glued on?

**Response:** No, it will be painted on the boards. Tuppens will be one long mural covering all four facades. The Octopus will be coming down. G. Rice asks when the FOCUS events begin -November 15.

Meet the artist: Sami Makela- local artist. Tuppens mural will be 9 feet high then 11 feet high, under blue line.

**Motion:** A. Marotta moves to approve PZB 19-00000007 subject to staff recommended Conditions of Approval; B. Grill 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous

2. PZB Project No. 19-00500005: Consideration of a request by Vivian Vega of Gaspar Alternative, Inc. for the approval of a Conditional Use Permit for a low intensity "out patient clinic/medical office" use at 326 North Dixie Highway

**Staff:** A. Meyer- presents case findings and analysis-A high, medium and low intensity medical office is a conditional use permit that requires Board review, the specialty retail portion is permitted by right. Applicant put forth there will be a cross access parking agreement with property to the south 318 S Dixie Hwy, which is the same property owner, just a separate parcel. 318 S Dixie Hwy has 12 spaces available but only requires 6 spaces, so there would be a surplus of parking available (an estimated 3 spaces would need to be borrowed.).

**Applicant:** Vivian Vega-326 N Dixie Hwy- Miracle Leaf franchise. Currently owns a franchise in Dania Beach. Doctor hours on-site would be 4 hours on Tuesday and Thursday offering a pathway to healthy living. Evaluate the patient to determine if they meet qualifications as set by the State of Florida. The retail portion is for CBD products and T-shirts etc. She is a Franchisee not the Franchisor.

**Board:** B. Grill: Questions why applicant would want to issue the cards but not dispense? Ms. Vega states they are not a dispensary. State law dictates the dispensary and the prescribing businesses must be separate. A. Marotta- Wants to understand how the issuance of the card is related to the retail portion of the business. **Applicant:** Many people are not necessarily looking for the card but would like to purchase CBD products as a sleep aid or for pain relief. The process would be: Patient comes with a diagnosis from the primary care physician. The patient would meet with the Tuesday/Thursday doctor who will determine if they might be eligible for the card. If the doctor determines the person is eligible, they would then assist the person in obtaining the card. The evaluating doctor must have State certification in order to evaluate. Applicant states not everyone will be approved, some people just want cards and have no medical records with them or referrals. The CBD retail products are an alternative. G. Rice asks about renewal. Ms. Vega states the annual renewal fee is \$75 for the license. The annual renewal fee goes to the state. L. Starr-do the medical records go to the state? No, the medical records stay in the file however the evaluation documentation, is submitted weekly to the State but has no names or discerning information, only numbers. L. Starr asks about the parking situation. Questions whether the cross access agreement would be null and void if the property owner sold the other property.

**Property owner:** Doralee Asher-has parking in the rear of the property at 318 N. Dixie Hwy. There are five (5) spots at the rear of the property of which 2 would be for applicant plus 3 spots on the south side. Other tenants are her own business and a pizza store. There are questions about the signage.

**Board:** A. Marotta- in clarifying the parking agreement discovers there are 3 spots are included in that agreement. L. Starr asks about dispensaries-M. Stivers explains the results of the previous moratorium and states there are no limitations on number of offices or separation distances. A. Marotta-what is difference between this use and Dr. G's? M. Stivers states Dr. G's is urgent care. Essentially the same, a medical office. Parking requirement per the use is 3 spaces.

Board Attorney asks how many spaces are required for the building?

**Staff:** For Mixed-Use districts in the core area, parking requirements state that no additional spaces are required, whatever is on the site is permitted. Medical uses which are conditional uses require additional spaces. A. Marotta mentions according to gross proceeds the volume must be good for only having 3 parking spots.

B. Grill asks if there will be online sales as well? **Response:** no.

**Public Comment:** None

**Motion:** B. Grill moves to approve the PZB 19-00500005 and staff recommended conditions as well as a shared parking regulation to be reviewed by the city attorney. M. Humm 2<sup>nd</sup>. B. Grill amends motion to "review and approve the shared parking agreement"; M. Humm 2<sup>nd</sup>.

**Vote:** Ayes all, unanimously.

3. PZB Project No. 19-01300001: Consideration of a request by John Rinaldi, Thomas Greene, and Robert Knight for the approval of a Rezone of 109, 121, and 125 North Golfview Road from Low-Density Residential to Downtown

**Staff:** A. Meyer presents case findings and staff analysis. Prior to 2012 the Future Land Use for one subject parcel, was Downtown Mixed Use; after which the other 2 parcels (previously High Density Residential)joined in becoming Downtown Mixed-Use.

**Applicant:** John Rinaldi 109 N Golfview- After learning of 6 Lucerne coming before the Board for a conditional use for an extended stay hotel, he determined he too could possibly obtain DT zoning. The 3 adjacent property owners discussed this possibility and decided to file a single application. At this time none of the applicants intend a change in use, but would like to avail themselves of the possibility for other uses in the future.

**Board:** B. Grill: Paraphrasing, according to his understanding, states “3 property owners got together to save monies by filing one application and increase their property value on a possible resale”.

**Applicant #1:** John Renaldi: States no that is not what he said. He was advised that all the properties could join in a single application or file individually. He was never aware that the properties to the south on him were ever zoned downtown. Should someone ever come to the adjacent property and turn it into a Dunkin Donuts (because it has DT zoning), why should he not have the same opportunity? He would like to have consistency in zoning on the street and wants to be part of the consistency.

**Board:** The more northerly parcel would remain Multifamily as well as Mango Inn on the street to the west. Regarding questions about the zoning of the area; there are several other zoning districts that correlate to the Downtown Future Land Use designation. Regarding the intent of persons seeking to rezone, is it normal for individuals to do this? Yes, it is not uncommon and the fact that it is more than one property owner shows a consensus.

**Staff:** It is not uncommon to bring the zoning into compliance with the Future Land Use map.

**Applicant#2:** Robert Knight 125 N Golfview- is not looking to change anything, has lived here for six (6) years, he loves living here. He rented the property prior to purchasing and is not petitioning in order change something.

**Board:** A. Marotta for staff: Is it the intent of the City to make it part of the commercial core? **Response:** Yes.

#### **Public Comment:**

- Susan Guyaux (property owner) 131 N Golfview Rd unit 3. –There is too much commercial space now and this will only result in less residential. Downtown businesses need people who walk downtown. Believes it is spot zoning.
- William Feldkamp (property owner) 108 Lake Ave. Loft 205- Believes it to be overly ambitious upzoning without any project attached to it. Thanks to Burt Harris it normally cannot be reversed. The One has been open for over a year and has yet to open any commercial retail as well as the CRA space at Lucerne and North F St thanks to the ‘Amazon’ effect on retail. Unintended consequences of upzoning, can be seen in the area of 6<sup>th</sup> Ave S and 10<sup>th</sup> Ave N; homes (at least 12 vacant lots) which changed to MU approximately 5 years ago, who may have had the intent of selling to developers, have let the properties fall into disrepair. Taxes have been lost and there is no new tax base from new projects. 125 N Golfview is already boarded. True the Comprehensive Plan is the future but there is no specific proposal accompanying this request. Please deny or defer for 5-6 month a market study and for applicants to show intentions.
- Don Rosenshine of 131 N Golfview Unit 3 -When you buy out of state, and review appraisals etc, who has the thought to check a 10 year plan? Realtors are not obligated to inform. Because of the transitory nature of South Florida population, it becomes irresistible to change zoning as is evidenced by the absence of the other 2 applicant owners. The recently changed south parcel is now advertising a café. If this was happening in Parrot Cove the outcry would be much greater.
- Connie Vieaux-(property owner) 125 N Lakeside Dr- Opposes because of the possibility of six (6) story buildings blocking view. Not anti-development. Does not support the rezoning.
- Linda Mahoney- (property owner) 325 North O St- Remembers when FLU map was created and states that at the time notice was not given to individual property owners because it was the City doing it. If it is to be done, include the northern parcel, do the entire block. Is it just coincidence that many snowbirds are not in town? Why was the meeting not on the City calendar?

**Board Attorney** states the Planning & Zoning meeting is always the same time, 1<sup>st</sup> Wednesday of the month.

Swearing in of John Rinaldi and Robert Knight.

**Applicant:** John Rinaldi-When he purchased the property, the Gulfstream hotel was open as well as the restaurant and bar; all residents on the street was very aware; the most recent approved construction plans also included retail, restaurant and bar. Had also been surveyed regarding the possibility of moving the clubhouse for the golf course to the east of his property. Has had his property available for sale and has been questioned as to what could be done with the property. Last year when 6 Lucerne Avenue rezoned, insinuates there may be a café there.

B. Grill asks applicant to move forward to the point. Chairman pre-empts and allows further testimony.

**Co-applicant:** Robert Knight- With regard to the shutters, they were up because of hurricane season and Dorian and he will be taking them down soon.

**Board Attorney:** They have to be taken down, have had several inquiries. Chairman states it is a safety issue. B. Grill inquires about density. Staff indicates MF-40 (multi-family 40) is a zoning designation in the code. There are other ways to increase density.

**Chairman:** Asks about whether the meeting was on the calendar. M. Stivers states staff has followed the procedure and protocol for having the meeting put on the City Calendar, will follow up with the responsible parties.

**Board Secretary:** States the agenda and entire backup is available at the City Hall, Library and offices at 1900 2<sup>nd</sup> Ave North.

**Chairman:** In this day and age when everyone is dependent upon cell phones to tell us what to do and when, is inclined to re-advertise.

**Board Attorney** clarifies Planning & Zoning has always been the first Wednesday of the month. The advertising procedures were followed for the project, State requirements have been met. Believes Ms. Mahoney is referring to the meeting in general not being shown on the City Calendar as an event. The agenda was posted and project advertising has met State Statute requirements.

**Motion:** A. Marotta moves to recommend denial of PZB #19-01300001 to City Commission because the applicant has not established by competent substantial evidence that the application is in compliance with the City of Lake Worth Beach Land Development Regulations (Chapter 23.2-36). In particular inconsistency with the Comprehensive Plan, incompatibility with the use of adjacent properties and a negative effect on the surrounding properties D. Tanner 2<sup>nd</sup>.

**Board discussion:** A. Marotta's concern is there is no proposal or intended purpose and once the zoning is changed it opens up an entire new realm, the upzoning of residences. B. Grill- Agrees with A. Marotta about why applicant wants to upzone. Downtown zoning allows for prime retail and commercial uses. There is already an excess of vacant, commercial space. G. Rice in reference to the Burt Harris Act; In the 70's the City put in its charter the ability to go to 100 feet. That part of the Charter has since been changed. Don't believe all that you hear, you buy the property but not the zoning.

**Vote:** 4/2 deny M. Humm and L. Starr dissenting.

4. PZB Project No. 19-03100003: Consideration of Ordinance 2019-XX, proposed amendments to Chapter 23 of the City of Lake Worth Beach Code or Ordinances

Recommendation to change four (4) sections of the Land Development Regulations (LDR)

- Sustainable Bonus Incentive Program in order to better align with the Comprehensive Plan. Add and include Florida Green Building and other nationally recognized, accredited sustainable rating programs. Incentive rate in IPOC to \$1.50 square foot as opposed to \$5.00.

- Development of Significant Impact-change in definition/description. Amending thresholds upward from 45K to 100k square feet for commercial, office and industrial developments, and from 50 to 100 for new residential units.
- Changes to Planned Development District: Adding a tiered bonus level on top of Sustainable Bonus Incentive if the project is in a Planned Development District. Density, intensity and height incentives.
- Transfer of Development Rights (TDR)- add language to establish the Transfer Development Rights (TDR) program within the City to allow one additional story of no more than 15 feet in overall height, an increase in overall density of 10 units per acre, and An increase in overall floor area ratio (FAR) of 10%.
  - Medium and High Intensity Conditional Use, Industrial/Manufacturing Facilities.

