



**AGENDA**  
**CITY OF LAKE WORTH BEACH**  
**REGULAR CITY COMMISSION MEETING**  
**CITY HALL COMMISSION CHAMBER**  
**TUESDAY, APRIL 04, 2023 - 6:00 PM**

**ROLL CALL:**

**INVOCATION OR MOMENT OF SILENCE:** led by Commissioner Reinaldo Diaz

**PLEDGE OF ALLEGIANCE:** led by Vice Mayor Christopher McVoy

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

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

- A. [Micro-Communal Housing Units \(MCHUs\): Truly Affordable Housing for People Making Less Than \\$35,000 a Year presented by Taniel Koushakjian of Jetta Investment Company brought forward by Commissioner Diaz](#)
- B. Proclamation declaring April 2023 as Florida Water Professionals Month
- C. Proclamation declaring April 2023 as Water Conservation Month
- D. Proclamation declaring April 15-22, 2023 as National Dark Night Sky Week

**DESIGNATION OF APPOINTMENTS:**

- A. [Appointment of Vice Mayor and Vice Mayor Pro Tem](#)
- B. [Appointment of commissioners to various organizations:](#)
  - 1. [Transportation Planning Authority plus alternates](#)
  - 2. [Palm Beach County League of Cities](#)
  - 3. [Community Redevelopment Agency](#)
  - 4. [Neighborhood Association Presidents' Council](#)
  - 5. [Education Task Force](#)

**COMMISSION LIAISON REPORTS AND COMMENTS:**

**CITY MANAGER'S REPORT:**

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

**APPROVAL OF MINUTES:**

- A. [Regular Meeting - March 21, 2023](#)
- B. [Pre-Agenda Work Session - March 22, 2023](#)

**PUBLIC HEARINGS:**

- A. [Ordinance 2022-17 – Second Reading - Consideration of a Residential Urban Planned Development, Major Site Plan, Conditional Use Permit \(CUP\), and Sustainable Bonus Incentive Program \(SBIP\) requests for the project commonly referred to as “Residences at Lake Worth,” to construct three \(3\) mid-rise residential structures that are 5-stories in height with a total of 195 dwelling units. The sustainable bonus request is for an additional 3-stories in height.](#)
- B. [Ordinance 2023-02 - Second Reading - Amending Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Division 3 “Permits,” Section 23.2-39 “Affordable/Workforce Housing Program” to provide clarification on the combination of incentives, qualifications for affordability, participation in other entity programs, and providing additional affordability buy down provisions](#)
- C. [Ordinance 2023-03 & 2023-04 - Second Reading - A City-initiated small-scale Future Land Use Map \(FLUM\) amendment \(Ordinance 2023-03\) and a Zoning Map amendment \(Ordinance 2023-04\) on behalf of For The Children Inc \(Lessee\) located on City owned property at 1718 South Douglas Street](#)

**NEW BUSINESS:**

- A. [Continuing Contracts for Professional Services for Geotechnical Category](#)
- B. [Agreement with Stantec Consulting Services, Inc for Comprehensive Sustainability Analysis for the City for the FY 2024 Budget](#)
- C. [Resolution No. 08-2023 - FDOT Local Agency Program Agreement – ADA Improvements](#)
- D. [Construction Agreement with M&M Asphalt Maintenance, Inc. for the Harold Grimes Memorial Park Improvement Project Phase 1B – Parking Lot Resurfacing](#)
- E. [Ordinance No. 05-2023 – First Reading – Adopting a Single-Member Election Redistricting Map; Repealing Article II “Territorial Boundaries; Election Precincts,” Section 2 “Election Districts” of the Charter and Adopting a new Article II “Territorial Boundaries; Election Precincts,” Section 2 “Single-Member Election Districts” to reflect the Redistricting Map and its Boundaries](#)
- F. [Discussion of City Manager’s Annual Evaluation](#)

**CITY ATTORNEY’S REPORT:**

**UPCOMING MEETINGS AND WORK SESSIONS:**

April 12	Pre-Agenda Work Session @ 9 am
April 13	Work Session @ 6 pm
April 17	Work Session @ 5 pm
April 18	Regular Meeting @ 6 PM

**ADJOURNMENT:**

The City Commission has adopted Rules of Decorum for Citizen Participation (See Resolution No. 81-2022). The Rules of Decorum are posted within the City Hall Chambers, City Hall Conference Room, posted

online at: <https://lakeworthbeachfl.gov/government/virtual-meetings/>, and available through the City Clerk's office. Compliance with the Rules of Decorum is expected and appreciated.

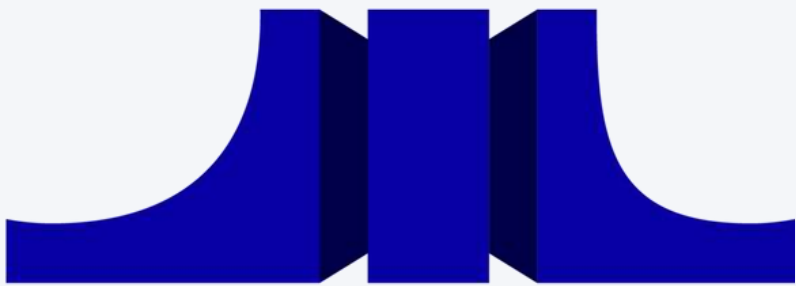
If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105)

# Micro-Communal Housing Units (MCHUs)

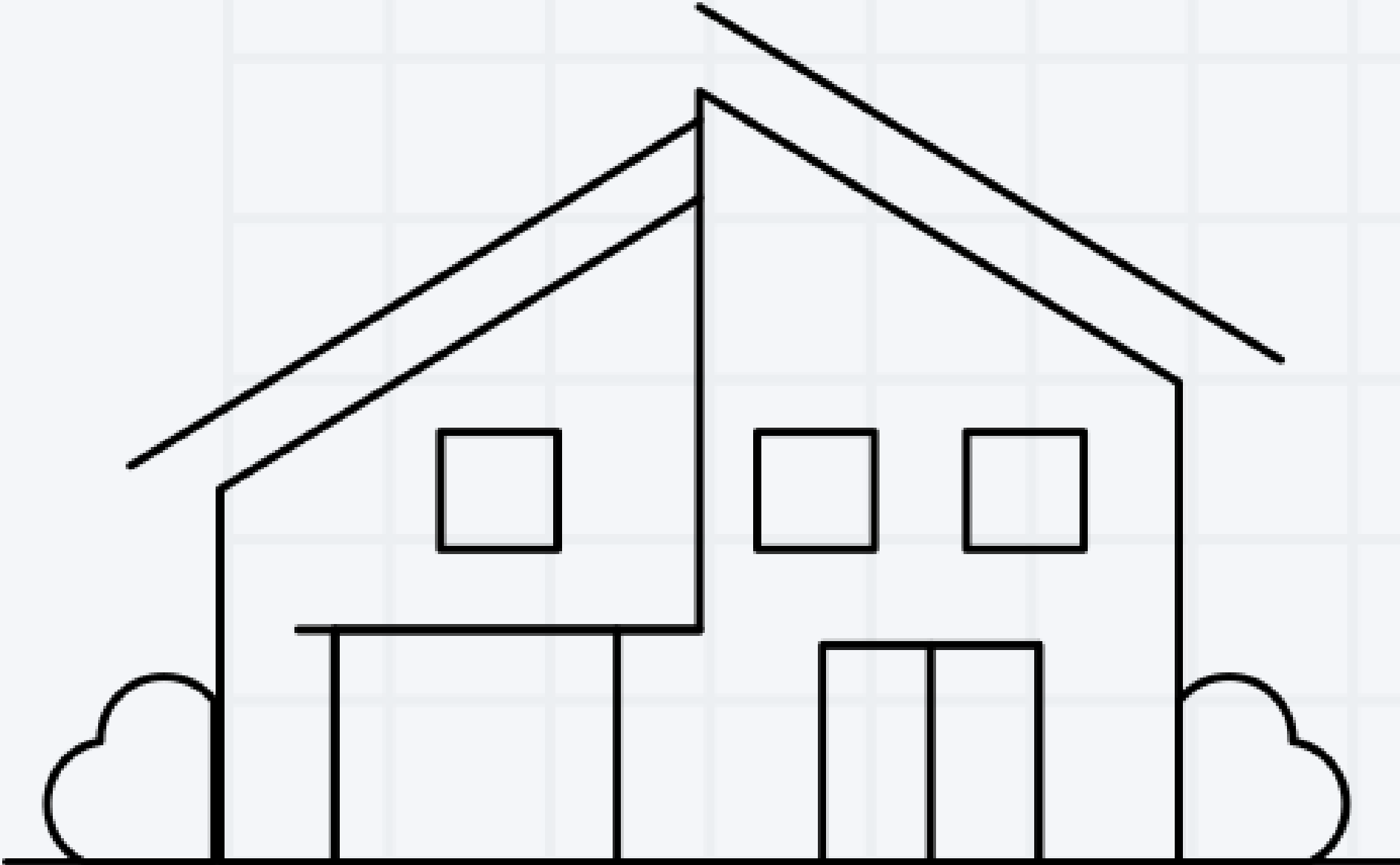
*Truly Affordable Housing for  
People Making Less than  
\$35,000 a Year*

**JETTA**

INVESTMENT COMPANY



Presented by Taniel Koushakjian



# Who Does MCHUs Serve?

- > \$35,000 Annual Income
- \$500-\$600 Monthly Rent
- Seniors on Fixed Income
- Students/Workforce
- Homeless/Transition
- No AirBnBs
- Close Proximity to Grocery, Public Transportation, Laundromat.



# Specifics of MCHUs Part I

- 120 square feet room.
- Shared Full Restroom per 4 tenants (inside locking)
- Shared Dual-Use Kitchen per 16 tenants (2 sinks, 2 stoves, 2 microwaves, 2 refrigerators)
- 16 Units Minimum (36 maximum)
- Density: Only 0.2 acres needed
- Parking Requirement: Ration 1 Unit to 0.5 space.
- Community Living Space
- Elevator
- No Tax Incentive Required!



# Specifics of MCHUs Part II

- Technology & Quality of Life Upgrades:
  - Cable/TV
  - Internet/WiFi
  - FOB Key-Door Entry System for Building, Room, and Restroom.
  - New/Central HVAC/Air Conditioning
  - Good Quality Finishing and Materials
  - Redesigned Landscaping and Public Green Space
  - Solar Panels



# **MCHUs: Stabilizing Lives. Stabilizing Community.**



- Stability Plan: In order to reduce instability we propose:
  - Annual licensing and inspections.
  - Pre-Approved Property Management Companies with Standardized Vetting for Applicants.
  - On-Site 24/7 Management/Property Manager Representative / Security Guard.
  - Limited Density (max. of 24 Units per 0.2 acres) with distance requirements between complexes.
  - Investment in Tech-Enabled Security: Access FOBs, Cameras, Motion Detectors, LED Lighting.