Eliminating lot size requirements in industrial areas

Add additional standards for recycling facilities

1. All production and processing shall be restricted to an enclosed building.
2. Outside storage of source materials prohibited;
3. adding hours of operation restrictions;
4. provisions and systems installed to address noise, dust and odor emissions.

**Board:** A. Marotta-Planned Development District-Would it have an effect on surrounding areas? or only within that development? RE: Cloisters spillover parking would it cause a PDD to relax parking requirements. Line 63 of ordinance.

**Staff:** M. Stivers- The Planned Development District (PDD) design standards are adopted by City Commission who can relax the standards (to be different from standard code) as long as it can be justified why.

**Board:** A. Marotta re: Transfer of Development Rights (TDR)- “selling” off of unused rights for city owned property only, can they be gotten back or are they stuck with what is left? Is it a permanent Deed restriction?

**Staff:** M. Stivers they can buy it back, otherwise the short answer is no. Board Attorney advises City Code could again be changed.

**Board:** B. Grill asks why reduce the sustainable bonus (down to \$1.50) and lose revenue because the developer is still benefitting? D. Tanner views it as an incentive for a business owner who might not otherwise come here, the problem (of reduced cost) might only exist when too many people want to build here.

**Public Comment:**

Omari Hardy- Typically the money is spent on within the developing property. Thinks the Sustainable Bonus program is too complex and should just let them go to height by right. However if it exists it is an intelligent was to go about it. **Staff:** M. Stivers- it is generally an improvement but not a contribution to the general fund. Believes parking is the most expensive thing that we do to development and being able to relax the parking for a Planned Development District is beneficial. Likes this. Going in right direction.

**Motion:** A. Marotta moves to recommend approval of PZ/HRPB 19-03100003 to City Commission M. Humm 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

6. Planning Issues: None
7. Public Comments (3 minute limit): None
8. Departmental Reports: None
9. Board Member Comments: Questions about the progress of O'Reillys, Golden Roads, Extended Stay sign permit 6 Lucerne, and Lake Cove encompasses 13.5 acres.
10. Adjournment: 9:48 pm

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** – January 7, 2020

**DEPARTMENT:** Community Sustainability

**TITLE:**

Ordinance No. 2020-01 amending Chapter 2, Article XIX “Chronic Nuisance Property Code”, Division 1 “Chronic nuisance services,” by repealing ordinance 2017-12 and replacing it with a new ordinance to insert provisions unintentionally removed from Ordinance 2017-12 and providing for additional nuisance activities.

**SUMMARY:**

It was discovered that between the first and second reading of Ordinance 2017-12, the wrong ordinance was brought forward and adopted on second reading. Ordinance 2020-01 will add back in the amendments that were unintentionally removed and also provide for two additional cases that can result in a chronic nuisance case. They are repeat code violations and repeat property remediation cases.

**BACKGROUND AND JUSTIFICATION:**

The City passed Ordinance 2017-12 on August 1, 2017, which amended Chapter 2, Article XIX “Chronic Nuisance Property Code”, Division 1 “Chronic nuisance services” of the Code of Ordinances that, among other things, expanded activities that are nuisance activities to include properties where there are calls for service to assist individuals displaying symptoms of overdosing on a controlled substance, and in instances where there has been a failure to correct code violations on properties more than thirty (30) days after the special magistrate entered an order regarding the same. Although the correct ordinance was passed on first reading, the incorrect version was inadvertently adopted on second reading.

This ordinance repeals Ordinance 2017-12 adopted on second reading and adopts a new version which includes the changes approved on first reading of Ordinance 2017-12 with additional changes that also makes repeat code violations and repeat property remediation cases chronic nuisances.

**MOTION:**

Move to approve/disapprove Ordinance 2020-01 on first reading and set the hearing date for January 21, 2020.

**ATTACHMENT(S):**

Fiscal Impact Analysis - N/A  
Ordinance 2020-01

ORDINANCE NO. 2020-\_\_ OF THE CITY OF LAKE WORTH BEACH, FLORIDA, REPEALING ORDINANCE 2017-12 WHICH AMENDED DIVISION 1 "CHRONIC NUISANCE SERVICES" OF CHAPTER 2 "ADMINISTRATION", ARTICLE XIX "CHRONIC NUISANCE PROPERTY CODE", TO PROVIDE FOR ADDITIONAL VIOLATIONS RELATING TO OVERDOSING AND CODE ENFORCEMENT, POSTING NOTICES, ENTERING INTO AGREEMENTS WITH PROPERTY OWNERS, AND ADDITIONAL PENALTIES AND REPLACING IT WITH A NEW ORDINANCE TO INSERT PROVISIONS UNINTENTIONALLY REMOVED FROM ORDINANCE 2017-12 AND PROVIDING FOR ADDITIONAL NUISANCE ACTIVITY; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE.

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

WHEREAS, the City passed Ordinance 2017-12 on August 1, 2017, which amended Chapter 2, Article XIX "Chronic Nuisance Property Code", Division 1 "Chronic nuisance services" of the Code of Ordinances that, among other things, expanded activities that are nuisance activities to include properties where there are calls for service to assist individuals displaying symptoms of overdosing on a controlled substance, and in instances where there has been a failure to correct code violations on properties more than thirty (30) days after the special magistrate entered an order regarding the same; and

WHEREAS, although the correct ordinance was passed on first reading, the incorrect version was inadvertently adopted on second reading; and

WHEREAS, this ordinance repeals Ordinance 2017-12 adopted on second reading and adopts a new version which includes the changes approved on first reading of Ordinance 2017-12 with additional changes that makes repeat code violations and repeat property remediation chronic nuisances; and

WHEREAS, the City Commission has reviewed the recommended revisions and has determined that it is in the best interest of the public health, safety, and general welfare of the City to adopt this ordinance.

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

Section 1. The foregoing "WHEREAS" clauses are true and correct and are hereby ratified and confirmed by the City Commission.

47 Section 2. Ordinance 2017-12, is hereby REPEALED in its entirety and is REPLACED  
48 with a new ordinance as follows.

49

50 Section 3. Chapter 2 “Administration”, Article XIX, “Chronic Nuisance Property Code”,  
51 Division 1 “Chronic Nuisance Services”, is hereby amended as follows (deleting is  
52 ~~stricken through~~ and adding is underlined):

53

54 **Sec. 2-201 – Pattern of nuisance activity.**

55

56 (a) *Nuisance activity.* Nuisance activity means any activities relating to the following  
57 violations, whenever engaged in by property owner, agent, tenant, or invitee of the  
58 property owner or tenant:

59

- 60 (1) Chapter 5 – Alcoholic beverages.
- 61 (2) Chapter 15, article I, sections 15-24 through 15-24.10 – Noise Control  
62 regulations.
- 63 (3) Chapter 15, article V - Sexual offenders’ & sexual predators’ residence.
- 64 (4) F.S. § 767.12—Dangerous dogs.
- 65 (5) F.S. § 784.03—Battery; felony battery.
- 66 (6) F.S. § 784.041—Felony battery.
- 67 (7) F.S. § 784.045—Aggravated battery.
- 68 (8) F.S. § 790.01—Carrying concealed weapons.
- 69 (9) F.S. § 790.10—Improper exhibition of dangerous weapons or firearms.
- 70 (10) F.S. § 790.15(1)—Discharging firearm in public.
- 71 (11) F.S. § 796.06—Renting space to be used for prostitution.
- 72 (12) F.S. § 796.07—Prostitution.
- 73 (13) F.S. § 800.03—Exposure of sexual organs.
- 74 (14) F.S. § 806.13—Criminal mischief.
- 75 (15) F.S. § 810.08—Trespass in structure or conveyance.
- 76 (16) F.S. § 810.09—Trespass on property other than structure or conveyance.
- 77 (17) F.S. § 812.014—Theft.
- 78 (18) F.S. § 812.019—Dealing in stolen property.
- 79 (19) F.S. § 812.173—Conveyance business security.
- 80 (20) F.S. § ~~824~~823.01—Nuisance.
- 81 (21) F.S. § 828.12—Cruelty to animals.
- 82 (22) F.S. § 843.01—Resisting officer with violence.
- 83 (23) F.S. § 843.02—Resisting officer without violence.
- 84 (24) F.S. § 856.011—Disorderly intoxication.
- 85 (25) F.S. § 856.015—Open house parties.
- 86 (26) F.S. § 856.021—Loitering or prowling.

- 87 (27) F.S. § 856.022—Loitering or prowling in close proximity to children.
- 88 (28) F.S. § 870.01—Affrays and riots.
- 89 (29) F.S. ch. 874—Criminal gang enforcement and prevention.
- 90 (30) F.S. § 877.03—Breach of the peace; disorderly conduct.
- 91 (31) F.S. ch. 893—Any offense under the Florida Comprehensive Drug Abuse
- 92 Prevention and Control Act.
- 93 (32) Any other offense under state or federal law that is punishable by a term of
- 94 imprisonment exceeding one (1) year.
- 95 (33) A call for service to property for law enforcement, fire, medic, or other
- 96 emergency personnel to assist an individual who displays the symptoms of an
- 97 overdose of a controlled substance.
- 98 (34) Failure to comply with a code enforcement order entered by the special
- 99 magistrate.
- 100 (35) A repeat violation code enforcement order entered by the special magistrate.
- 101 (36) Chapter 12, Article II “Lots and Lands Constituting Nuisances”- repeated
- 102 abatement by the city of nuisances on property.

103  
104 (b) *Pattern of nuisance activity.* Real property shall be deemed to exhibit a pattern of  
105 nuisance activity if:

106 (1) The city's law enforcement has responded to three (3) or more nuisance  
107 activities at the property within thirty (30) days;

108  
109 (2) The city's law enforcement has responded to seven (7) or more nuisance  
110 activities at the property within six (6) months;

111  
112 (3) The city's law enforcement, fire, medic or other emergency personnel (or any  
113 combination thereof) has responded to two (2) or more calls for service within thirty  
114 (30) days or three (3) or more calls for service within six (6) months, to assist an  
115 individual who displays the symptoms of an overdose of a controlled substance;

116  
117 ~~(3)~~ (4) An alcoholic beverage establishment that employs private security is located  
118 on the property and the city's law enforcement has responded to five (5) or more  
119 nuisance activities at the property within thirty (30) days or twenty (20) or more  
120 nuisance activities at the property within six (6) months; or

121  
122 (5) There is a failure to correct code violations on the property thirty (30) days after  
123 the date given by the special magistrate in any order entered pursuant to chapter  
124 2, article VI of this code;

125

126 (6) There are two (2) or more repeat violations on the property within a three (3)  
127 year period and the special magistrate has entered orders on the repeat violations;

128  
129 (7) The city has remediated/abated a nuisance under Chapter 12, Article II "Lots  
130 and Lands Constituting Nuisances" on more than two (2) occasions in a three (3)  
131 year period; or

132  
133 ~~(4)~~(8) As otherwise provided by this code.

134  
135 (c) *Construction and application.* Pattern of nuisance activity shall not be construed  
136 to include:

137 (1) A nuisance activity where that does not arise from the conduct of the property  
138 owner, agent, tenant, or invitee of the property owner, agent or tenant is the victim  
139 of a crime and called for service; or

140  
141 (2) A complaint or call for service to which the city's law enforcement, fire, medic  
142 and/or other emergency personnel responded and it was the city determined that  
143 no violation was committed.

144  
145 (d) *Separate occurrences.* For purposes of this article, ~~each day~~ every time that  
146 law enforcement responds to a nuisance activity at the property shall be a separate  
147 occurrence.

148  
149 **Sec. 2-202 – Declaration of chronic nuisance property; action plan.**

150  
151 (a) *Declaration of chronic nuisance property.* If a pattern of nuisance activity exists upon  
152 real property, the city, through its code enforcement division or the city manager, may  
153 declare the property to be a chronic nuisance. The city's declaration of chronic  
154 nuisance property shall constitute a notice of violation which, if unaddressed by  
155 agreement as set forth herein, may be prosecuted by the city before the city's special  
156 magistrate. The city shall notify the property owner of the declaration of chronic  
157 nuisance property in accordance with subsection 2-208(a). The declaration of chronic  
158 nuisance property shall contain at least the following information:

159 (1) A reference to chapter 2, article XIX (the "City of Lake Worth Chronic Nuisance  
160 Property Code");

161 (2) The address and parcel control number of the property;

162 (3) The dates that the nuisance activities occurred at the property;

163 (4) A description of the nuisance activities;

- 164 (5) A statement that the property owner is required to (a) enter into an agreement  
165 with the city which will incorporate an action plan to address and eliminate the  
166 nuisance activity on the property, hereinafter "Chronic Nuisance Abatement  
167 Agreement" ~~the city with a written action plan outlining the specific measures that~~  
168 ~~the property owner will take to curtail or eliminate the re-occurrence of nuisance~~  
169 ~~activities on the property~~ or (b) request a hearing before the special magistrate  
170 as set forth in section 2-~~204~~203 to challenge the declaration. The statement shall  
171 give the property owner ~~A statement that the action plan or the request for hearing~~  
172 ~~must be provided to the city's assigned contact, (the "contact"), as set forth in the~~  
173 ~~declaration, no later than fifteen (15) days from the date of the declaration of~~  
174 ~~chronic nuisance property~~ to advise the City's assigned contact in writing of the  
175 property owner's decision. The city's contact may include a representative from  
176 the code compliance division, the city's attorney office or other designee;
- 177 (6) A statement that if the property owner fails to timely request a hearing, the  
178 property owner shall be deemed to have waived the right to contest the  
179 declaration of chronic nuisance property;
- 180 (7) A statement that failure to enter into a Chronic Nuisance Abatement Agreement  
181 with the city ~~provide the city with a written action plan~~ may result in the entry of a  
182 chronic nuisance service order by the special magistrate;
- 183 (8) A statement that the costs of any chronic nuisance services provided by the city  
184 to a property that has been declared to be a chronic nuisance may be levied  
185 against the property as a non-ad valorem assessment superior to all other private  
186 rights, interests, liens, encumbrances, titles and claims upon the property and  
187 equal in rank and dignity with a lien for ad valorem taxes; ~~and~~
- 188 (9) A statement that unpaid assessments may be certified to the tax collector for  
189 collection pursuant to the uniform method provided in F.S. § 197.3632-; and
- 190 10) A warning statement that the notice posted pursuant to section 2-208 cannot be  
191 removed except with written permission of the city.
- 192 (b) *Development of action plan.* The property owner shall enter into a Chronic Nuisance  
193 Abatement Agreement with the city which will incorporate ~~provide the city's contact~~  
194 ~~with a written action plan outlining the specific measures that the~~ property owner will  
195 take to curtail or eliminate the re-occurrence of nuisance activities at the property.  
196 The Chronic Nuisance Abatement Agreement will contain a timetable for corrective  
197 action and shall be executed by the property owner. The property owner shall provide  
198 the Chronic Nuisance Abatement Agreement ~~action plan~~ to the city's contact no later  
199 than ~~fifteen (15)~~ thirty (30) days from the date of the declaration of chronic nuisance  
200 property. The Chronic Nuisance Abatement Agreement, once executed by the city  
201 manager or designee on behalf of the city, shall be recorded in the official records of  
202 Palm Beach County, Florida. Failure to enter into a Chronic Nuisance Abatement  
203 Agreement with the city may result in the entry of a chronic nuisance service order

204 ~~being issued by the special magistrate, provide the city's contact with a timely action~~  
205 ~~plan shall be a violation of this article.~~

206 ~~(c) Adequacy and implementation of action plan. If the city determines that the action~~  
207 ~~plan is adequate to curtail or eliminate the re-occurrence of nuisance activities on the~~  
208 ~~property, the city shall notify the property owner by first class mail. The city shall~~  
209 ~~establish a reasonable time period not exceeding forty-five (45) days from the date~~  
210 ~~that the action plan is determined to be adequate to implement the action plan. The~~  
211 ~~city may extend the time period beyond the forty-five (45) days if additional time is~~  
212 ~~necessary to implement the action plan. Failure to implement the action plan within~~  
213 ~~the time period established by the city shall be a violation of this article. If the property~~  
214 ~~owner implements the action plan within the time period established by the city, the~~  
215 ~~declaration of chronic nuisance will be closed and no further action shall be required,~~  
216 ~~except that the city may require the property owner to revise the action plan in the~~  
217 ~~event that a nuisance activity re-occurs within twelve (12) months of the date of the~~  
218 ~~declaration, and the special magistrate shall be deemed to have continuing~~  
219 ~~jurisdiction over the property.~~

220 ~~(d) Revision of inadequate action plan. If the city determines that the action plan is not~~  
221 ~~adequate to curtail or eliminate the re-occurrence of nuisance activities on the~~  
222 ~~property, the city may require the property owner to revise the action plan. The~~  
223 ~~property owner shall provide the revised action plan to the city no later than ten (10)~~  
224 ~~days from the date that the action plan is determined to be inadequate. Failure to~~  
225 ~~revise the action plan or not provide the city with a timely revised action plan shall be~~  
226 ~~a violation of this article. The provision of an inadequate action plan on two (2)~~  
227 ~~consecutive occasions shall be a violation of this article and may result in a chronic~~  
228 ~~nuisance service order against the property.~~

229 ~~(e) Factors determining adequacy of The action plan. The type of abatement action~~  
230 ~~shall depend on the type of criminal activity occurring at the property. Types of~~  
231 ~~abatement action to be considered in determining the adequacy of an action plan, to~~  
232 ~~be incorporated into a Chronic Nuisance Abatement Agreement may include, but~~  
233 ~~shall not be limited to:~~

234 (1) Commencement of an eviction action pursuant to F.S. ch. 83, to remove those  
235 individuals engaged in the nuisance activity from the property;

236 (2) Implementation of crime prevention through environmental design (CPTED)  
237 measures;

238 (3) Frequency of site visits and inspections at various times of both day and night;

239 (4) Hiring of property management;

240 (5) Hiring of private security;

241 (6) Installation of security cameras with recording capabilities;

242 (7) Use of a written lease agreement;

- 243 (8) Criminal background checks for prospective tenants and lease renewals;
- 244 (9) Posting of "no trespassing" signs at the property;
- 245 (10) Written documentation of all efforts to curtail or eliminate the re-occurrence of
- 246 nuisance activities on the property;
- 247 (11) Any other action that the city determines is reasonably sufficient to curtail or
- 248 eliminate the re-occurrence of nuisance activities on the property.

249 (d) Modification of the action plan. The city will periodically monitor the property to  
250 assure compliance for a period of one (1) year following execution of the Chronic  
251 Nuisance Abatement Agreement. During that time, the parties may agree to modify the  
252 Chronic Nuisance Abatement Agreement when it is demonstrated by either party that (a)  
253 modification will improve the action plan or (b) the action plan is not adequate to curtail  
254 or eliminate the re-occurrence of nuisance activities on the property. If the property owner  
255 refuses to modify the Chronic Nuisance Abatement Agreement requested by the city, then  
256 the city may refer the matter to the special magistrate for entry of a chronic nuisance  
257 service order.

258  
259 (e) Termination of the action plan. If the property owner complies with the Chronic  
260 Nuisance Abatement Agreement as determined by the city, and the nuisance has been  
261 abated, the city will issue and record a notice of compliance, and no further action shall  
262 be required from the property owner. The city may require the property owner to enter  
263 into a new agreement if a nuisance activity re-occurs on the property.

264  
265 **Sec. 2-203. - Notice of violation.**

266  
267 ~~If the property owner fails to satisfy any requirement of this article, the city shall notify~~  
268 ~~the property owner in accordance with subsection 2-208(a). The notice of violation~~  
269 ~~shall contain at least the following information:~~

- 270 ~~(1) The address and parcel control number of the property;~~
- 271
- 272 ~~(2) A description of the facts constituting a violation of this article;~~
- 273
- 274 ~~(3) A statement that the property has been declared to be a chronic nuisance;~~
- 275
- 276 ~~(4) Time to comply and the date, time, and location of a hearing should the~~  
277 ~~owner fail to timely comply with the notice;~~
- 278
- 279 ~~(5) A statement that unless the property owner timely complies with this article~~  
280 ~~or attends the hearing before the special magistrate, the property owner~~  
281 ~~shall be deemed to have waived the right to contest the notice of violation~~  
282 ~~and a chronic nuisance service order may be entered against the property;~~

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~~(6) A statement that the cost of any unpaid chronic nuisance services provided by the city may be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, title land claims upon the property and equal in rank and dignity with alien for ad valorem taxes; and~~

~~(7) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.~~

**Sec. 2-~~204~~203 – Hearings; waiver.**

(a) Request for hearing. If the property owner refuses to timely enter into a Chronic Nuisance Abatement Agreement, does not respond to notices issued by the city, or subsequently violates the terms of an agreement, the City may prosecute its declaration of chronic nuisance property or the violation of the agreement at a hearing before the city’s special magistrate. On the other hand, a A property owner may request a hearing before the special magistrate upon receipt of a declaration of chronic nuisance property. A request for hearing shall be filed with the city and shall:

- (1) Be in writing;
- (2) Provide a short, plain statement identifying the factual, procedural or legal error upon which the request for hearing is based; and
- (3) Include a copy of the declaration of chronic nuisance property or otherwise provide the owner's name and mailing address and the address of the property that has been declared a chronic nuisance.

(b) Time for filing a request for hearing. A request for hearing shall be filed with by the city within fifteen (15) days from the deadline for entering into a Chronic Nuisance Abatement Agreement or from the date the city notified the property owner that a violation of the agreement occurred. date of the declaration of chronic nuisance property. It may be filed by the property owner within fifteen (15) days of the date of the declaration of chronic nuisance property.

(c) Waiver of right to contest. If the owner of a chronic nuisance property fails to timely respond to city notices or file a timely request for hearing, the property owner shall be deemed to have waived the right to contest the declaration of chronic nuisance property.

~~(d) Hearing by the special magistrate. Upon receipt of a timely request or upon notice that a notice of violation has not been complied with, the~~ The city shall schedule a hearing before the special magistrate. The hearing shall be limited to a review of the record or evidence upon which the city based its declaration of chronic nuisance property. The property owner shall have the right to challenge the declaration of

323 chronic nuisance property. In the event the hearing pertains to a violation of the  
324 Chronic Nuisance Abatement Agreement, the hearing shall be limited to the failure  
325 by the property owner to implement the action plan and/or adhere to the requirements  
326 of the Chronic Nuisance Abatement Agreement. The city and the property owner  
327 shall be allowed to present evidence on the issue of the violation of the Chronic  
328 Nuisance Abatement Agreement. A hearing to challenge a declaration of chronic  
329 nuisance property shall be limited to the issue of whether or not a pattern of nuisance  
330 activity exists upon the subject property and what action plan shall be required, if any.  
331 A hearing to challenge a notice of violation regarding the action plan shall be limited  
332 to whether or not the action plan is adequate to curtail or eliminate the re-occurrence  
333 of nuisance activities on the property and/or whether the action plan was properly and  
334 timely implemented. Hearings shall be conducted as follows:

335 (1) The special magistrate shall adopt rules, as necessary, for the conduct of the  
336 hearings. All hearings and proceedings shall be open to the public and minutes  
337 shall be kept. All testimony shall be taken under oath and shall be recorded.

338 (2) Formal rules of evidence shall not apply, but fundamental due process shall be  
339 observed and shall govern the proceedings. The special magistrate may consider  
340 any relevant evidence. All evidence of a type commonly relied upon by  
341 reasonably prudent persons in the conduct of their affairs shall be admissible  
342 whether or not such evidence would be admissible in a state court.

343 (3) Each party shall have the following rights:

- 344 a. To call and examine witnesses.
- 345 b. To introduce documentary evidence, exhibits, or physical evidence.
- 346 c. To cross examine opposing witnesses on any relevant matter.
- 347 d. To impeach any witness.
- 348 e. To submit rebuttal evidence.
- 349 f. To be represented by counsel.