*Proof of Concept in Delray Beach, FL*

# MCHUs Work.

- Proven solution since 1960.
- Limited parking requirements (<0.5 spaces per unit)
- Limited Land Footprint
- Affordable for People Making > \$20,000 Per Year
- Enhanced Quality of Life Features:
  - Dual-Capacity Kitchens
  - TV/Cable Provided
  - Wireless Internet Provided
  - Elevators
  - Enhanced Security
  - Communal Space (interior or exterior)

## • Viable Areas:



- Close to Grocery Store + Public Transportation
- Close to Laundromat or Washer/Dryers onsite
- City/County Sewage: (No septic)



# Community Supports MCHUs

- Palm Beach County Homeless Coalition
- Community Partners
- Delray Housing Group, Inc.
- Delray Beach Chamber of Commerce
- The Spady Museum
- Veterans & Homefront Voices

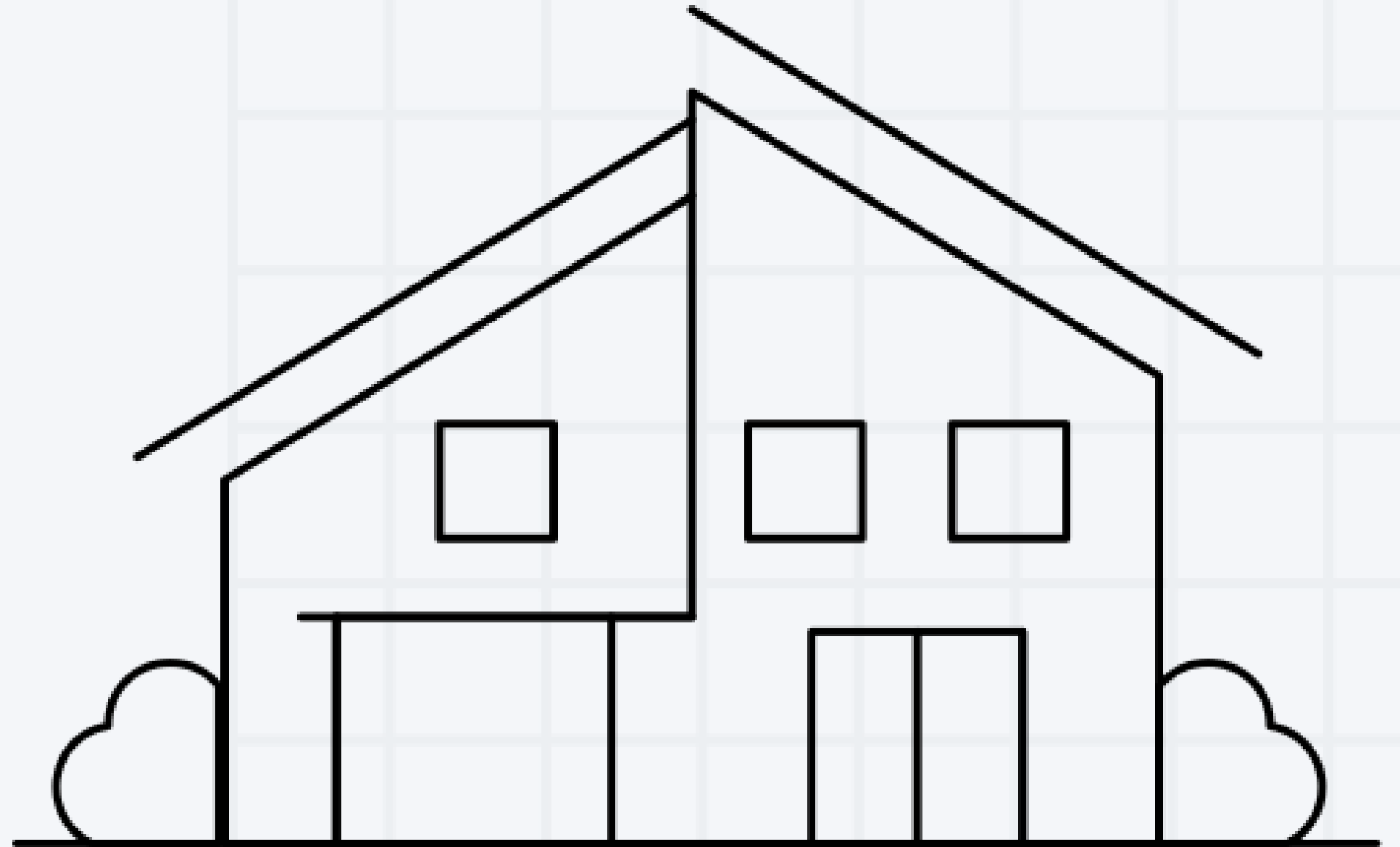


# THANK YOU

1730 South Federal Highway  
Box #349  
Delray Beach, FL 33483

(561) 366-2407

[jettainvestments@outlook.com](mailto:jettainvestments@outlook.com)



**JETTA**  
INVESTMENT COMPANY



# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** City Clerk

**TITLE:**

Appointment of Vice Mayor and Vice Mayor Pro Tem

**SUMMARY:**

The Item provides for the appointment of a Vice Mayor and Vice Mayor Pro Tem in accordance with City Charter Article III, Section 3.

**BACKGROUND AND JUSTIFICATION:**

In accordance with the City's Charter, the Commission shall annually elect from among its members a Vice Mayor and Vice Mayor Pro Tem at the first regular City Commission meeting following the general election.

This is the first year without an election as the terms were changed from two to three years effective 2018. A resolution clarifying that the appointments should be done annually at the first meeting in April whether or not there would be an election was approved at the March 21, 2023 Commission meeting.

**MOTION:**

Move to appoint \_\_\_\_\_ as Vice Mayor.

Move to appoint \_\_\_\_\_ as Vice Mayor Pro Tem.

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** City Clerk

**TITLE:**

Appointment of commissioners to various organizations:

1. Transportation Planning Authority plus alternates
2. Palm Beach County League of Cities
3. Community Redevelopment Agency
4. Neighborhood Association Presidents' Council
5. Education Task Force

**SUMMARY:**

The item provides for the appointment of City liaisons from the City Commission members to various organizations and boards.

**BACKGROUND AND JUSTIFICATION:**

On April 5, 2022, the City Commission made the following appointments:

- 1. Transportation Planning Authority (TPA)** – Commissioner Diaz; Vice Mayor McVoy alternate

The TPA provides a cooperative, comprehensive, and continuing transportation planning and decision-making process which encompasses all modes and covers both short-range and long-range transportation planning.

- 2. Palm Beach County League of Cities (PBCLC)** – Mayor Resch

The PBCLC's purpose is to promote and advance the collective interest(s) of the municipalities of the County to study municipal issues and seek desired results through cooperative effort, to respect the principles of Home Rule, to encourage and enhance the quality of life of the citizens of the County, and/or to engage in any other lawful purpose not for profit.

- 3. Community Redevelopment Agency (CRA)** – Commissioner Malega

The CRA is responsible for formulating and implementing projects that are consistent with the Lake Worth Beach Redevelopment Plan to assist in revitalizing and redeveloping portions of the City.

- 4. Neighborhood Association Presidents' Council (NAPC)** – Commissioner Malega

The Council supports and promotes their members' neighborhood associations and serves as an umbrella organization with no opinion on how each association chooses to decide matters for its own association.

**5. Education Task Force – Commissioner Stokes**

The Voices for LWB Schools (Education Task Force) serves to strengthen the relationship between the city and its schools, to study issues affecting the schools and report the findings and to assess the strengths and challenges that city schools are facing in an effort to determine how the city could assist.

**MOTION:**

Move to appoint \_\_\_\_\_ to serve as liaison to the Transportation Planning Authority with \_\_\_\_\_ and \_\_\_\_\_ serving as alternate(s).

Move to appoint \_\_\_\_\_ to serve as liaison to the Palm Beach County League of Cities.

Move to appoint \_\_\_\_\_ to serve as liaison to the Community Redevelopment Agency.

Move to appoint \_\_\_\_\_ to serve as liaison to the Neighborhood Association Presidents' Council.

Move to appoint \_\_\_\_\_ to serve as liaison to the Education Task Force.

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A

**MINUTES  
CITY OF LAKE WORTH BEACH  
REGULAR CITY COMMISSION MEETING  
CITY HALL COMMISSION CHAMBER  
TUESDAY, MARCH 21, 2023 – 6:00 PM**

The meeting was called to order by Mayor Resch on the above date at 6:05 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

**ROLL CALL:** (0:29) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy, Commissioners Kimberly Stokes and Reinaldo Diaz. Also present were City Manager Carmen Davis, City Attorney Glen Torcivia and City Clerk Melissa Ann Coyne. Commissioner Sarah Malega was absent.

**INVOCATION OR MOMENT OF SILENCE:** (1:06) was led by Mayor Betty Resch.

**PLEDGE OF ALLEGIANCE:** (1:42) was led by Commissioner Reinaldo Diaz.

**ADDITIONS/DELETIONS/REORDERING:** (2:02)

New Business I, Resolution No. 09-2023 opposing House Bill 1011 (HB1011) that only specified flags may be flown by local governments was added to the agenda.

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

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

**PRESENTATIONS:** (2:36) (there is no public comment on Presentation items)

- A. Historic Preservation Board Update by Board Chair Stephen Pickett (2:45)
- B. Planning & Zoning Board Update by Board Member Alexander Cull (12:30)
- C. Proclamation declaring March 31, 2023 as The Lord's Place SleepOut to End Homelessness Awareness Day (21:26)
- D. Proclamation declaring March 2023 as National Ethics Awareness Month (23:58)
- E. Proclamation declaring March 2023 as Florida Bicycle Month (25:37)

**COMMISSION LIAISON REPORTS AND COMMENTS:** (28:23)

**CITY MANAGER'S REPORT:** (45:39)

City Manager Davis provided the following report:

- attended Conversations with the Deputy where the PBSO bodycams were shown to the residents

**PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:** (47:44)

**APPROVAL OF MINUTES:** (53:10)

**Action:** Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve the following minutes:

- A. Regular Meeting - March 7, 2023
- B. Pre-Agenda Work Session - March 8, 2023

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

**CONSENT AGENDA:**

There were no items on the Consent Agenda.