350 (4) All findings of the special magistrate shall be based on a preponderance of the  
351 evidence. Hearsay evidence may be used for the purpose of supplementing or  
352 explaining other evidence, but it shall not be sufficient in itself to support a finding  
353 unless it would be admissible in a civil action.

354 (5) At the conclusion of the hearing, the special magistrate shall issue findings of fact  
355 and conclusions of law with respect to the issues before it.

356 (e) *Decision of the special magistrate.* After reviewing the testimony and evidence  
357 presented, the special magistrate shall either uphold or reject the declaration of  
358 chronic nuisance property or the notice of violation, pertaining to the Chronic  
359 Nuisance Abatement Agreement, as appropriate. The decision of the special  
360 magistrate shall be in writing and shall be deemed final. If the special magistrate  
361 upholds the declaration of chronic nuisance property, the special magistrate shall

362 enter a chronic nuisance service order as discussed below. If the special magistrate  
363 finds that there was a violation of the Chronic Nuisance Abatement Agreement, then  
364 the special magistrate may enter an order consistent with the Chronic Nuisance  
365 Abatement Agreement and/or authorize the city to seek any remedies provided under  
366 the law. an order establishing the requirements of the action plan, providing a  
367 reasonable time to implement the action plan, and setting a hearing date and time to  
368 consider the entry of a chronic nuisance service order if the action plan is not timely  
369 implemented. If the special magistrate upholds the notice of violation, the special  
370 magistrate shall immediately enter a chronic nuisance service order in accordance  
371 with section 2-205. If the special magistrate rejects either the declaration of chronic  
372 nuisance property or the notice of violation regarding the Chronic Nuisance  
373 Abatement Agreement, the special magistrate shall identify the factual, procedural or  
374 legal error upon which the decision is based. An order rejecting the city's declaration  
375 of chronic nuisance property shall not bar the city from recommencing the chronic  
376 nuisance process. An order rejecting the notice of violation regarding the Chronic  
377 Nuisance Abatement Agreement does not bar the city from re-citing the property  
378 owner for future violations of the agreement.

379 **Sec. 2-205204. – Entry of chronic nuisance service order.**

- 380 (a) *Chronic nuisance service order.* If the special magistrate upholds the declaration of  
381 chronic nuisance property, determines after a hearing that there has been a failure to  
382 provide or implement an adequate action plan or otherwise finds that a violation exists  
383 as set forth in the notice of violation, the special magistrate shall enter a chronic  
384 nuisance service order. The city shall provide a copy of the chronic nuisance service  
385 order to the property owner by first class mail. The chronic nuisance service order  
386 shall:
- 387 (1) Enter findings of fact establishing a pattern of nuisance activity and violation of  
388 this article;
  - 389 (2) Authorize the city to provide chronic nuisance services to the property;
  - 390 (3) Authorize the city to bill the costs of any chronic nuisance services to the owner  
391 of the chronic nuisance property;
  - 392 (4) Authorize the city to require the owner of the chronic nuisance property to  
393 implement reasonable and specific measures that the property owner must take  
394 to curtail or eliminate the re-occurrence of nuisance activities on the property;
  - 395 (5) Authorize the city to seek appropriate judicial action (e.g., an injunction) against  
396 the property owner to close the property until specific measures are taken by  
397 either the city or the property owner to curtail or eliminate the nuisance activities  
398 on the property.
  - 399 (5) Provide for the mailing of a copy of the chronic nuisance service order by first  
400 class mail to any mortgagee of record. Failure to provide a copy of the chronic

401 nuisance service order to a mortgagee of records shall not operate to release or  
402 discharge any obligation under this article or otherwise affect the validity of a  
403 chronic nuisance service order;

404 (6) Provide for the recording of a certified copy of the chronic nuisance service order  
405 in the public records; and

406 (7) Provide for continuing jurisdiction over the chronic nuisance property.

407 (b) *Duration of chronic nuisance service order.* The chronic nuisance order entered in  
408 accordance with this section shall terminate if there have been no nuisance activities  
409 at the property for one (1) year.

410 **Sec. 2-205. - Appeal of Orders of Special Magistrate.**

411 The property owner or the city may appeal a final order of the special magistrate to the  
412 circuit court of Palm Beach County. Such an appeal shall not be a hearing de novo, but  
413 shall be limited to appellate review of the record created before the special magistrate.  
414 An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

415 **Sec. 2-206. - Abatement of chronic nuisances; provision of services;**  
416 **apportionment.**

417 (a) *Abatement by city.* The property owner is responsible for abatement of nuisances on  
418 the property. In those circumstances when city staff, in consultation with the city  
419 attorney's office, determines that conditions exist on the property that constitute  
420 health and safety issues, and the property owner has not taken remedial action ¶the  
421 city may abate chronic nuisances on real property by providing chronic nuisance  
422 services to curtail or eliminate the re-occurrence of nuisance activities. The costs of  
423 such chronic nuisance services shall be billed to the property owner and such costs  
424 may be collected by the city by any legal means.

425 (b) *Apportionment.* Chronic nuisance service costs shall be entirely apportioned to the  
426 assessed real property receiving the chronic nuisance service.

427 **Sec. 2-207. – Establishment of Costs; billing of costs; special assessment; uniform**  
428 **method.**

429 a) *Chronic nuisance service costs.* All chronic nuisance service costs shall be  
430 established based upon the actual costs incurred by the city.

431 (b) *Billing of chronic nuisance service costs.* The city shall bill all chronic nuisance service  
432 costs to the owner of the chronic nuisance property by first class mail to the address  
433 listed on the ad valorem tax roll. The bill shall contain at least the following  
434 information:

435 (1) The address and parcel control number of the chronic nuisance property;

- 436 (2) The date of each chronic nuisance service;
- 437 (3) A description of each chronic nuisance service;
- 438 (4) The amount of the bill for each chronic nuisance service;
- 439 (5) A statement that the total amount of the bill shall be paid to the city within thirty  
440 (30) days from the date of the bill and that any chronic nuisance service cost  
441 which has not been paid within thirty (30) days from the date of the bill shall be  
442 delinquent;
- 443 (6) A statement that any unpaid chronic nuisance service costs will be levied against  
444 the property as a non-ad valorem assessment superior to all other private rights;  
445 interests, liens, encumbrances, title and claims upon the property and equal in  
446 rank and dignity with a lien for ad valorem taxes; and
- 447 (7) A statement that unpaid assessments may be certified to the tax collector for  
448 collection pursuant to the uniform method provided in F.S. § 197.3632.
- 449 (c) *Special assessment; uniform method.* The total amount of the bill shall be paid to the  
450 city within thirty (30) days from the date of the bill. Unless payment is made within  
451 thirty (30) days from the date of the bill, the city commission may, by the adoption of  
452 a resolution levying such charges, assess against the property a lien in the amount  
453 of the charges outstanding, or such lesser amount as the city commission shall decide  
454 is just and fair. Assessment of liens levied in this manner shall be filed in the office of  
455 the city clerk and in the public records of the county as a lien against the property and  
456 shall be prior in dignity to all other liens against the property, save and except a lien  
457 for taxes. Such assessments shall bear interest at the legal rate and such liens may  
458 be foreclosed in the same manner in which mortgage liens are foreclosed.  
459 Assessments levied pursuant to this section may be certified to the tax collector for  
460 collection pursuant to the uniform method provided in F.S. § 197.3632.
- 461 (d) *Construction of chronic nuisance service cost.* Chronic nuisance service costs shall  
462 not include any amount attributable to general law enforcement activities or the  
463 general enforcement of municipal codes upon a property that has not been declared  
464 by the city to be a chronic nuisance and that has not been received a chronic nuisance  
465 service order from the special magistrate.

466 **Sec. 2-208. - Method of notice; construction.**

- 467 (a) *Notice.* All notices required by this article shall be provided to the property owner(s)  
468 consistent with the requirements for notice provided in F.S. § 162.12, regarding notices  
469 for code enforcement cases, except that if any notice sent by certified mail is not signed  
470 as received within fifteen (15) days after the date of mailing, notice may be provided by  
471 posting as described in F.S. § 162.12(2)(b). In addition, when the city provides notice by  
472 posting, removal of the posted notice without written approval from the city is prohibited.  
473 Notice by posting may run concurrently with, or may follow, an attempt or attempts to  
474 provide notice by hand delivery or by mail as set forth above. Evidence that an attempt

475 has been made to hand deliver or mail notice as provided above, together with proof of  
476 posting, shall be sufficient to show that the notice requirements of this part have been  
477 met, without regard to whether or not the owner actually received such notice.

478  
479 (b) *Construction of notice.* A property owner shall be deemed to have notice of a  
480 nuisance activity if that property owner: (1) has actual knowledge of the nuisance  
481 activity; (2) has received notice of the nuisance activity; (3) has reason to know about  
482 the nuisance activity; (4) knows about a fact related to the nuisance activity; or (5) is  
483 able to ascertain the existence of a nuisance by checking an official filing or recording.  
484 The lack of knowledge of, acquiescence, or participation in, or responsibility for a  
485 nuisance activity on the part of property owner shall not be a defense to any  
486 enforcement of this article.

487

488 **Sec. 2-209. - Change in title to chronic nuisance property.**

489 (a) *Purchase of judicial sale upon final judgment of foreclosure.* Every purchaser of a  
490 chronic nuisance property at judicial sale upon final judgment of foreclosure shall  
491 provide the city with an action plan consistent with the city's service order or the  
492 Chronic Nuisance Abatement Agreement entered into by the previous owner. ~~and~~  
493 The action plan shall be implemented ~~an action plan~~ no later than forty-five (45) days  
494 from the date of the sale.

495 (b) *Receivership.* Every trustee of a chronic nuisance property appointed after the entry  
496 of a chronic nuisance service order shall provide the city with an action plan  
497 consistent with the city's service order or the Chronic Nuisance Abatement  
498 Agreement entered into by the previous owner. ~~and~~ The action plan shall be  
499 implemented ~~the action plan~~ no later than forty-five (45) days from the date of  
500 appointment of receiver in any state or federal action at law.

501 (c) *Probate.* Every personal representative of an owner of a chronic nuisance property  
502 shall provide the city with an action plan consistent with the city's service order or the  
503 Chronic Nuisance Abatement Agreement entered into by the previous owner. ~~and~~  
504 The action plan shall be implemented ~~an action plan~~ no later than forty-five (45) days  
505 from the date of appointment. If the owner of the chronic nuisance property died  
506 intestate, beneficiaries of the estate shall be required to provide the city with an action  
507 plan and implement an action plan in a timeframe set by the city.

508 (d) *Other changes in title to chronic nuisance property.* An arms-length purchaser of a  
509 chronic nuisance property that has purchased the property after entry of a chronic  
510 nuisance service order for the property shall have ~~forty-five (45)~~ thirty (30) days from  
511 the date of closing or recording of the order, whichever occurs last, to provide the city  
512 with an action plan consistent with the city's service order or the Chronic Nuisance  
513 Abatement Agreement entered into by the previous owner. ~~and~~ The action plan shall  
514 be implemented within thirty (30) days. ~~the action plan.~~

515 (e) To facilitate the transfer of property that is the subject of a chronic nuisance service  
516 order or agreement, the city manager is authorized without the necessity of city

517 commission action, to modify Chronic Nuisance Abatement Agreements, or  
518 compromise a fine or assessment owed to the city, provided the city manager has  
519 reasonable assurance the nuisance conditions on the property will be remedied and  
520 will not re-occur under the new ownership.

521

522 **Sec. 2-210. - Registration of distressed vacant property.**

523 (a) *Registration by owner.* Every owner of a chronic nuisance property that is also  
524 distressed vacant property shall register with the city in accordance with subsection  
525 2-75.11(e).

526 (b) *Registration by foreclosing mortgagee.* Every foreclosing mortgagee of a chronic  
527 nuisance property that is also distressed vacant property shall register with the city in  
528 accordance with subsection 2-75.11(e).

529

530 **Sec. 2-211. - Construction of article.**

531 (a) *Levy of special assessments.* This article shall not be construed to limit the city from  
532 levying special assessments in accordance with this Code, as adopted by the city.

533 (b) *Monthly reinspection assessments.* This article shall not be construed to limit the city  
534 from imposing monthly reinspection assessments in accordance with chapter 2,  
535 article VI, of this Code.

536 (c) *Imposition of administrative fines.* This article shall not be construed to limit the city  
537 from imposing administrative fines in accordance with chapter 2, article VI, of this  
538 Code.

539 (d) *Nuisance abatement.* This article shall not be construed to conflict with the public  
540 nuisance abatement process in accordance with chapter 2, article VII, of this Code.

541 (e) *Exemptions.* This article shall not be construed to apply to property owned by the city  
542 or any other governmental entity.

543 (f) *Provision of this article supplement.* Nothing in this article shall be construed to limit  
544 the authority of the city to collect special assessments by any other method according  
545 to law.

546

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

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553 Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict  
554 herewith are hereby repealed to the extent of such conflict.

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

Section 6. Effective Date. This Ordinance shall become effective on ten (10) days after passage.

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

- Mayor Pam Triolo \_\_\_\_\_
- Vice Mayor Scott Maxwell \_\_\_\_\_
- Commissioner Omari Hardy \_\_\_\_\_
- Commissioner Andy Amoroso \_\_\_\_\_
- 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 Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

- Mayor Pam Triolo \_\_\_\_\_
- Vice Mayor Scott Maxwell \_\_\_\_\_
- Commissioner Omari Hardy \_\_\_\_\_
- Commissioner Andy Amoroso \_\_\_\_\_
- Commissioner Herman Robinson \_\_\_\_\_

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

LAKE WORTH CITY COMMISSION

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

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

599

600 APPROVED AS TO FORM AND  
601 LEGAL SUFFICIENCY:

602

603

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

605 Glen J. Torcivia

606 City Attorney

607 /phr

608

609

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611

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# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** January 7, 2020

**DEPARTMENT:** Water & Electric Utilities

**TITLE:**

Utility Easements and a Bill of Sale by and between Adopt-A-Family of the Palm Beaches, Inc. and the City of Lake Worth Beach

**SUMMARY:**

Adopt-A-Family of the Palm Beaches will dedicate two separate Utility Easements and Bill of Sale to the City of Lake Worth Beach in accordance with the conditions of approval of the 3<sup>rd</sup> Avenue Homes Building Department Permit.

**BACKGROUND AND JUSTIFICATION:**

Adopt-A-Family of the Palm Beaches is in the process constructing a multifamily complex at 1711 3<sup>rd</sup> Ave N. The project site is planned to help single mothers on restricted incomes. Improvements to the water and sewer system included private service plumbing and fire lines. To meet a condition required by Palm Beach County Fire Marshall a fire hydrant assembly was required at the corner of 3<sup>rd</sup> Ave N and N. A St. By the Bill of Sale, the City of Lake Worth Beach will own and maintain water utility located in the public right of way and the fifteen-foot wide Utility Easement.

In addition, existing power service and overhead lines ran through the middle of this property. There were improvements that made some of the overhead lines underground since they could not be easily relocated. An easement was required to be dedicated for these utilities.

The easements are dedicated to provide unrestricted access to the City of Lake Worth Beach for all associated utility maintenance, repair and new installations. This item provides for both legal ownership and access to the water and electric systems.

**MOTION:**

Move to approve/disapprove the Utility Easement and Bill of Sale between Adopt-A-Family of the Palm Beaches, Inc. and the City of Lake Worth Beach.

**ATTACHMENT(S):**

Fiscal Impact Analysis – Not Applicable

Utility Easement

Utility Easement

Bill of Sale

Map

Return to:  
City of Lake Worth Beach  
City Clerk  
7 North Dixie Hwy.  
Lake Worth Beach, FL 34460

### UTILITY EASEMENT

THIS UTILITY EASEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **ADOPT-A-FAMILY OF THE PALM BEACHES, INC.** (“Grantor”) and **CITY OF LAKE WORTH BEACH**, a Florida municipal corporation (“City”).

### WITNESSETH

WHEREAS, the Grantor is the owner of property generally located at 1711 3rd Avenue North, Lake Worth Beach, Florida, and as legally described in Exhibit “A” attached hereto and incorporated herein (the “Property”); and

WHEREAS, the City desires an unrestricted and nonexclusive easement for public utility purposes through the Property as described and mapped in Exhibit “B” attached hereto and incorporated herein (the “Easement Area”); and

WHEREAS, the public utilities to be placed in the Easement Area may provide services to and from the Property and other properties which may or may not abut and be contiguous to the Easement Area; and

WHEREAS, the Grantor is willing to grant such easement.

NOW, THEREFORE, for and in consideration of the mutual covenants and other valuable consideration, the sufficiency and receipt of which is acknowledged by Grantor and the City, the Grantor grants unto the City, its licensees, agents, successors and assigns:

A perpetual, unrestricted and nonexclusive easement in, over, under, through, upon and across the Easement Area for the purpose of providing utility services to and from properties or lands or maintain the same, which may include the Property, also for the City to provide utility service to properties which may not be contiguous to the Easement Area, including the right to lay, or cause to be laid, and to maintain utility pipes, mains, appurtenances and devices; to maintain, repair, rebuild, operate and control utility transmission lines; the right to clear said Easement Area and keep it clear of brush, trees, and permanent structures and fire hazards; together with all rights of ingress and egress necessary for the full and complete use, occupation, and enjoyment of the Easement Area hereby granted, and all rights and privileges incident thereto; and, the permanent, full and free right and authority to own, construct, operate, maintain, repair, install, rebuild and replace utility facilities within the Easement Area.

TO HAVE AND TO HOLD the said Easement, unto the City, its licensees, agents, successors and assigns forever. It being expressly understood, however, that in the event the City, its licensees, successors and assigns, abandons or vacates the easement herein granted, that the same shall revert back to Grantor, its heirs, successors or assigns.

By accepting this Easement, the City agrees: (a) to perform all work undertaken by the City within the Easement Area in a good and workmanlike manner and to promptly complete all work within the Easement Area; (b) to restore any of the Property disturbed by work undertaken by the City for purposes of construction, removal, demolition and/or maintenance to its condition that existed prior to the commencement of such work; (c) to not unreasonably interfere with the use of the Property by Grantor or any of Grantor's tenants, invitees or guests; and (d) to be responsible for all costs associated with the City's construction, removal, demolition and/or maintenance pursuant to this Easement.

Signed, sealed and delivered  
In the presence of:

Teresa Vazquez  
Signature of Witness

TERESA VAZQUEZ  
Printed Name of Witness

Victoria Uhlman  
Signature of Witness

Victoria Uhlman  
Printed Name of Witness

Matthew Constantine (Owner)

Print Name: MATTHEW CONSTANTINE  
Print Title: CEO

[Corporate Seal]

STATE OF FLORIDA )  
COUNTY OF Palm Beach )

The foregoing instrument was acknowledged before me this 21st day of November 2019 by Matthew Constantine, who is personally known to me or who has produced Identification as identification and who did not take an oath.



Maria Evangelista  
Notary Public

The City of Lake Worth Beach accepted the foregoing Easement on \_\_\_\_\_, 20\_\_.

City of Lake Worth Beach

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

ATTEST:

Approved as to form and legal sufficiency:

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

\_\_\_\_\_  
Glen Torcivia, City Attorney

BT  
11/21/19

**EXHIBIT "A"**  
Legal Description of Property

**DESCRIPTION**

PARCEL 2:

THE WEST 50 FEET OF THE NORTH 95 FEET OF LOT 2, BLOCK 34, SAWYER'S SUBDIVISION OF THE WEST HALF OF SECTION 21, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.  
CONTAINING 4,749.7 SQUARE FEET/0.1090 ACRES MORE OR LESS.

PARCEL 3:

THE EAST 50 FEET OF THE NORTH 150 FEET OF LOT 2, BLOCK 34, SAWYER'S SUBDIVISION OF THE WEST HALF OF SECTION 21, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.  
CONTAINING 7,500.0 SQUARE FEET/0.1722 ACRES MORE OR LESS.

PARCEL 4:

LOT 4 AND 5, LESS THE EAST 5 FEET THEREOF, OF SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.  
CONTAINING 7,804.8 SQUARE FEET/0.1792 ACRES MORE OR LESS.

PARCEL 5:

LOTS 2 AND 3, LESS THE EAST 5 FEET THEREOF, SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.  
CONTAINING 8,170.1 SQUARE FEET/0.1876 ACRES MORE OR LESS.

PARCEL 6:

LOT 1, LESS THE EAST 5 FEET THEREOF, SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.  
CONTAINING 4,750.0 SQUARE FEET/0.109 ACRES MORE OR LESS.

TOTAL AREA OF ALL PARCELS COMBINED = 32,974.7 SQUARE FEET/0.7570 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

**EXHIBIT "B"**

Legal Description and Survey of Easement Area

# PERIMETER

947 Clint Moore Road  
Boca Raton, Florida 33487

SURVEYING & MAPPING  
Certificate of Authorization No. LB7264

Tel: (561) 241-9988  
Fax: (561) 241-5182

## SKETCH AND LEGAL DESCRIPTION NOT A SURVEY

### ADOPT-A-FAMILY - UTILITY EASEMENT

#### LEGAL DESCRIPTION

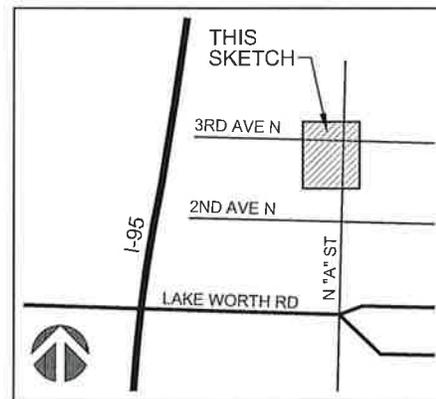
A PORTION OF LOT 1 "SUBDIVISION OF LOT 1, BLOCK 34" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 11, AT PAGE 27, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER SAID LOT 1; THENCE SOUTH 00°20'23" EAST, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 22.86 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 90°00'00" WEST, A DISTANCE OF 7.00 FEET; THENCE NORTH 00°20'23" WEST, A DISTANCE OF 19.25 FEET TO A POINT ON THE ARC OF A CIRCULAR CURVE TO THE RIGHT AT WHICH THE RADIUS BEARS SOUTH 38°03'32" WEST; THENCE SOUTHEASTERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 18.00 FEET AND A CENTRAL ANGLE OF 52°19'48", A DISTANCE OF 16.44 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00°20'23" EAST, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

SAID LAND SITUATE IN THE CITY OF LAKE WORTH, PALM BEACH COUNTY, FLORIDA.

#### NOTES

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. NO SEARCH OF THE PUBLIC RECORDS WAS MADE IN THE PREPARATION OF THIS SKETCH AND DESCRIPTION.



**LOCATION MAP**

(NOT TO SCALE)

#### ABBREVIATIONS

Ⓞ	=	CENTERLINE
Δ	=	DELTA(CENTRAL ANGLE)
L	=	ARC LENGTH
P.B.C.R.	=	PALM BEACH COUNTY RECORDS
P.B.	=	PLAT BOOK
PG.	=	PAGE
R	=	RADIUS
R/W	=	RIGHT OF WAY

#### SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH AND DESCRIPTION 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.