**PUBLIC HEARINGS:** (53:29)

- A. Ordinance 2023-02 - First Reading - Consideration of an ordinance amending Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Division 3 “Permits,” Section 23.2-39 “Affordable/Workforce Housing Program” to provide clarification on the combination of incentives, qualifications for affordability, participation in other entity programs, and providing additional affordability buy downs provisions. (53:30)

City Attorney Torcivia read the ordinance by title only.

ORDINANCE 2023-02 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 SECTION 23.2-39 “AFFORDABLE/WORKFORCE HOUSING PROGRAM,” PROVIDING FOR CLARIFICATION ON COMBINATION OF INCENTIVES, QUALIFICATIONS FOR AFFORDABILITY AND PARTICIPATION IN OTHER ENTITY PROGRAMS AND PROVIDING FOR ADDITIONAL AFFORDABILITY BUY DOWN PROVISIONS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

**Action:** Motion made by Vice Mayor McVoy and seconded by Commissioner Diaz to approve Ordinance 2023-02 on first reading, setting the second reading and public hearing for April 4, 2023.

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

- B. Ordinance Nos. 2023-03 & 2023-04 - First Reading - A City-initiated small-scale Future Land Use Map (FLUM) amendment (Ordinance 2023-03) and a Zoning Map amendment



(Ordinance 2023-04) on behalf of For The Children Inc (Lessee) located on City owned property at 1718 South Douglas Street (1:02:09)

City Attorney Torcivia read the ordinances by title only.

ORDINANCE NO. 2023-03 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN FUTURE LAND USE MAP THROUGH A SMALL SCALE MAP AMENDMENT FROM THE FUTURE LAND USE (FLU) DESIGNATION OF PUBLIC RECREATION AND OPEN SPACE (PROS) TO THE PUBLIC (P) FLU DESIGNATION ON THE PROPERTY GENERALLY LOCATED AT THE EAST SIDE OF SOUTH DOUGLAS STREET, WEST OF THE FEC RAILWAY, SOUTH OF LATONA AVENUE, AND NORTH HILLBRATH DRIVE AT 1718 SOUTH DOUGLAS STREET, AND AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

ORDINANCE NO. 2023-04 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING MAP FROM THE ZONING DISTRICT OF PUBLIC RECREATION AND OPEN SPACE (PROS) TO PUBLIC (P) ON THE PROPERTIES GENERALLY LOCATED AT THE EAST SIDE OF SOUTH DOUGLAS STREET, WEST OF THE FEC RAILWAY, SOUTH OF LATONA AVENUE, AND NORTH HILLBRATH DRIVE AT 1718 SOUTH DOUGLAS STREET, AND AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

**Action:** Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve Ordinance 2023-03 on first reading, setting the second reading and public hearing for April 4, 2023.

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

**Action:** Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to approve Ordinance 2023-04 on first reading, setting the second reading and public hearing for April 4, 2023.

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

**UNFINISHED BUSINESS:** (1:08:03)

A. Discussion on Solicitation for L & M Streets Property Development (1:08:08)

**Action:** Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve supporting the issuance of a Request for Proposal (RFP) for the L and M Property Development achieved through a joint meeting with the CRA in May, as a two-phase solicitation, with Phase I being the qualification process and Phase II being the final selection, incorporating as many

of the design criteria discussed as possible, with the evaluation criteria brought back to the City Commission for approval.

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

B. Resolution No. 07-2023 – Approving the Amendment to the Fees & Charges for Mobile Home Park Solid Waste & Recycling (2:39:16)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 07-2023 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE FEES AND CHARGES SCHEDULE FOR MOBILE HOME PARK SOLID WASTE AND RECYCLING FOR FISCAL YEAR 2023; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE

**Action:** Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve Resolution 07-2023 – approving the amendment to the Fees & Charges for Mobile Home Park Solid Waste & Recycling.

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

**NEW BUSINESS:** (2:40:20)

**Action:** Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to move New Business I to New Business A and then address the rest of the New Business items.

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

A. (moved from New Business I) Resolution No. 09-2023 opposing House Bill 1011 (HB1011) that only specified flags may be flown by local governments (2:40:32)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 09-2023 -- A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, URGING ALL MEMBERS OF THE FLORIDA LEGISLATURE TO OPPOSE HOUSE BILL 1011 ("HB 1011") DISPLAY OF FLAGS BY GOVERNMENTAL ENTITIES; DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

**Action:** Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to approve Resolution No. 09-2023 and accept the changes that the Mayor works on with the City Attorney.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes

and Diaz. NAYS: None. ABSENT: Commissioner Malega.

B. (previously A) Continuing Contracts for Professional Services for Civil Engineering - Water category (2:53:35)

**Action:** Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve the Agreements for Continuing Contracts for professional services for Civil Engineering – Water with Mock, Roos & Associates, Inc, Kimley-Horn and Associates, Inc., Holtz Consulting Engineers, Inc. and Chen Moore and Associates, Inc.

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

C. (previously B) Continuing Contracts for Professional Services for Civil Engineering - Transportation Category (2:56:01)

**Action:** Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to approve the Agreements for Continuing Contracts for professional services for Civil Engineering – Transportation with WGI, Inc, Mock, Roos & Associates, Inc, Kimley-Horn and Associates, Inc. and Stantec, Inc.

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

D. (previously C) Continuing Contracts for Professional Services for Hydrogeological Category (3:56:24)

**Action:** Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve the Agreements for Continuing Contracts for professional services for Hydrogeological Engineering with JLA Geosciences, Inc. and Stantec, Inc

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

E. (previously D) Continuing Contracts for Professional Services for Architecture Category (3:11:42)

**Action:** Motion made by Commissioner Diaz and seconded by Commissioner Stokes to approve the Agreements for Continuing Contracts for professional services for Architecture with CPZ Architects, Inc., ACAI Architects, Inc. Song + Associates, Inc. and WGI, Inc.

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

F. (previously E) Continuing Contracts for Professional Services for Surveying Category (2:57:17)

**Action:** Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to approve the Agreements for Continuing Contracts for professional services for Surveying with WGI, Inc., Dennis J. Leavy & Associates, Engenuity Group, Inc and Avirom & Associates.

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

G. (previously F) Agreement with Advanced Data Solutions to provide digitizing of property files (2:57:55)

**Action:** Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to approve the professional services agreement with Advanced Data Solutions, Inc.

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

H. (previously G) Agreement with AndCo Consulting LLC for Investment Consulting Services (3:00:38)

**Action:** Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve the agreement with AndCo Consulting LLC investment consulting services, not to exceed \$30,000 annually.

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

I. (previously H) Resolution No. 06-2023 – Clarifying Article III, Section 3 of the City Charter so that the designation of appointments be done annually at the first meeting in April (3:02:17)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 06-2023 OF THE CITY OF LAKE WORTH BEACH, FLORIDA,  
AMENDING ARTICLE III, SECTION 3 OF THE CITY CHARTER TO CLARIFY  
THAT DESIGNATION OF APPOINTMENTS BE HELD ON AN ANNUAL BASIS;  
AND PROVIDING AN EFFECTIVE DATE

**Action:** Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve Resolution No. 06-2023 – Clarifying Article III, Section 3 of the City Charter so that the designation of appointments be done annually at the first meeting in April.

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

(moved to New Business A from New Business I) Resolution No. 09-2023 opposing House Bill 1011 (HB1011) that only specified flags may be flown by local governments

**CITY ATTORNEY'S REPORT:**

City Attorney Torcivia did not provide a report.

**UPCOMING MEETINGS AND WORK SESSIONS:**

March 22 - Pre-agenda Work Session @ 9 am

March 28 - Utility @ 6 pm

April 4 - Regular @ 6 pm

**ADJOURNMENT:** (3:02:54)

**Action:** Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to adjourn the meeting at 9:09 PM.

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

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, City Clerk

Minutes approved April 4, 2023.

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

**MINUTES  
CITY OF LAKE WORTH BEACH  
CITY COMMISSION PRE-AGENDA WORK SESSION  
CITY HALL COMMISSION CHAMBER  
WEDNESDAY, MARCH 22, 2023 - 9:00 AM**

The meeting was called to order by Mayor Resch on the above date at 9:06 AM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

**ROLL CALL:** (0:40) Present were Mayor Betty Resch (arrived at 9:10 AM); Vice Mayor Christopher McVoy and Commissioners Sarah Malega and, Reinaldo Diaz. Also present were City Manager Carmen Davis, City Attorney Glen Torcivia and City Clerk Melissa Ann Coyne. Commissioner Kimberly Stokes was absent.

**UPDATES / FUTURE ACTION / DIRECTION:**

**Action:** Consensus to revisit public comment policy at a future meeting. (25:57)

**Action:** Consensus to add a discussion item regarding the pre-agenda work session schedule to the April 21, 2023 commission meeting. (32:15)

**ADJOURNMENT:** (59:39)

The meeting adjourned at 10:05 AM.

ATTEST:

\_\_\_\_\_  
Betty Resch, Mayor

\_\_\_\_\_  
Melissa Ann Coyne, City Clerk

Minutes Approved: April 4, 2023

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

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** Community Sustainability

**TITLE:**

Ordinance 2022-17 – Second Reading - Consideration of a Residential Urban Planned Development, Major Site Plan, Conditional Use Permit (CUP), and Sustainable Bonus Incentive Program (SBIP) requests for the project commonly referred to as “Residences at Lake Worth,” to construct three (3) mid-rise residential structures that are 5-stories in height with a total of 195 dwelling units. The sustainable bonus request is for an additional 3-stories in height.

**SUMMARY:**

The applicant, Brian Terry of Insite Studio, Inc, is requesting approval of the following for the project commonly referred to as “Residences at Lake Worth”:

- A planned development, development of significant impact, and major site plan requests to construct a 195-unit multi-family development with three (3) mid-rise residential multi-family buildings and one (1) amenity building/clubhouse. Each of the multi-family buildings will have 65 residential units. The proposed units will be divided between 105 one-bedroom units, 85 two-bedroom units, and 5 three-bedroom units. The 5 three-bedroom units were added based on City Commission direction at the February 7, 2023. The three-bedroom units would be located in the rear multi-family building.
- A conditional use permit request to develop a multi-family residential development with a total of 195 multi-family units, of which 14 one-bedroom room units and 16 two-bedroom units will be income restricted as workforce housing through the PBC Workforce Housing Program. One (1) three-bedroom income restricted workforce unit was added subsequent to the February 7, 2023 City Commission meeting as a SBIP qualifying improvement and based on City Commission direction.
- A Sustainable Bonus request for an additional 3-stories of bonus height.