*(Signature)*  
JEFF S. MODAPP  
SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. LS5111

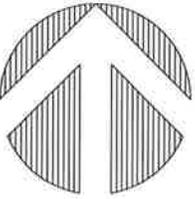
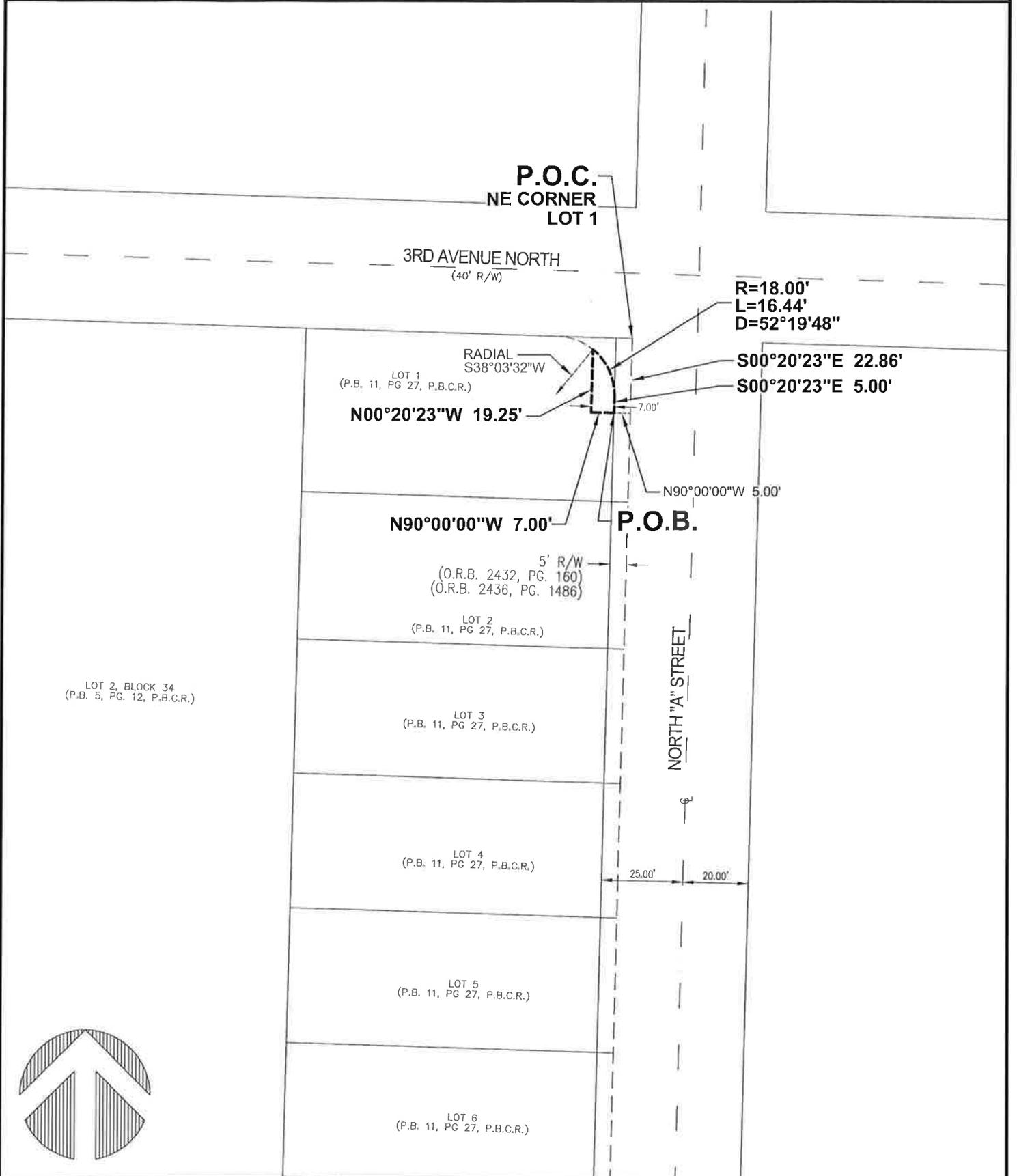
PROJECT NAME: ADOPT-A-FAMILY	DATE: 09/17/2019
JOB NO. 18219	DWG BY: AJR
	CK'D BY: JSH
	SHEET 1 OF 2

# PERIMETER

947 Clint Moore Road  
Boca Raton, Florida 33487

SURVEYING & MAPPING  
Certificate of Authorization No. LB7264

Tel: (561) 241-9988  
Fax: (561) 241-5182



JOB NO. 18219	PROJECT NAME: ADOPT-A-FAMILY	DWG BY: AJR	SCALE: 1" = 40'	
		CK'D BY: JSH	DATE: 09/09/2019	SHEET 2 OF 2

Return to:  
City of Lake Worth Beach  
Attn: City Clerk's Office  
7 N. Dixie Highway  
Lake Worth Beach, FL 33460

**BILL OF SALE**

**BY** Adopt-A-Family of the Palm Beaches, Inc. **TO THE CITY OF LAKE WORTH BEACH**

**KNOW ALL MEN BY THESE PRESENTS** that Adopt-A-Family of the Palm Beaches, Inc., a Florida company (hereinafter "Seller") for the sum of TEN and No/100 Dollars (\$10.00) and other good and valuable considerations paid by THE CITY OF LAKE WORTH BEACH, a Florida municipal corporation (hereinafter "Buyer"), the receipt of which is hereby acknowledged by Seller, has granted, bargained, sold, transferred, assigned, set over and delivered, and by these presents does grant, bargain, sell, transfer, assign, set over and deliver, unto Buyer, its successors and assigns, the following:  
2-6x6 wet taps w/ Tapping Valves, 115' of 6" DIP, 6-6" MJ 45 bends w/ Mega lugs, 2-6" Gate valves on edge of sidewalk.

\_\_\_\_\_ and related assets as located in Exhibit "A", attached hereto and made a part hereof .

Seller represents for itself, its successors and assigns that all expenses in connection with construction and installation of the Water System system have been paid in full and the same is free from liens and debts. Seller agrees to indemnify and hold Buyer harmless from any lawful claims of any party for labor and/or materials arising out of construction and installation of the system.

Seller further represents for itself, its successors and assigns that it has exclusive ownership, possession, control and marketable title to the Water System System and the System is subject to no mortgage, pledge, lien, charge, security interest, encumbrance or restriction.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, this Bill of Sale from Adopt-A-Family of The Palm the City of Lake Worth Beach shall be effective as of the 11 day of December, 2019.

WITNESSES:

SELLER: Matthew Constantine

Victoria Uhlman  
Witness Signature

Matthew V. Constantine, CEO, Adopt-A-Family

Victoria Uhlman  
Print Name of Witness above

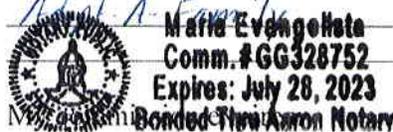
Jodi A MacNess  
Witness Signature

[Corporate Seal]

Jodi A MacNess  
Print Name of Witness above

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 11th day of December, 2019, by Matthew Constantine as CEO of Adopt-A-Family, who is personally known to me or who produced Comm. #GG328752 and \_\_\_\_\_ as identification.



Maria Evangelista  
Notary Signature

The City of Lake Worth Beach accepted the foregoing Bill of Sale on \_\_\_\_\_, 20

City of Lake Worth Beach

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

ATTEST:

Approved as to form and legal sufficiency:

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

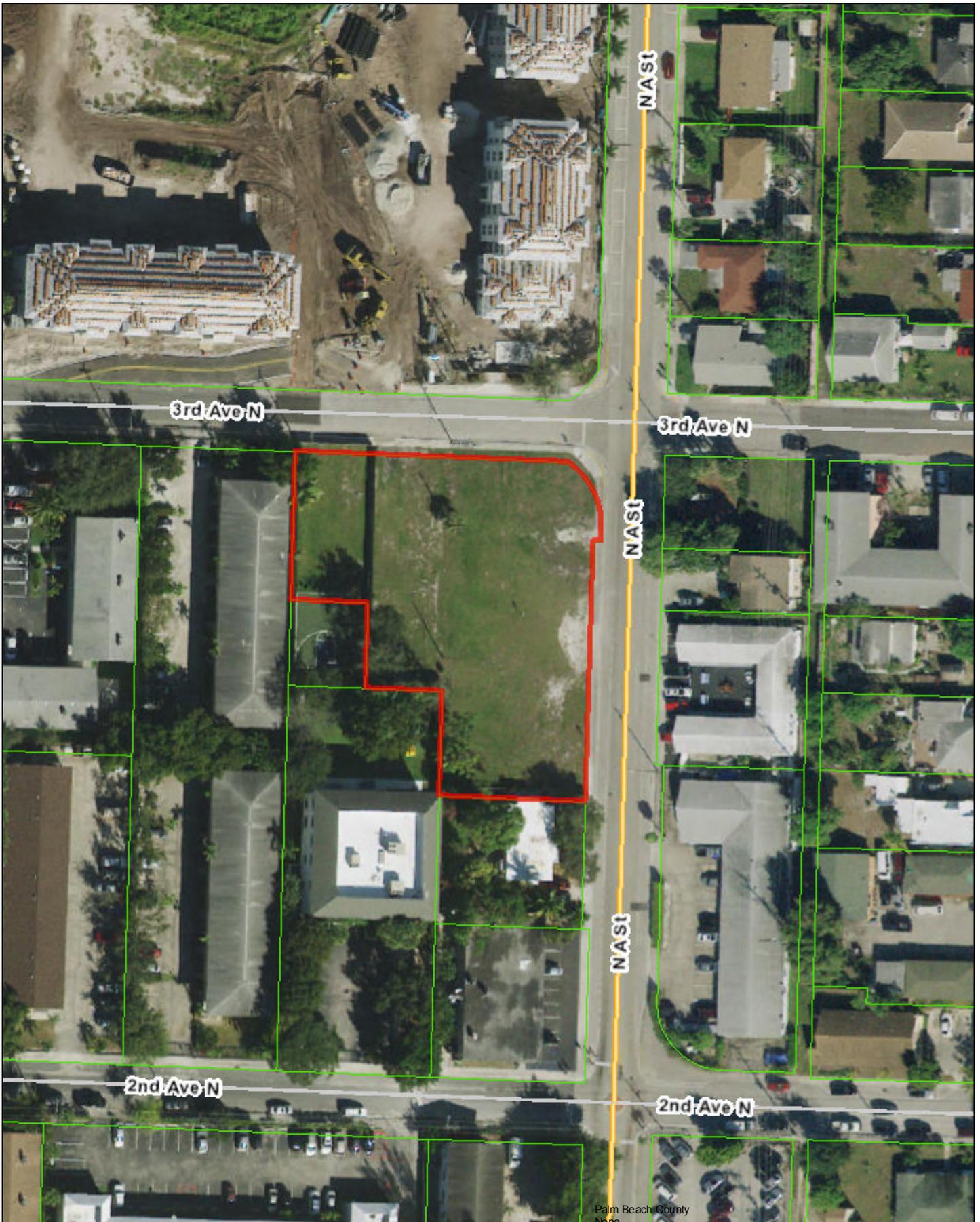
\_\_\_\_\_  
Glen J. Torcivia, City Attorney

**EXHIBIT "A"**

**RECORD OF ASSETS**

2-6x6 Wet Taps w/ Tapping Valves, 115' of 6" DIP, 6-6" MJ 45 bends w/ Mega Lugs, 2-6" Gate valves on edge of sidewalk.

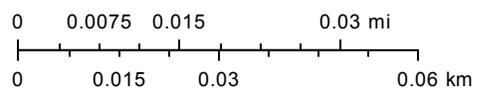
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Palm Beach County  
None

December 2, 2019

1:1,128



Return to:  
City of Lake Worth Beach  
City Clerk  
7 North Dixie Hwy.  
Lake Worth Beach, FL 34460

### UTILITY EASEMENT

THIS UTILITY EASEMENT is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between **ADOPT-A-FAMILY OF THE PALM BEACHES, INC.** (“Grantor”) and **CITY OF LAKE WORTH BEACH**, a Florida municipal corporation (“City”).

### WITNESSETH

WHEREAS, the Grantor is the owner of property generally located at 1711 Third Avenue North, Lake Worth Beach, Florida, and as legally described in Exhibit “A” attached hereto and incorporated herein (the “Property”); and

WHEREAS, the City desires an unrestricted and nonexclusive easement for public utility purposes through the Property as described and mapped in Exhibit “B” attached hereto and incorporated herein (the “Easement Area”); and

WHEREAS, the public utilities to be placed in the Easement Area may provide services to and from the Property and other properties which may or may not abut and be contiguous to the Easement Area; and

WHEREAS, the Grantor is willing to grant such easement.

NOW, THEREFORE, for and in consideration of the mutual covenants and other valuable consideration, the sufficiency and receipt of which is acknowledged by Grantor and the City, the Grantor grants unto the City, its licensees, agents, successors and assigns:

A perpetual, unrestricted and nonexclusive easement in, over, under, through, upon and across the Easement Area for the purpose of providing utility services to and from properties or lands or maintain the same, which may include the Property, also for the City to provide utility service to properties which may not be contiguous to the Easement Area, including the right to lay, or cause to be laid, and to maintain utility pipes, mains, appurtenances and devices; to maintain, repair, rebuild, operate and control utility transmission lines; the right to clear said Easement Area and keep it clear of brush, trees, and permanent structures and fire hazards; together with all rights of ingress and egress necessary for the full and complete use, occupation, and enjoyment of the Easement Area hereby granted, and all rights and privileges incident thereto; and, the permanent, full and free right and authority to own, construct, operate, maintain, repair, install, rebuild and replace utility facilities within the Easement Area.

TO HAVE AND TO HOLD the said Easement, unto the City, its licensees, agents, successors and assigns forever. It being expressly understood, however, that in the event the City, its licensees, successors and assigns, abandons or vacates the easement herein granted, that the same shall revert back to Grantor, its heirs, successors or assigns.

By accepting this Easement, the City agrees: (a) to perform all work undertaken by the City within the Easement Area in a good and workmanlike manner and to promptly complete all work within the Easement Area; (b) to restore any of the Property disturbed by work undertaken by the City for purposes of construction, removal, demolition and/or maintenance to its condition that existed prior to the commencement of such work; (c) to not unreasonably interfere with the use of the Property by Grantor or any of Grantor's tenants, invitees or guests; and (d) to be responsible for all costs associated with the City's construction, removal, demolition and/or maintenance pursuant to this Easement.

Signed, sealed and delivered  
In the presence of:

[Signature]  
Signature of Witness  
Jessica Pagan  
Printed Name of Witness

[Signature] (Owner)

Print Name: Matthew Constantine  
Print Title: CEO

[Signature]  
Signature of Witness

[Corporate Seal]

Victoria Uhlman  
Printed Name of Witness

STATE OF FLORIDA )  
COUNTY OF Palm Beach )

The foregoing instrument was acknowledged before me this 8th day of November 2023, Matthew Constantine who is personally known to me or who has produced Comm. #GG328752 as identification and who did not take an oath.



Comm. #GG328752  
Expires: July 28, 2023  
Bonded Thru Aaron Notary

[Signature]  
Notary Public

The City of Lake Worth Beach accepted the foregoing Easement on \_\_\_\_\_, 20\_\_.

City of Lake Worth Beach

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

ATTEST:

Approved as to form and legal sufficiency:

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

[Signature]  
Glen Torcivia, City Attorney

**EXHIBIT "A"**  
Legal Description of Property

**DESCRIPTION**

PARCEL 2:

THE WEST 50 FEET OF THE NORTH 95 FEET OF LOT 2, BLOCK 34, SAWYER'S SUBDIVISION OF THE WEST HALF OF SECTION 21, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 4,749.7 SQUARE FEET/0.1090 ACRES MORE OR LESS.

PARCEL 3:

THE EAST 50 FEET OF THE NORTH 150 FEET OF LOT 2, BLOCK 34, SAWYER'S SUBDIVISION OF THE WEST HALF OF SECTION 21, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 7,500.0 SQUARE FEET/0.1722 ACRES MORE OR LESS.

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LOT 4 AND 5, LESS THE EAST 5 FEET THEREOF, OF SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.

CONTAINING 7,804.8 SQUARE FEET/0.1792 ACRES MORE OR LESS.

PARCEL 5:

LOTS 2 AND 3, LESS THE EAST 5 FEET THEREOF, SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.

CONTAINING 8,170.1 SQUARE FEET/0.1876 ACRES MORE OR LESS.

PARCEL 6:

LOT 1, LESS THE EAST 5 FEET THEREOF, SUBDIVISION OF LOT 1, BLOCK 34, 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 11, PAGE 27.

CONTAINING 4,750.0 SQUARE FEET/0.109 ACRES MORE OR LESS.

TOTAL AREA OF ALL PARCELS COMBINED = 32,974.7 SQUARE FEET/0.7570 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

**EXHIBIT "B"**

Legal Description and Survey of Easement Area

# PERIMETER

947 Clint Moore Road  
Boca Raton, Florida 33487

SURVEYING & MAPPING  
Certificate of Authorization No. LB7264

Tel: (561) 241-9988  
Fax: (561) 241-5182

## SKETCH AND LEGAL DESCRIPTION NOT A SURVEY - UTILITY EASEMENT

### LEGAL DESCRIPTION

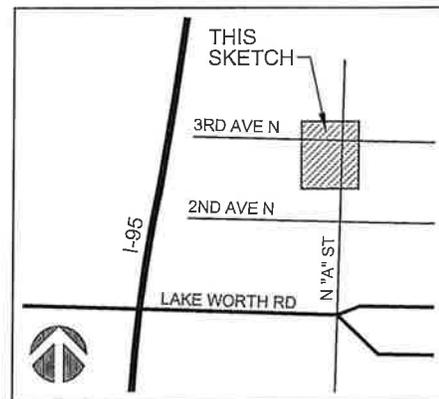
A PORTION OF LOT 2 BLOCK 34, "SAWYER'S SUBDIVISION" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, AT PAGE 12, AND A PORTION OF LOTS 1, 2, 3, 4, 5, "SUBDIVISION OF LOT 1, BLOCK 34" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 11, AT PAGE 27, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHEAST CORNER SAID LOT 2 BLOCK 34; THENCE NORTH 90°00'00" WEST, ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 5.00 FEET; THENCE SOUTH 00°20'23" EAST, ALONG A LINE 5.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 2 BLOCK 34, A DISTANCE OF 150.00 FEET; THENCE NORTH 90°00'00" EAST, A DISTANCE OF 5.00 FEET; THENCE SOUTH 00°20'23" EAST ALONG THE WEST LINE OF SAID LOTS 4 AND 5; A DISTANCE OF 68.16 FEET; THENCE NORTH 90°00'00" EAST, ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 5.00 FEET; THENCE NORTH 00°20'23" WEST, ALONG A LINE 5.00 FEET EAST OF AND PARALLEL WITH THE EAST SIDE OF SAID LOTS 1, 2, 3, 4, 5, A DISTANCE OF 218.00 FEET; THENCE NORTH 90°00'00" WEST, ALONG THE NORTH LINE OF SAID LOT 1; A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN THE CITY OF LAKE WORTH, PALM BEACH COUNTY, FLORIDA.

### NOTES

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. NO SEARCH OF THE PUBLIC RECORDS WAS MADE IN THE PREPARATION OF THIS SKETCH AND DESCRIPTION.



**LOCATION MAP**

(NOT TO SCALE)

### ABBREVIATIONS

☉	=	CENTERLINE
P.B.C.R.	=	PALM BEACH COUNTY RECORDS
P.B.	=	PLAT BOOK
PG.	=	PAGE
R/W	=	RIGHT OF WAY

### SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH AND DESCRIPTION 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. Hojapp*  
JEFF S. HOJAPP  
SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. LS5111

PROJECT NAME: ADOPT-A-FAMILY	DATE: 09/17/2019
JOB NO. 18219	DWG BY: AJR
	CK'D BY: JSH
	SHEET 1 OF 2

# PERIMETER

947 Clint Moore Road  
Boca Raton, Florida 33487

SURVEYING & MAPPING  
Certificate of Authorization No. LB7264

Tel: (561) 241-9988  
Fax: (561) 241-5182

**P.O.B.**  
**NE CORNER**  
**LOT 2 BLOCK 34**

**N90°00'00"W 5.00'**

**3RD AVENUE NORTH**  
(40' R/W)

**N90°00'00"W 5.00'**

LOT 1  
(P.B. 11, PG 27, P.B.C.R.)

5.00' 5.00'

**S00°20'23"E 150.00'**

5' R/W  
(O.R.B. 2432, PG. 160)  
(O.R.B. 2436, PG. 1486)

LOT 2  
(P.B. 11, PG 27, P.B.C.R.)

**N00°20'23"W 218.00'**

LOT 2, BLOCK 34  
(P.B. 5, PG. 12, P.B.C.R.)

LOT 3  
(P.B. 11, PG 27, P.B.C.R.)

**NORTH "A" STREET**

LOT 3, BLOCK 34  
(P.B. 5, PG. 12, P.B.C.R.)

LOT 4  
(P.B. 11, PG 27, P.B.C.R.)

**N90°00'00"E 5.00'**

25.00' 20.00'

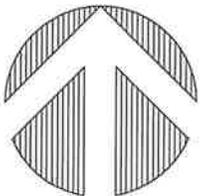
**S00°20'23"E 68.16'**

LOT 5  
(P.B. 11, PG 27, P.B.C.R.)

**N90°00'00"E 5.00'**

LOT 6  
(P.B. 11, PG 27, P.B.C.R.)

LOT 7  
(P.B. 11, PG 27, P.B.C.R.)



JOB NO. 18219	PROJECT NAME: ADOPT-A-FAMILY	DWG BY: AJR	SCALE: 1" = 40'
		CK'D BY: JSH	DATE: 09/09/2019
			SHEET 2 OF 2

# EXECUTIVE BRIEF ELECTRIC UTILITY MEETING

**AGENDA DATE:** January 7, 2020

**DEPARTMENT:** Electric Utility

**TITLE:**

First Amendment to Work Order No. 1 with The L.E. Myers Co., for Phase -1 1W13 System Hardening

**SUMMARY:**

This First Amendment to Work Order No. 1 authorizes The L.E. Myers Co, to complete construction services for Phase – 1 of the 1W13 System Hardening project in the amount not to exceed \$125,512.46.

**BACKGROUND AND JUSTIFICATION:**

On April 2, 2019, the City Commission approved Work Order No. 1 with The L.E. Myers Co. for System Hardening construction services for Phase 1 of the 1W13 circuit.

The System Hardening and Reliability Improvement Project (SHRIP) plan development and construction for Phase 1 of the 1W13 circuit included consideration for optimal construction costs and feasibility, performing wind-loading analysis, system reliability, future expansion, maintenance costs and safety. Project benefits include; increased resiliency to wind-storm events, increase in system capacity, decrease in overloaded circuits and equipment and reduction in maintenance costs.

During the construction phase of the 1W13 System Hardening project, design modifications were required to the distribution plans and pole framing standards to facilitate construction and address future maintenance concerns. The design changes required the purchase of additional materials where delays were incurred due to material lead times.

**MOTION:**

Move to approve/disapprove First Amendment to Work Order No. 1 to The L.E. Myers Co. for Phase 1 – 1W13 System Hardening construction services at a cost not to exceed \$125,512.46.

**ATTACHMENT(S):**

Fiscal Impact Analysis

First Amendment to L.E. Myers Work Order No. 1

## FISCAL IMPACT ANALYSIS

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

Fiscal Years	2020	2021	2022	2023	2024	
Capital Expenditures	\$125,513		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	
Net Fiscal Impact	\$125,513	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: Recommended source of funds for FY2020 has been identified in account No. 401-6034-531.63-15 and is pending FY 19 fund roll-over.