The Applicant is proposing a multi-family development on a 7.40-acre vacant lot with the purpose of providing attainable apartments with income restricted units, and amenities, including a pedestrian path around the lake. Per the applicant’s justification statement, “residents will have access to multiple amenities on the property including a +/- 4,980 square foot clubhouse with a management office, club room, fitness facility, yoga room and mail center. These amenities are located in the center of the property and will be the focal point entering into the community. Exterior to the clubhouse is a covered terrace and expansive pool deck with a central bar and grill area covered by an architectural pergola structure. Other site amenities include a fully connected sidewalk system that extends completely around the retention pond on the north and provides access to a fenced dog park on the west side of the property.”

**BACKGROUND AND JUSTIFICATION:**

On November 1, 2022, the applicant held a meeting with neighborhood residents at Mathews Brewing Company. Notices were mailed to all property owners within 400 ft of the project on October 15, 2022, and signs were placed on the property on October 17, 2022. There were two

attendees that signed in at the meeting and no concerns were identified per the meeting minutes. The applicant also has a project webpage:

<https://www.insitestudio.com/residencesatlakeworth>

The Planning and Zoning Board (PZB) at their November 16, 2022 meeting, recommended approval of the project with conditions. The motion included one modification to staff's recommended conditions of approval regarding the wording of the workforce/affordable housing condition as proposed by the City Attorney. Board discussion included questions to the applicant and staff related to the location and breakdown of the workforce housing units, clarification on which program the applicant would utilize to restrict the income requirements for the units, lack of motorcycle parking, the architectural style, the stormwater retention requirements due to the project's location in a C-51 sub-basin, and a flood zone discussion.

As outlined in the staff report, the proposed planned development meets all standards and requirements as outlined in the City's Land Development Regulations (LDRs) and Comprehensive Plan.

The Applicant is asking for bonus height that is less than the maximum allowance permitted via the SBIP in a planned development in the MU-W zoning district. The square footage of the bonus area above the second floor (3rd, 4th, and 5th floors) is +/-12,691 square feet per floor for two buildings, and is +/-14,102 per floor for the third building above the second floor (3rd, 4th, and 5th floors). The SBIP incentive value for all three buildings was revised to reflect the additional square footage added to accommodate the 5 three-bedroom units. The updated SBIP incentive value is \$888,390, which was calculated as follows:  $\$888,390 = \$571,095 (12,691 \text{ sf} \times 3 \text{ Floors} \times 2 \text{ Buildings} \times \$7.50 \text{ per sf})$  plus  $\$317,295 (14,102 \text{ sf} \times 3 \text{ Floors} \times \$7.50)$ . Fifty percent (50%) of the incentive award value is \$444,195, which the applicant is required to pay to the City. For the remaining 50% of the incentive award value (\$444,195), the applicant revised their qualifying improvement list based on City Commission direction at the February 7, 2023 meeting, and as consistent with Resolution 23-2021, LDR Section 23.2-33. The applicant's revised qualifying improvements include: Florida Green Building Silver Certification (\$222,097.50), 6 EV Charging Stations (\$50,000), one (1) three-bedroom income restricted unit per City's Workforce / Affordable Housing program (\$112,875), and littoral and wetland habitat plantings around the lake (\$64,000). The total estimated value of the applicant's proposed qualifying improvements is \$448,972.50. The total payment by the applicant to the City for the additional height is the 50% required to be paid to the City (\$444,195). The remaining 50% of the SBIP value is addressed through the proposed qualifying improvements.

At the February 7, 2023 meeting, the City Commission voted to approve Ordinance 2022-17 on first reading. The City Commission requested that each building have two (2) elevators, and that the dog park be relocated away from the canal if feasible. At a minimum, it was requested that the applicant add plantings around the dog park to minimize runoff into the E-4 Canal if it was not possible to relocate the dog park. The City Commission also directed the applicant to revise their SBIP qualifying improvement list to include at least 1 three-bedroom income restricted unit, and littoral plantings and wetland habitat in the drainage lake. The City Commission also requested that the applicant add market rate three-bedroom units to the project (5 units).

Additional background, history and justification can be found in the attached documentation, including the advisory board staff report. Subsequent to the February 7, 2023 City Commission meeting, the applicant provided an updated justification statement, and revised site plan,



landscape plans, and impermeable area exhibit on March 13, 2023 to address City Commission direction and concerns. Staff has added a condition of approval that these revised plans will be reviewed for technical compliance with the City's requirements. Staff also added a condition of approval that each building will require two elevators.

**MOTION:**

Move to approve/disapprove Ordinance No. 2022-17 on Second Reading / Adoption.

**ATTACHMENT(S):**

Ordinance 2022-17  
Revised Plans Submitted on 3-13-2023  
Supporting Plans and Documents  
PZB Staff Report

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**ORDINANCE NO. 2022-17 – AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING MAP BY APPROVING THE CREATION OF A RESIDENTIAL PLANNED DEVELOPMENT DISTRICT, LOCATED AT THE NE CORNER OF 2<sup>ND</sup> AVE NORTH AND THE LWDD E-4 CANAL TO CONSTRUCT AN APPROXIMATELY 5-STORY, 195-UNIT RESIDENTIAL PLANNED DEVELOPMENT AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, LOCATED WITHIN THE MIXED USE – WEST (MU-W) ZONING DISTRICT WITH A FUTURE LAND USE DESIGNATION OF MIXED USE – WEST (MU-W) SUBJECT TO SPECIFIC DEVELOPMENT STANDARDS SET FORTH IN EXHIBIT B AND CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT C; APPROVING A DEVELOPMENT OF SIGNIFCANT IMPACT; APPROVING A CONDITIONAL USE PERMIT; APPROVING A HEIGHT BONUS INCENTIVE THROUGH THE CITY’S SUSTAINABLE BONUS INCENTIVE PROGRAM; APPROVING A MAJOR SITE PLAN FOR THE DEVELOPMENT OF A RESIDENTIAL PLANNED DEVELOPMENT; PROVIDED FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE**

WHEREAS, the City Commission of the City of Lake Worth Beach, Florida, pursuant to the authority granted in Chapters 163 and 166, Florida Statutes, and the Land Development Regulations, as adopted by the City of Lake Worth Beach, is authorized and empowered to consider petitions relating to zoning and land development orders; and

WHEREAS, Chapter 23, Article 3, Division 6. – Planned Development of City of Lake Worth Beach’s Land Development Regulations allows for the creation of planned development districts to incentivize innovative development through the utilization of incentive programs and flexible dimensional and use requirements that are defined within and occur in conformity with an approved master development plan; and

WHEREAS, Brian Terry, Insite Studio, Inc, (the applicant) has petitioned the City of Lake Worth Beach (the City) on behalf of the property owner Richman Lake Worth Apartments, LLC for creation of a Residential Planned Development District to allow for the construction of an approximately 5-story, 195-unit multi-family development (on a site located at the NE corner of the E-4 Canal and 2<sup>nd</sup> Avenue N (PCNs 38-43-44-20-01-097-0020, 38-43-44-20-01-097-0010, and 38-43-44-20-01-096-0020) as further described in Exhibit A (the Property) within the MU-W Zoning District and the MU-W Future Land Use designation, which, if approved, shall constitute an amendment to the City’s official zoning map; and

WHEREAS, the applicant requests use of the City’s Sustainable Bonus Incentive Program to allow for additional height to be considered in conjunction with the applicant’s request for approval for a major site plan for the construction of a residential development

47 currently known as “Residences of Lake Worth” and containing 195 residential units to be  
48 constructed on this site;

49  
50 WHEREAS, on November 16, 2022, the Lake Worth Beach Planning and Zoning  
51 Board (PZB) considered the subject application for a Residential Planned Development  
52 District, Development of Significant Impact, Major Site Plan, Conditional Use Permit, and  
53 Sustainable Bonus Incentive Program and recommended that the City Commission  
54 approve the creation of this residential planned development subject to specific district  
55 development standards and certain enumerated conditions; and

56  
57 WHEREAS, on February 7, 2023, the City Commission voted to approve on first  
58 reading the subject application for a Residential Planned Development District,  
59 Development of Significant Impact, Major Site Plan, Conditional Use Permit, and  
60 Sustainable Bonus Incentive Program subject to specific district development standards  
61 and enumerated conditions herein; and

62  
63 WHEREAS, the City Commission has considered all of the testimony and evidence  
64 and has determined that the Residential Planned Development District, Development of  
65 Significant Impact, Major Site Plan, Conditional Use Permit, and Sustainable Bonus  
66 Incentive Program including the development regulations and conditions, meets the  
67 requirements of the Land Development Regulations, Section 23.3-25.

68  
69 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
70 **CITY OF LAKE WORTH BEACH, FLORIDA, that:**

71  
72 Section 1. Recitals. The foregoing recitals are true and correct and are hereby  
73 affirmed and ratified.

74  
75 Section 2. The Mixed Use Urban Planned Development District located within the MU-  
76 W Zoning District with a future land use designation of MU-W, as described more  
77 particularly in **Exhibit A**, is hereby approved. This approval includes the approval of the  
78 following elements to be known as the Master Development Plan: (a) Residential Planned  
79 Development; (b) Major Site Plan; (c) Sustainable Bonus Incentive Program; (d)  
80 Conditional Use Permit; (e) district development standards (**Exhibit B**); (f) conditions of  
81 approval (**Exhibit C**); (g) required plans including the site plan, landscape plan, and civil  
82 & drainage plans; (h) supplemental supporting documents, as well as all agreements,  
83 provisions and/or covenants which shall govern the use, maintenance, and continued  
84 protection of the residential planned development and any of its common areas or  
85 facilities. The applicant is bound to all elements and requirements of the Master  
86 Development Plan.

87  
88 Section 3. The City’s zoning maps shall be updated to reflect the changes to the  
89 property described in **Exhibit A**.

90  
91 Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict  
92 herewith are hereby repealed to the extent of such conflict.

94 Section 5. Severability. If any provision of this ordinance or the application thereof is  
95 held invalid by a court of competent jurisdiction, the invalidity shall not affect other  
96 provisions of the ordinance which can be given effect without the invalid provision or  
97 application, and to this end the provisions of this ordinance are declared severable.

98  
99 Section 6. Effective Date. This ordinance shall become effective ten (10) days after  
100 its final passage.

101  
102 The passage of this ordinance on first reading was moved by Commissioner  
103 Malega, seconded by Vice Mayor McVoy and upon being put to a vote, the vote was as  
104 follows:

105		
106	Mayor Betty Resch	AYE
107	Vice Mayor Christopher McVoy	AYE
108	Commissioner Sarah Malega	AYE
109	Commissioner Kimberly Stokes	AYE
110	Commissioner Reinaldo Diaz	AYE

111  
112 The Mayor thereupon declared this ordinance duly passed on first reading on the  
113 7<sup>th</sup> day of February, 2023.

114  
115 The passage of this ordinance on second reading was moved by  
116 \_\_\_\_\_, seconded by \_\_\_\_\_, and upon being put to a vote,  
117 the vote was as follows:

118	
119	Mayor Betty Resch
120	Vice Mayor Christopher McVoy
121	Commissioner Sarah Malega
122	Commissioner Kimberly Stokes
123	Commissioner Reinaldo Diaz

124  
125 The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_\_ day of  
126 \_\_\_\_\_, 2023.

127  
128 LAKE WORTH BEACH CITY COMMISSION

129  
130  
131 By: \_\_\_\_\_  
132 Betty Resch, Mayor

133 ATTEST:

134  
135  
136 \_\_\_\_\_  
137 Melissa Ann Coyne, City Clerk  
138

## Exhibit A

DEPARTMENT FOR COMMUNITY SUSTAINABILITY  
PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION  
PROPERTY DESCRIPTION & LOCATION MAP

139 **Address:** 2559, 2441, 2431 2<sup>nd</sup> Ave N

140 **PCNs:** 38-43-44-20-01-097-0020

141 38-43-44-20-01-097-0010

142 38-43-44-20-01-096-0020

143

144 **Size:** 7.40 acres

145 **General Location:** North of 2<sup>nd</sup> Ave N, and just east of the LWDD E-4 Canal.

146 **Legal Description:** See boundary survey in the Master Development Plan supporting documentation



## Exhibit B

### DEPARTMENT FOR COMMUNITY SUSTAINABILITY PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION DEVELOPMENT STANDARDS

Development Standard		Base Zoning District Mixed Used – West (MU-W)	Residential Planned Development in MU-W with SBIP	Provided
Lot Size (min) In square feet (sf)		13,000 sf	0.5 acres	7.3985 acres (322,278.64 sf)
Lot Width (min)		100'	100'	401.62'
Setbacks	Front (min build-to line)	20'	20'	20'
	Rear (min)	10'	10'	178'
	Street Side (min)	20'	20'	N/A
	Side (min)	20'	20'	20' – west side 41' – east side
Impermeable Surface Coverage (maximum)		65%	65%	49% (157,900 SF)
Structure Coverage (max)		50%	50%	13.4% (43,293 SF) – Buildings 1.15% (3,722 SF) – Communication Tower
Density (max)		30 du/acre (221 units)	37.5 du/acre (277 units)	26.36 du/acre (195 units)
Building Height (max)		30' (max. 2 stories)	65' (Max. 6 stories)	59'-4" – top of parapet (5 stories)
Maximum Wall Height at Side Setback		30'	65'	+/- 59'
Floor Area Ratio (FAR) (max)		1.3	3.75	.6

Living Area (minimum)	Studio	400 sf	400 sf	N/A
	One-bedroom units	600 sf	600 sf	+/-716 sf- 729 sf
	Two-bedroom units	750 sf	750 s	+/- 1013 sf
	Three-bedroom units	900 sf	900 sf	N/A
Parking See page 5 for detailed analysis.		Parking Calculated per unit, room, and non-residential square footage.	237 spaces* w/ 30 workforce housing units  Max alternate spaces = 59 spaces	279 spaces w/ 12 alternate (compact) spaces  Additional parking that exceeds parking requirements: 42 compact parking spaces & 39 bicycle spaces = 9 parking spaces
Workforce/Affordable Housing		15% of Total Project	30 Income Restricted Units	31 Income Restricted Units  30 required units (14 one-bedroom units and 16 two-bedroom units)  1 three-bedroom unit for SBIP credit

**\*Applicant is choosing to opt-in to the recently adopted workforce housing program ordinance (Ordinance 2022-12), which allows for a 25% parking requirement reduction.**

**-Exhibit C**

**DEPARTMENT FOR COMMUNITY SUSTAINABILITY  
PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION  
CONDITIONS OF APPROVAL**

151 **Planning & Zoning**

- 152 1. Fifty percent of the sustainable bonus fee (\$444,195) shall be paid to the City within two years  
153 of approval, or prior to the issuance of the building permit, whichever comes first.
- 154 2. The applicant shall provide qualifying sustainable bonus features equal to \$444,195, or shall  
155 be required to pay the remaining portion of the 50% of the incentive value (\$444,195) prior  
156 to the issuance of a certificate of occupancy. These qualifying improvements shall include at  
157 a minimum one (1) additional three-bedroom income restricted unit per the City's program,  
158 and littoral and wetland habitat plantings in the drainage lake.
- 159 3. Thirty (30) units shall be restricted for workforce housing in accordance with the City's  
160 Affordable/Workforce Housing Program prior to the issuance of a Certificate of Occupancy  
161 for the buildings
- 162 4. A unity of title shall be required to applied for and shall be recorded prior to the issuance of  
163 a building permit.
- 164 5. An address application shall be required to be submitted prior to application for building  
165 permit.
- 166 6. A video security system shall be required for the property.
- 167 7. Exterior lighting shall be required to comply dark sky lighting guidelines, including using fully  
168 shielded fixtures and led lighting that has a color temperature of no more than 3000 Kelvins.  
169 [www.darksky.org](http://www.darksky.org) Specifically, the lighting fixtures shall be reviewed at building permit for  
170 consistency with the dark sky guidelines and the architecture of the buildings.
- 171 8. A designated delivery and/or ride share space with signage shall be provided outside of the  
172 front gate.
- 173 9. Dumpster enclosure material shall be reviewed for architectural consistency and for  
174 compliance with all applicable City requirements at building permit.
- 175 10. Prior to the issuance of a building permit, a minor site plan amendment shall be submitted  
176 and approved to update all applicable plans and supporting documents to reflect changes as  
177 directed by the City Commission, including the additional three-bedroom units, and littoral  
178 and wildlife habitat plantings in the drainage lake.
- 179 11. Each building shall be required to have two (2) elevators.
- 180 12. Additional shrubs or native grasses shall be installed around the fence at the dog park to  
181 further minimize runoff into the E-4 canal.

182

183 **Utilities (Water, Sewer & Stormwater)**

- 184 1. There are several locations where proposed storm chamber overlaps with the water/storm  
185 utility easements. The easement shall be free of obstructions.
- 186 2. Provide inlet protection on the storm collection structures in 2nd Avenue North and show the  
187 erosion control and sedimentation plan.
- 188 3. Capacity fees are due prior to building permit issuance.
- 189 4. The title block of all plans shall be updated to say Lake Worth Beach instead of Lake Worth.

190

191 **Public Works**

- 192 1. The issuance of any permits shall comply with all provisions of the Lake Worth Municipal Code  
193 and all other applicable standards including but not limited to the Florida Department of  
194 Transportation (FDOT), Manual on Uniform Traffic Control Devices (MUTCD), and City of Lake



- 195 Worth Public Services Construction Standards and Policy and Procedure Manual. No  
196 Certificate of Occupancy shall be granted until all conditions of approval have been satisfied  
197 under jurisdiction of the Department of Public Services.
- 198 2. Prior to the issuance of a building permit, the applicant shall contact the Lake Worth Drainage  
199 (LWDD) District's Engineering Department and obtain any required permit(s), if necessary,  
200 and furnish to the City. Prior to the issuance of a building permit, the applicant shall contact  
201 the South Florida Water Management District's (SFWMD) Engineering Department and obtain  
202 any required permit(s), if necessary.
  - 203 3. Prior to the issuance of a building permit, the Applicant shall contact and meet with a  
204 representative from the Public Works Solid Waste and Recycling Division to confirm dumpster  
205 enclosure location, accessibility and demand on property and that it is compatible with the  
206 requirements of the Department of Public Works. Solid Waste Division contact number is 561-  
207 533-7344.
  - 208 4. Prior to the issuance of a certificate of occupancy, the Applicant shall ensure the entire  
209 surrounding offsite infrastructure inclusive of the roadway, sidewalk, curbing, stormwater  
210 system piping and structures, valve boxes, manholes, landscaping, striping, signage, and other  
211 improvements are in the same condition as prior to construction.
  - 212 5. Prior to the issuance of a building permit, the applicant shall submit an Erosion Control plan  
213 and indicate the BMP's and NPDES compliance practices.
  - 214 6. Prior to the issuance of a Certificate of Occupancy, the applicant shall fine grade and sod all  
215 disturbed areas with bahia sod.
  - 216 7. Prior to the issuance of a Certificate of Occupancy, the applicant shall broom sweep all areas  
217 of the affected right of way and remove of all silt and debris collected as a result of  
218 construction activity.
  - 219 8. Prior to performing work in the right of way, the applicant shall apply for and receive issuance  
220 of a "Right of Way/Utility Permit" application.

221  
222 **Electric Utility**

- 223 1. Before or at the time of application for a Building Permit, Developer must provide the Load  
224 Calculation, Voltage requirements and Riser diagram. We will need to know the location of  
225 the Pad-Mount Transformers for the building. The Transformer locations must be accessible  
226 to our vehicles, and must have 8-ft minimum clearance in front of them and 3-ft clearance to  
227 the side or rear, including landscaping (None trees, plants, shrubs or vegetations are allowed  
228 within the clearance). The Transformers also must not be under or inside any structure.
- 229 2. Before the issuance of a Building permit, we will need a 10-ft wide utility easement for the  
230 underground electric, transformers and other equipment that will need to be installed to  
231 provide power to this project.
- 232 3. The customer will be responsible for installing All Schedule 40 PVC Conduit that will be needed  
233 by Lake Worth Beach for this project for the primary cable. This conduit must be installed at  
234 a 24" minimum depth. Pad specs will be given to the customer to show the proper orientation  
235 of conduit at the pad mount transformers.
- 236 4. Before the issuance of a Building permit, we will need to know if any other services will be  
237 needed for the project such as irrigation, lift station, lighting, gates, etc., and where these  
238 services will be.
- 239 5. Developer to show the location of the meter center on the site plan.
- 240 6. Developer will be responsible for installing their own lightning for the parking areas.
- 241 7. Developer will be responsible for the cost of Lake Worth Beach's materials and labor for this  
242 project.

- 243           8. Before the issuance of a Certificate of Occupancy, the utility easement must be recorded.  
244           9. Before the issuance of a Certificate of Occupancy (CO) a final electrical inspection must be  
245           done.

246

247           **Building Division**

- 248           1. Pedestrian connections to the club house will require enhanced striping.