Account Number	Account Description	Project Number	FY2020 Budget	Current Balance	Agenda Expenditure	Balance
401-6034-531.63-15	Improve Other Than Build/ Infrastructure	SH1802	\$ 000	\$1,239,245	-\$125,513	\$1,113,732

### C. Department Fiscal Review: Edward Liberty, Electric Utility Director,

## FIRST AMENDMENT TO WORK ORDER NO. 1

### Additional Construction Services for the 1W13 Feeder Hardening

**FIRST AMENDMENT TO WORK ORDER NO. 1** for System Hardening and Reliability Improvements ("Amendment" hereafter) is made on the day of \_\_\_\_\_ 2020, 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: **Phase 1 – 1W13 Hardening** (the "Project"). The Project is more specifically described in the plans prepared by Power Engineers dated 10/16/2019 which are incorporated herein by reference.

#### **2.0 Scope**

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

#### **3.0 Schedule and Liquidated Damages**

Substantial completion of all services and work under this Amendment shall be within 110 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 140 calendar days from the Effective Date of this Amendment. The Effective Date of this Amendment is the date following the parties' execution of this Amendment 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 Amendment, 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 Amendment and the Contract Documents, and that the City will suffer financial loss if the services and work described in this Amendment and the Contract Documents are not completed within the times specified in this Amendment. 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 1 dollar (\$1 .00) for each day that expires after the time specified in this Amendment.

**4.0 Compensation**

This Amendment is issued for a not to exceed amount of \$ 125,512.16. The attached Change Order identifies all costs and expenses included in the lump sum, not to exceed amount.

The following Direct Purchases are to be made under this Amendment by the City:  
None

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**5.0 Project Manager**

The Project Manager for the Contractor is Raymond Richards, phone: 407-466-4663; email: RRichards@mygroup.com; and, the Project Manager for the City is Jean St. Simon, phone: 561-586-1699; email: jstsimon@lakeworth.org.

**6.0 Progress Meetings**

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

**7.0 Contractor's Representations**

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

7.1 Contractor has familiarized itself with the nature and extent of the Contract Documents including this Amendment, 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 Amendment price within the Amendment 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 Amendment price, within the Amendment 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 Amendment will be in accordance with this Amendment and the other Contract Documents. The Contractor warrants that (a) all materials and parts supplied under this Amendment 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 Amendment 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 First Amendment to Work Order No. 1 is pursuant to the System Hardening and Reliability Improvements Contract for between the City of Lake Worth and the Contractor, dated August 15, 2018 ("Contract" hereafter). If there are any conflicts between the terms and conditions of this Amendment 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 First Amendment to Work Order No. 1 as of the day and year set forth above.

**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  
/mpa

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

CONTRACTOR: The L.E. Myers Co.

[Corporate Seal]

By: \_\_\_\_\_  
Print Name: RAYMOND RICHARDS  
Title: DISTRICT MANAGER

STATE OF Florida )  
COUNTY OF Lake

The foregoing instrument was acknowledged before me this 23rd day of December 2019 by Raymond Richards District Manager (title), of The L.E. Myers Co., a Florida corporation 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: Elizabeth Sue Griffiths  
My commission expires: 2/7/22



**EXHIBIT "1"**  
**Contractors Change Order**



ELECTRIC UTILITIES DEPARTMENT  
1900 2<sup>ND</sup> AVENUE NORTH  
LAKE WORTH BEACH, FL 33461

## CHANGE ORDER

**Project Number:** SH1802 **Contractor:** The L.E. Myers Co.

**Project Name:** Phase 1 – 1W13 System Hardening

**Change Order Number:** 1

**Change Order Effective Date:** \_\_\_\_\_ **Contractor Phone:** 407-466-4663

**Change Order Type:** Lump Sum **Existing Purchase Order Number:** 180429

**Description of Change:**

Additional work to complete Phase 1 – 1W13 System Hardening - See attached Change Order Log

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Item No.	Description	Qty	Unit	Unit Price	Increase in Contract Price
1	Change Order #1- Loss time from 9-16-19 to 9-20-19 for engineering rework and supply changes to new engineering specs.	1	LS		\$12,354.08
2	Change Order #2- Change in scope of work. Engineering redesign of West Circuit #13	1	LS		\$33,000
3	Change Order #3- 32 poles revisited for unavailable materials per unit price \$2504.94.	32	EA	\$2,504.94	\$80,158.08
4					
5					
6					
7					
8					
9					
10					
	<b>Total Amount:</b>				<b>\$ 125,512.16</b>

Price of Original Contract: \$1,585,278.42 (authorized by Commission on 4/2/19 Agenda Item (# 13.E.1 )

Current Price of Contract (including Change Orders): \$1,585,278.42

Price of Current Change Order: \$ 125,512.16

New Contract Price: \$1,710,790.58

Basis of Price Change:  Unit Price  Time & Material  Lump Sum

Contract Time Change:

No Change  Extended  Decreased by 140 work days

*The CONTRACTOR and the OWNER agree that this CHANGE ORDER represents the complete agreement of the parties with respect to these matters as of the date of this CHANGE ORDER. By approving this Change Order, the CONTRACTOR releases any and all claims that it may have against the OWNER under the subject contract including, but not limited to claims for equitable adjustments, which occurred or accrued prior to the effective date of this CHANGE ORDER.*

*This Change Order may be executed in counterparts and is not effective until approved by either the City Manager or City Commission (as designated on the last page of this Change Order).*

Reviewed and Accepted by: THE L.E. MYERS CO.  
(Contractor Name)

[Signature] DISTRICT MANAGER 12-23-19  
Contractor Representative (Signature) Title Date

Approved by: [Signature] 12/23/19  
Director Date



IN WITNESS WHEREOF, the OWNER/CITY has approved this Change Order No. 1 to the Phase 1 – 1W13 Hardening Project on \_\_\_\_\_, 2020.

**CITY OF LAKE WORTH BEACH, FLORIDA**

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

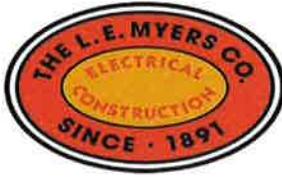
ATTEST:

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

Approved as to form and legal sufficiency:

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





The L.E. Myers Company  
 24925 State Road 46  
 Sorrento, FL 32776  
 (352) 735-8432

# INVOICE

LEM CONTRACT #: 33592  
 STATE CODE: 10 R/A 1840

INVOICE #: 1700161  
 DATE: September 27, 2019

CUSTOMER NAME: City of Lake Worth Beach  
 CUSTOMER #: 518210  
 CONTRACT/PO #: 18-206  
 JOB NAME: System Hardening & Reliability Improvements  
 WR /WO #: 1

CUSTOMER CONTACT INFO  
 City of Lake Worth Beach  
 1900 2nd Avenue North  
 Lake Worth Beach, FL 33460  
 pnicholas@lakeworthbeachfl.gov

ORIGINAL CONT/PO/CO AMOUNT: \$ 1,585,278.42 PROJECT % COMPLETE: \_\_\_\_\_

### DETAILS / DESCRIPTION OF WORK COMPLETED FOR THIS INVOICE:

Change Order- Loss time from 9-16-19 to 9-20-19 for engineering rework and supply changes to new engineering specs.

% OF WORK COMPLETED THIS INVOICE: \_\_\_\_\_

TOTAL INVOICE AMOUNT: \$ 12,354.08

RETAINAGE AMOUNT: \_\_\_\_\_

**CURRENT AMOUNT DUE: \$ 12,354.08**

**REMIT TO ADDRESS: 22386 NETWORK PLACE, CHICAGO, IL 60673-1223 < TERMS: NET 15 DAYS >**

#### PRIOR INVOICE SUMMARY:

INVOICE #	% COMPLETE	AMOUNT
1700153	0%	\$ 79,263.92
x	0%	
x	0%	\$ -
TOTAL:	5%	\$ 79,263.92

#### CHANGE ORDER SUMMARY:

INVOICE #	CO #	AMOUNT
x	x	\$ -
TOTAL:		\$ -



The L.E. Myers Company  
 24925 State Road 46  
 Sorrento, FL 32776  
 (352) 735-8432

# INVOICE

LEM CONTRACT #: 33592  
 STATE CODE: 10 R/A 1840

INVOICE #: 1700167  
 DATE: November 13, 2019

CUSTOMER NAME: City of Lake Worth Beach  
 CUSTOMER #: 518210  
 CONTRACT/PO #: 18-206  
 JOB NAME: System Hardening & Reliability Improvements  
 WR /WO #: 1

CUSTOMER CONTACT INFO  
 City of Lake Worth Beach  
 1900 2nd Avenue North  
 Lake Worth Beach, FL 33460  
 pnicholas@lakeworthbeachfl.gov

ORIGINAL CONT/PO/CO AMOUNT: \$ 1,585,278.42

PROJECT % COMPLETE: \_\_\_\_\_

## DETAILS / DESCRIPTION OF WORK COMPLETED FOR THIS INVOICE:

Change Order #2- Change in scope of work. Engineering redesign of West Circuit #13.

% OF WORK COMPLETED THIS INVOICE: \_\_\_\_\_

TOTAL INVOICE AMOUNT: \_\_\_\_\_ \$ **33,000.00**

RETAINAGE AMOUNT: \_\_\_\_\_

**CURRENT AMOUNT DUE: \$ 33,000.00**

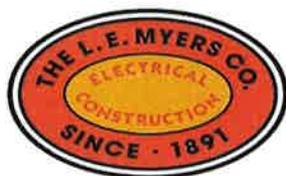
**REMIT TO ADDRESS: 22386 NETWORK PLACE, CHICAGO, IL 60673-1223 < TERMS: NET 15 DAYS >**

### PRIOR INVOICE SUMMARY:

INVOICE #	% COMPLETE	AMOUNT
1700153	5%	\$ 79,263.92
1700159	10%	\$ 158,527.84
1700166	20%	\$ 317,055.68
x	0%	\$ -
TOTAL:	35%	\$ 554,847.44

### CHANGE ORDER SUMMARY:

INVOICE #	CO #	AMOUNT
1700161	1	\$ 12,354.08
x	x	\$ -
TOTAL:		\$ 12,354.08



The L.E. Myers Company  
 24925 State Road 46  
 Sorrento, FL 32776  
 (352) 735-8432

# INVOICE

LEM CONTRACT #: 33592  
 STATE CODE: 10 R/A 1840

INVOICE #: 1700168  
 DATE: November 13, 2019

CUSTOMER NAME:	City of Lake Worth Beach	CUSTOMER CONTACT INFO
CUSTOMER #:	518210	City of Lake Worth Beach
CONTRACT/PO #:	18-206	1900 2nd Avenue North
JOB NAME:	System Hardening & Reliability Improvements	Lake Worth Beach, FL 33460
WR /WO #:	1	pnicholas@lakeworthbeachfl.gov

ORIGINAL CONT/PO/CO AMOUNT: \$ 1,585,278.42 PROJECT % COMPLETE: \_\_\_\_\_

### DETAILS / DESCRIPTION OF WORK COMPLETED FOR THIS INVOICE:

Change Order #3- 32 poles revisited for unavailable materials per unit price \$2504.94.

% OF WORK COMPLETED THIS INVOICE: \_\_\_\_\_

TOTAL INVOICE AMOUNT: \_\_\_\_\_ \$ **80,158.08**

RETAINAGE AMOUNT: \_\_\_\_\_

**CURRENT AMOUNT DUE: \$ 80,158.08**

**REMIT TO ADDRESS: 22386 NETWORK PLACE, CHICAGO, IL 60673-1223 < TERMS: NET 15 DAYS >**

PRIOR INVOICE SUMMARY:			CHANGE ORDER SUMMARY:		
INVOICE #	% COMPLETE	AMOUNT	INVOICE #	CO #	AMOUNT
1700153	5%	\$ 79,263.92	1700161	1	\$ 12,354.08
1700159	10%	\$ 158,527.84	1700167	2	\$ 33,000.00
1700166	20%	\$ 317,055.68	x	x	\$ -
x	0%	\$ -	x	x	\$ -
x	0%	\$ -	x	x	\$ -
x	0%	\$ -	x	x	\$ -
x	0%	\$ -	x	x	\$ -
x	0%	\$ -	x	x	\$ -
x	0%	\$ -	x	x	\$ -
TOTAL:	35%	\$ 554,847.44	TOTAL:		\$ 45,354.08