March 13, 2023

City of Lake Worth Beach  
Planning & Zoning  
1900 2nd Avenue North  
Lake Worth Beach, FL 33461

**Re: Residences at Lake Worth**  
**Justification Statement**  
**Original Intake: March 1, 2022**

### Property Location

The property is located approximately ½ mile east of the intersection of 2<sup>nd</sup> Ave N and S Congress Ave, on the north side of 2<sup>nd</sup> Ave N. The 7.40 acres site is located within the City of Lake Worth Beach and is identified by the following Property Control Numbers:

Parcel 1: 38-43-44-20-01-097-0020

Parcel 2: 38-43-44-20-01-097-0010

Parcel 3: 38-43-44-20-01-096-0020

### Property History

In 2014, the City of Lake Worth Beach approved a Mixed-Use development called Village of Valor, which consisted of 3 four-story buildings and 104 units. However, the development was never constructed and has remained vacant, cleared of vegetation, since approval.



Notably, there is an existing cell tower located in the northeast corner of the property. The cell tower will remain in its existing location and accessed from the recorded easement ORB 10659 PG 1697 and ORB 12273 PG 1143 which is located on the far east side of the property.

### Application Request

The applicant has submitted this application to request Major Site Plan approval of a multi-family residential development, consisting of 195 units. In addition, a Conditional Use has been requested to allow the proposed density of 26.35 du/ac across the 7.40 acres property. The proposed development is considered a Development of Significant Impact, this request is also included in the application.

The proposed development is a gated community that includes three, five-story multi-family buildings that will accommodate 195 units which will be equally distributed between the three buildings, 65 units per building. The proposed units will be divided between 105 one-bedroom units, 85 two-bedroom units and 5 three-bedroom units.

Residents will have access to multiple amenities on the property including a 4,980 sf clubhouse with a management office, club room, fitness facility, yoga room and mail center. These amenities are located in the center of the property and will be the focal point entering into the community. Exterior to the clubhouse is a covered terrace and expansive pool deck with a central bar and grill area covered by an architectural pergola structure. Other site amenities include a fully connected sidewalk system that extends completely around the retention pond on the north and provides for access to a fenced dog park on the west side of the property.

In order to achieve the proposed five-story building, the applicant has requested to participate in the Sustainable Bonus Incentive. As discussed with staff, this application will occur closer to the time of building permit.

The applicant is using the City's affordable/workforce housing program and commits to cap rents for 30 units (15% of the total) in categories consistent with the Palm Beach County's Workforce Housing Program and 1 unit with the City's program; in order to ensure affordable / workforce housing opportunities within the City. The workforce housing units will be comprised of the following:

- Low income (60-80% AMI)
  - o 3 – 1 bedroom
  - o 4 – 2 bedroom
- Moderate 1 (80 – 100% AMI)
  - o 3 – 1 bedroom
  - o 4 – 2 bedroom
- Moderate 2 (100 – 120% AMI)
  - o 4 – 1 bedroom
  - o 4 – 2 bedroom
- Middle (120 – 140% AMI)
  - o 4 – 1 bedroom
  - o 4 – 2 bedroom
- City Program (105% max AMI)

- 1 – 3 bedroom\*

\* Optional Buydown: Pending direction by City Commission.

### Surrounding Uses

Below are descriptions of the zoning and land uses of the adjacent properties:

**North:** Identified by PCN 38-43-44-20-01-081-0010 and is located within the City of Lake Worth Beach. The property directly north of subject site consists of a multi-family residential development. The property has a Mixed-Used-West (MU-W) FLU designation within the Mixed-Used-West (MU-W) Zoning District.

**South:** Identified by PCN 00-43-44-20-25-000-0010 and 38-43-44-20-01-110-0010, located within Unincorporated Palm Beach County and the City of Lake Worth Beach. Both properties are existing multi-family residential development. The properties have PBC High Residential, 12 units per acre (HR-12) and Mixed-Used-West (MU-W) FLU designations and are within PBC High Residential (RH) and Mixed-Used-West (MU-W) Zoning Districts.

**East:** Identified by PCN 38-43-44-20-01-081-0010 and is located within the City of Lake Worth Beach. The property directly east of subject site consists of a multi-family residential development. The property has a Mixed-Used-West (MU-W) FLU designation within the Mixed-Used-West (MU-W) Zoning District.

**West:** Identified by PCN 00-43-44-20-00-000-1010 and is located within Unincorporated Palm Beach County. The property directly west of the subject site is the Lake Worth Drainage District E-4 Canal. The property has a High Residential, 8 units per acre (HR-8) FLU and is within the Medium Residential (RM) Zoning District.

### Site Design Qualitative Standards

#### **Land Development Regulations Section 23.2-31.**

Pursuant to Section 23.2-31, the applicant shall demonstrate that the requested site plan approval of a multi-family residential development is consistent with the City of Lake Worth Beach standards.

#### **1. Harmonious and efficient organization;**

**All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as to not impede the normal and orderly development or improvement of surrounding property for uses permitted in these LDRs.**

The proposed plan adheres property development regulations with the Mixed Use - West (MU-W) Zoning District and is consistent in character to the area which includes a variety of multi-family residential development along the 2<sup>nd</sup> Avenue North corridor. The building height as proposed as

five stories is also compatible with the transforming character of the surrounding community. This site is unique with natural barrier of LWDD canals on the north and west along with the cellular tower and access easements along the east which create separation from existing developments. The plan has been organized to center the buildings internal to the site and along the 2<sup>nd</sup> Avenue N to the help create an activated and integrated streetscape.

**2. Preservation of natural conditions;**

**The natural (refer to landscape code, Article 6 of these LDRs) landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by such other site planning approaches as are appropriate. Terrain and vegetation shall not be disturbed in a manner likely to significantly increase either wind or water erosion within or adjacent to a development site. Natural detention areas and other means of natural pollution, particularly adjacent to major waterbodies. Fertilizer/pesticide conditions may be attached to development adjacent to waterbodies. Marinas shall be permitted only in water with a mean low tide depth of four feet or more.**

The site has minimal topography and the site has very limited vegetation. There is a line of various trees and shrubs along the Northeast and East boundary of the subject parcel adjacent to the communication tower that will be supplemented within the proposed development plans. The development area has been focused to the middle and south side of the property to limit any concern or impact to the adjacent LWDD canals on the west and north sides of the property. Additionally, the retention area has been located on the north side of the site which creates a natural transition from the development to the canal and waterway.

**3. Screening and buffering;**

**Fences, walls, or vegetative screening shall be provided where needed and practical to protect residents and users from undesirable views, lighting, noise, odors, or other adverse off-site effects, and to protect residents and users of off-site development from on-site adverse effects. This section may be interpreted to require screening and buffering in addition to that specifically required by other sections of these LDRs, but not less.**

The site is located in the Mixed Use-West Zoning District and is surrounded by high density, residential uses. Specifically, multi-family residential developments are located directly north, east and to the south of the subject site. A LWDD canal runs adjacent to the west property boundary and further west is a residential lot with multiple units. The proposed development will comply with all screening and buffering requirements outlined in Section 23.6-1 of the City's Land Development Regulations. Specifically, a 5' landscape buffer has been provided along the north, east and west property boundaries. A 20' landscape buffer has been provided along the south property boundary, along 2<sup>nd</sup> Ave N. In addition to the landscape buffering methods provided by the proposed development we are proposing a 5' tall fence around the entire perimeter of the property and there are existing buffers for the neighboring developments along the north and east

parcel boundaries. The combination of landscape buffer material will create sufficient screening for future and neighboring residents.

**4. Enhancement of residential privacy;**

**The site plan shall provide reasonable, visual and acoustical privacy for all dwelling units located therein and adjacent thereto. Fences, walls, barriers and vegetation shall be arranged for the protection and enhancement of property and to enhance the privacy of the occupants.**

As mentioned above, the proposed development shall comply with all screening and buffering requirements outlined in the City's Land Development Regulations. A 5' buffer is provided along the property boundaries and lush landscape buffers currently exist on the neighboring properties. The combination of both buffers will provide adequate security and privacy for residents. In addition, the proposed development will be a gated community and security access will be provided for all residents and guests with a 5' tall fence around the entire perimeter of the property.

**5. Emergency access;**

**Structures and other site features shall be so arranged as to permit emergency vehicle access by some practical means to all sides of the buildings.**

The proposed development has been designed to allow efficient and maneuverable access for emergency vehicles through the primary entrance from 2<sup>nd</sup> Avenue N and through the proposed ingress and egress gates. A secondary access point has also been provided on the east side of the property by way of the existing communication tower access easement which also connects to 2<sup>nd</sup> Avenue N. All gated access points have been designed at 20' width and will have a Knox box will be provided to ensure prompt access to the site. The applicant has been working with PBC Fire directly on plan review and approval.

**6. Access to public ways;**

**All buildings, dwelling units and other facilities shall have safe and convenient access to a public street, walkway or other area dedicated to common use; curb cuts close to railroad crossings shall be avoided.**

The proposed development has been designed to provide vehicular access from 2<sup>nd</sup> Ave N with a logical internal circulation of driveways and pedestrian sidewalks that lead to the public right-of-way. With this development, improvements will be made to 2<sup>nd</sup> Ave N by providing twenty new parallel parking spaces and a new six-foot wide sidewalk. The accessibility and character of the public roadway will be significantly improved.

**7. Pedestrian circulation;**

**There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.**

As mentioned, an internal walkway and sidewalk system has been provided to provide pedestrian circulation within the development, as well as provide access to the existing sidewalk along 2<sup>nd</sup> Ave N. All buildings are connected to the central clubhouse in a logical and direct manner and access to the walking path that circulates around the retention pond.

**8. Design of ingress and egress drives;**

**The location, size and numbers of ingress and egress drives to the site will be arranged to minimize the negative impacts on public and private ways and on adjacent private property. Merging and turnout lanes traffic dividers shall be provided where they would significantly improve safety for vehicles and pedestrians.**

The proposed development will provide a single entrance driveway along 2<sup>nd</sup> Ave N which has been coordinated with the City's staff. The development will be providing a roadway improvement that includes a left turn lane at the development entrance to ensure east bound traffic is not impacted. Additionally, the gated access points have been pushed well north of the property line to maximize resident / guest stacking.

**9. Coordination of on-site circulation with off-site circulation;**

**The arrangement of public or common ways for vehicular and pedestrian circulation shall be coordinated with the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Minor streets shall not be connected to major streets in such a way as to facilitate improper utilization.**

As mentioned above, the proposed development will provide vehicular access from the existing right-of-way 2<sup>nd</sup> Ave N and pedestrian connection will be provided from the sidewalk along this street via an internal walkway system.

**10. Design of on-site public right-of-way;**

**On-site public street and rights-of-way shall be designed for maximum efficiency. They shall occupy no more land than is required to provide access, nor shall they unnecessarily fragment development into small blocks. Large developments containing extensive public rights-of-way shall be said rights-of-way arranged in a hierarchy with local streets providing direct access to parcels and other streets providing no or limited direct access to parcels.**

The development will have access from the existing right-of-way 2<sup>nd</sup> Ave North, there are no internal public rights-of-way.



11. **Off-street parking, loading and vehicular circulation areas;**  
**Off-street parking, loading and vehicle circulation areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.**

The main parking areas will not be visible from the public right-of-way as they are located behind the residential buildings that front on 2<sup>nd</sup> Avenue N. Perimeter landscape buffering has been provided on both the east and west boundaries to screen any impacts to adjacent properties. All lighting within the parking area will be “night sky” compliant and have been located to assure there are no offsite impacts. There are twenty proposed parallel parking spaces that will be provided along 2<sup>nd</sup> Avenue N that will help to activate the roadway and create a more urban feel to the roadway.

The development utilizes the Affordable / Workforce Housing Program’s parking reduction incentive and provides 15% of the total units within appropriate workforce housing income categories. Therefore, the parking requirement for the 195 units has been reduced by 25%. Parking calculations are shown in the site plan data table.

12. **Refuse and service areas;**  
**Refuse and service areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.**

The proposed plan includes a dumpster and recycling area in the northeast corner of the parking lot, and adjacent to the communication tower minimizing visibility to resident on-site and off-site. Landscape buffering is also being provided to screen the structures on both side elevations.

13. **Protection of property values;**  
**The elements of the site plan shall be arranged so as to have minimum negative impacts on the property values of adjoining property.**

The proposed development will not have a negative impact on adjacent property values. The property is currently cleared and vacant, the proposed development will provide added value and community tax revenue on an underutilized property within the City. The investment will beautify the public right-of-way and property and will be a positive influence on surrounding property values within the area.

14. **Transitional development;**  
**Where the property being developed is located on the edge of the zoning district, the site plan shall be designed to provide for a harmonious transition between districts. Building**

exteriors shall complement other buildings in the vicinity of size, scale, mass, bulk, rhythm of openings and character. Consideration shall be given to a harmonious transition in height and design style so that the change in zoning districts is not accentuated. Additional consideration shall be given to complementary setbacks between the existing and proposed development.

The subject site is not located on the edge of the zoning district. The subject site is compatible and consistent with the adjacent properties in the area.

- 15. Consideration of future development;**  
**In finding whether or not the above standards are met, the review authority shall consider likely future development as well as existing development.**

According to the 2020 US Census, Palm Beach County is the third largest county in the state, with a 13% growth since 2010. However, this data does not accommodate for the influx of residents that the state and county have experienced during the Covid-19 pandemic and currently. A report from the state's Office of Economic and Demographic Research, revealed that the state gained approximately 330,000 new residents between April 2020 and April 2021. In addition, multiple reports utilizing internal metrics and U.S. Census Bureau data, discovered that Florida was the third most popular place to move in the past year. Specifically, Palm Beach County saw an influx of more than 13,000 new residents. As the County's population continues to grow, the housing demand has drastically risen, causing a need for more residential development.

With the current housing demand in Palm Beach County, this project supplies needed housing. In the future, additional housing will be needed to meet growing population demand.

### **Compliance with Community Appearance Criteria Section 23.2-31(I)**

#### **Land Development Regulations Section 23.2-31.**

Pursuant to Section 23.2-31, the applicant shall demonstrate that the requested site plan approval of a Multi-Family development consisting of 195 units is consistent with the City of Lake Worth Beach's standards.

- 1. The plan for the proposed structure or project is in conformity with good taste good design and in general contributes to the image of the City as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas and high quality.**

The proposed development is in conformity with the surrounding area and other sites within the area, which consist of other multi-family developments. In fact, currently the existing site is vacant and underutilized. The proposed plan will enhance the property, as well provide an architectural

aesthetic that is consistent with a more modern style while maintaining a character that is unique to the City of Lake Worth Beach.

- 2. The proposed structure or project is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.**

The proposed project will enhance the existing conditions of the site and provide a more appealing exterior design and appearance for the area.

- 3. The proposed structure or project is in harmony with the proposed developments in the general area, with code requirements pertaining to site plan, signage and landscaping, and the comprehensive plan for the City, and with the criteria set forth herein.**

The proposed project is in harmony with the development regulations of the zoning district, as demonstrated by the criteria above.

- 4. The proposed structure or project is in compliance with this section and 23.2-29, as applicable.**

The proposed project is in compliance with this section and the development regulations, as demonstrated above.

### **Conditional Use Criteria Section 23.2-29(d) & Section 23.2-29(e)**

#### **Land Development Regulations Section 23.2-31.**

General findings relating to harmony with LDRs and protection of public interest. Prior to approving any Conditional Use permit, the decision making authority shall find based on competent and substantial evidence that:

- 1. The Conditional Use exactly as proposed at the location where proposed will be in harmony with the uses which, under these LDRs and the Future Land Use Element, are most likely to occur in the immediate area where located.**

The proposed multi-family development is permitted within the existing Zoning District and Future Land Use designation. The subject property is also surrounded by similar multi-family residential communities, which is compatible with the proposed use. As demonstrated by the proposed site plan and supporting documents, the proposed development complies with required development regulations including setbacks, parking and landscape requirements.

- 2. The Conditional Use exactly as proposed at the location where proposed will be in harmony**

**with existing uses in the immediate area where located.**

The proposed multi-family development is consistent with the projected use characteristics of the area and is surrounded by other residential communities. The proposed density and height further promote the intention of the zoning district to provide for new residential development and will be supplying a demand for housing opportunities within the City of Lake Worth Beach.

- 3. The conditional use exactly as proposed will not result in substantially less public benefit or greater harm than would result from use of the site for some use permitted by right or some other conditional use permitted on the site.**

The proposed multi-family development will not result in less public benefit or harm. The proposed use offers more housing to an area experiencing tremendous growth while maintaining compatibility with the surrounding area. With the proposed improvements to 2<sup>nd</sup> Avenue N, the public will benefit greatly from the roadway improvements, parking and site beautification.

- 4. The Conditional Use exactly as proposed will not result in more intensive development in advance of when such development is approved by the Future Land use Element of the Comprehensive Plan.**

The proposed multi-family development is the most efficient use of the site and will not result in more intensive development in advance.

**Specific findings for all conditional uses. Prior to approving any Conditional Use, the decision making authority shall find that:**

- 1. The proposed Conditional Use will not generate traffic volumes or movements which will result in a significant adverse impact or reduce the level of service provided on any street to a level lower than would result from a development permitted by right.**

The proposed multi-family development will not produce a significantly greater amount of traffic trips or have a negative impact on the roadway. A traffic impact analysis has also been provided and reviewed by the City and Palm Beach County and found to be in compliance with the required levels of service. Roadway improvement are being provided on 2<sup>nd</sup> Avenue N, including and new east bound left turn-lane which will minimize any impacts to the current functionality of the roadway.

- 2. The proposed conditional use will not result in a significantly greater amount of through traffic on local streets than would result from a development permitted by right and is appropriately located with respect to collector and arterial streets.**

As mentioned above, the proposed multi-family development will not produce a significantly greater amount of traffic trips or have a negative impact on the roadway than what would be allowed by right within the zoning district. The surrounding roadway network has been analyzed in the traffic report provided by our traffic engineer Simmons & White.

- 3. The proposed conditional use will not produce significant air pollution emissions, or will appropriately mitigate anticipated emissions to a level compatible with that which would result from a development permitted by right.**

The proposed multi-family development will not produce significant air pollution emissions as a residential development consistent with the surrounding community.

- 4. The proposed conditional use will be so located in relation to the thoroughfare system that neither extension nor enlargement nor any other alteration of that system in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.**

The proposed multi-family development provides access from the existing right-of-way, 2<sup>nd</sup> Ave N and expansion of the roadway network is not required.

- 5. The proposed Conditional Use will be so located in relation to water lines, sanitary sewers, storm sewers, surface drainage systems and other utility systems that neither extension nor enlargement nor any other alteration of such systems in a manner resulting in higher net public cost than would result from development permitted by right.**

A conceptual water and sewer plan has been provided with the development and is utilizing existing infrastructure and will not result in any increased public cost to serve this community.

- 6. The proposed Conditional Use will not place a demand on municipal police or fire protection service beyond the capacity of those services, except that the proposed facility may place a demand on municipal police or fire protection services which does not exceed that likely to result from a development permitted by right.**

The proposed multi-family development will not place a demand on municipal police or fire protection. Security measures and fire safety accessibility will be provided to ensure safe maneuverability within the site. The site is already in the service area for both police and fire protection and this does not create an expansion or burden on those services.

- 7. The proposed Conditional Use will not generate significant noise, or will appropriately mitigate anticipated noise to a level compatible with that which would result from a development permitted by right. Any proposed use must meet all the requirements and**

**stipulations set forth in Section 15.24 – Noise Control.**

The proposed multi-family development will not generate significant noise or disturbances.

**8. The proposed Conditional Use will not generate light or glare which encroaches onto any residential property in excess of that allowed in Section 23.4-10 – Exterior Lighting**

The proposed multi-family development consisting of 195 units shall ensure that there will not be light or glare generated that disturbs the surrounding developments. A Photometrics plan has been included in this application to ensure compliance.

**Prior to approving any Conditional Use Permit, the decision making authority shall ensure that the following requirements have been met:**

**1. Any and all outstanding code enforcement fees and fines related to the project site have been paid to the City.**

There are no outstanding code enforcement violations on the property.

**2. Any previously imposed conditions of approval for the use at the site have been met, if applicable, unless request for amendment of conditions is part of the current Conditional Use Permit application.**

Although, no previous conditions of approval exist currently for the property, the proposed development shall comply with the standard above.

**Sustainable Bonus Incentive Program Criteria**

**Land Development Regulations Section 23.2-33(2)**

The proposed multi-family development is comprised of 5-stories buildings, in order to achieve the additional stories and building height, the applicant is requesting to participate in the Sustainable Bonus Incentive Program. The proposed building square foot bonus is approximately 38,073 SF for floors 3-5 of each building.

The approved value of the required improvements for the SBIP is \$7.50 per square for the bonus area. The square footage of the bonus area above the second floor (3rd, 4th, and 5th floors) is +/-12,691 square feet per floor for all three buildings. The SBIP incentive value for all three buildings (Tier One - LDR) is \$856,642.50 (12,691 sf X 3 Floors X 3 Buildings X \$7.50 per sf). Fifty percent (50%) of the incentive award value is \$428,321.25, which the applicant is required to pay to the City. For the remaining 50% of the incentive award value (\$428,321.25), the applicant is proposing qualified improvements listed below.

\$214,160.63	Florida Green Building Silver Certification
\$50,000	6 EV Charging Stations and conduits
\$112,875	1 three-bedroom Affordable Housing – City Program
\$64,000	Littoral plantings

**\$441,035.63 Total provided**

**Prior to approving any application, the decision-making authority shall find based on competent and substantial evidence that:**

**(a) Is the award calculated correctly, consistent with the square footage and height requested and the value of the features and improvements included in the development proposal; and**

The applicant believes the award is calculated correctly and consistent with square footage for the three residential buildings and height requested as outlined in the narrative above. This has been reviewed with the City staff and we have received verbal feedback that the plans met the requirements for the bonus building heights.

**(b) Do the proposed on-site features or improvements adequately provide sustainable project enhancements, beyond those otherwise required by these LDRs for the development proposal, that are attainable and reasonable in the context of the proposed project; and**

The proposed on-site features or improvements well exceed the value of the sustainable project enhancements required by this code section. As outlined above the total value of sustainable project enhancements is approximately \$441,000 and touches on a variety of focus areas that are recommended within the code including FGBC certification of the buildings.

**(c) Do the proposed off-site improvements meet the priorities of the city for community sustainability; and**

The proposed off-site improvements will meet the priorities of the city for community sustainability as the proposal exceeds the requirements of this code by utilizing a variety of improvements both architecturally, site development and through the provision of workforce housing.

**(d) Do the proposed features, improvements or fees in-lieu meet the intent of the Sustainable Bonus Incentive Program?**

This application would require a total value of \$428,321.25 (50% of 856,642.50 (12,691 sf X 3 Floors X 3 Buildings X \$7.50 per sf)) based on the amount of bonus building SF area proposed

above two-stories. The applicant is proposing approximately \$441,000 of sustainable bonus value that meet the intent of the SBIP.

Thank you for your consideration of this application. If you have any questions, please don't hesitate to contact me at 561-249-0940.

Sincerely,

A handwritten signature in blue ink that reads "Brian Terry". The signature is stylized, with the first name "Brian" and the last name "Terry" written in a cursive-like font. The "T" in "Terry" is particularly large and loops around.

**Brian Terry, PLA**

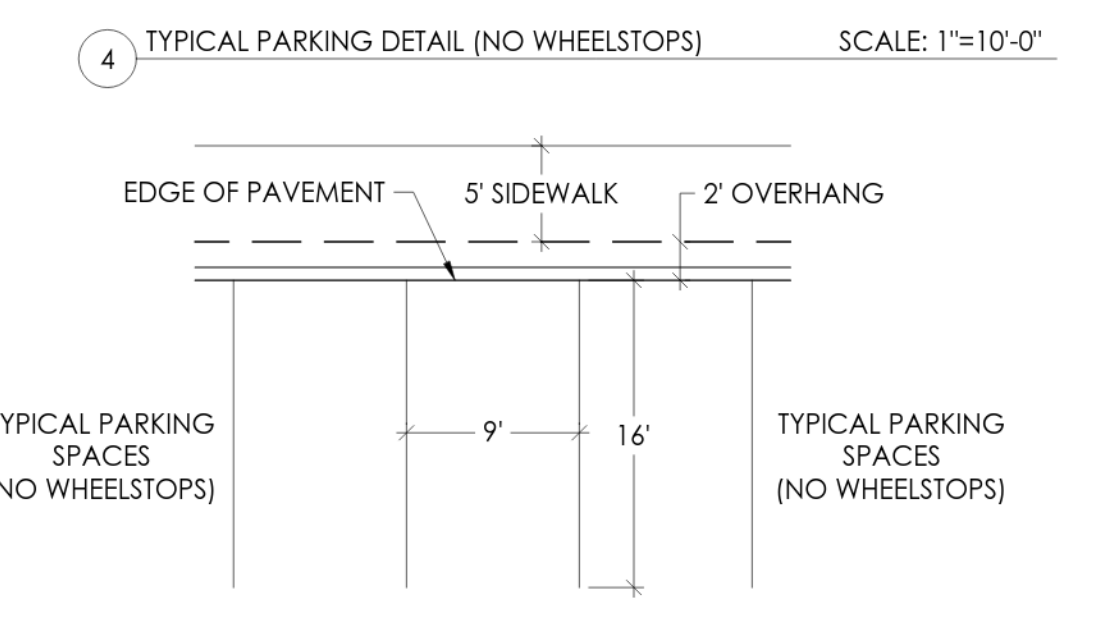
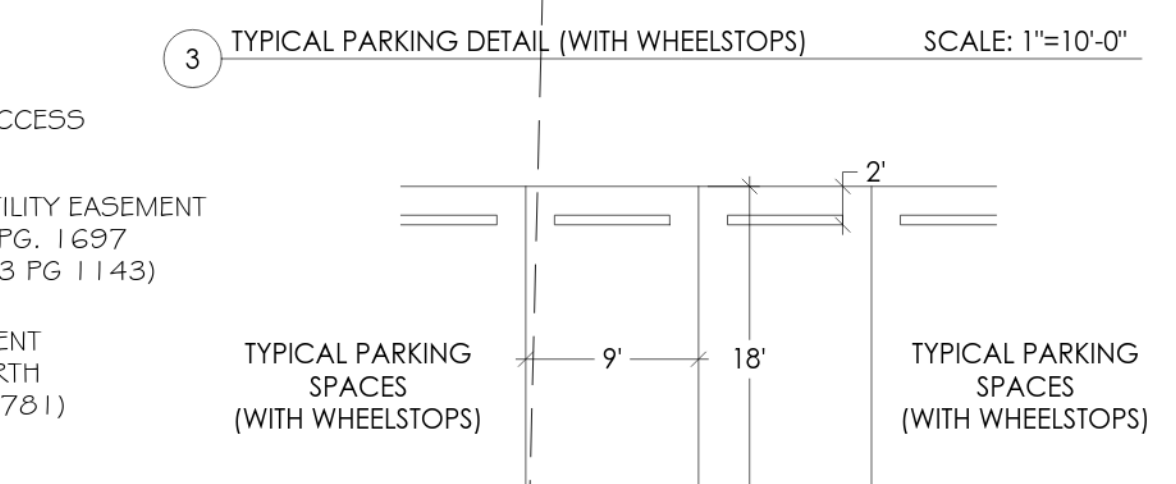
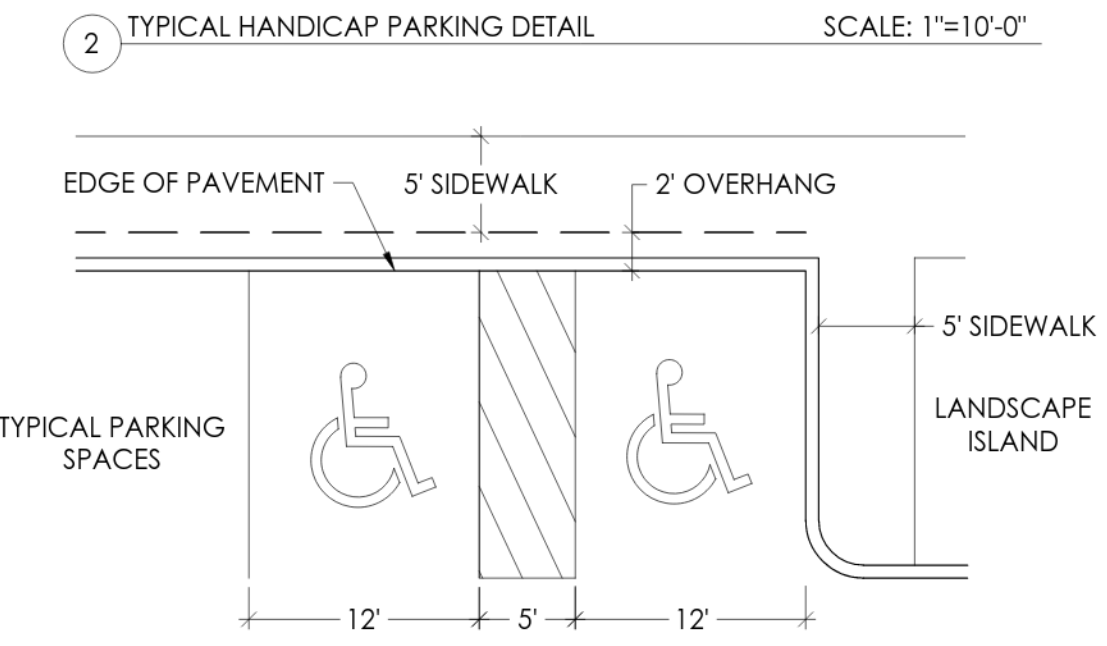
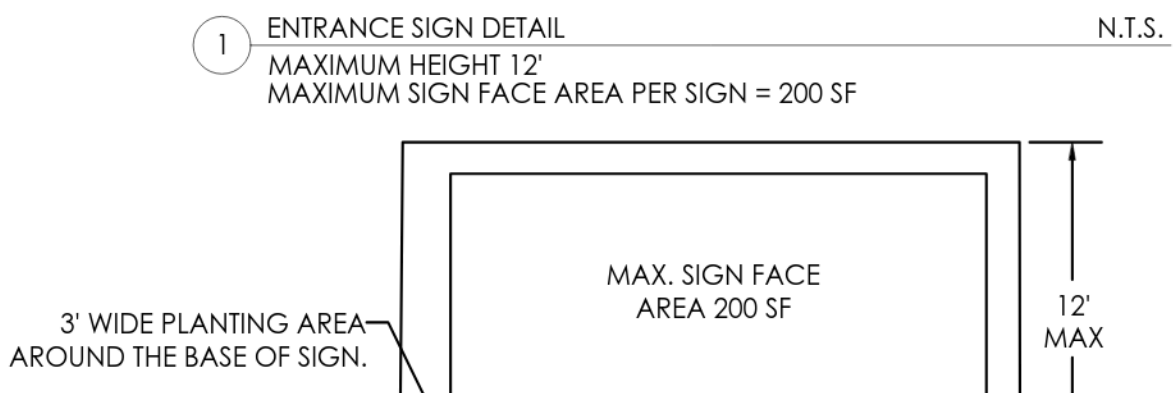
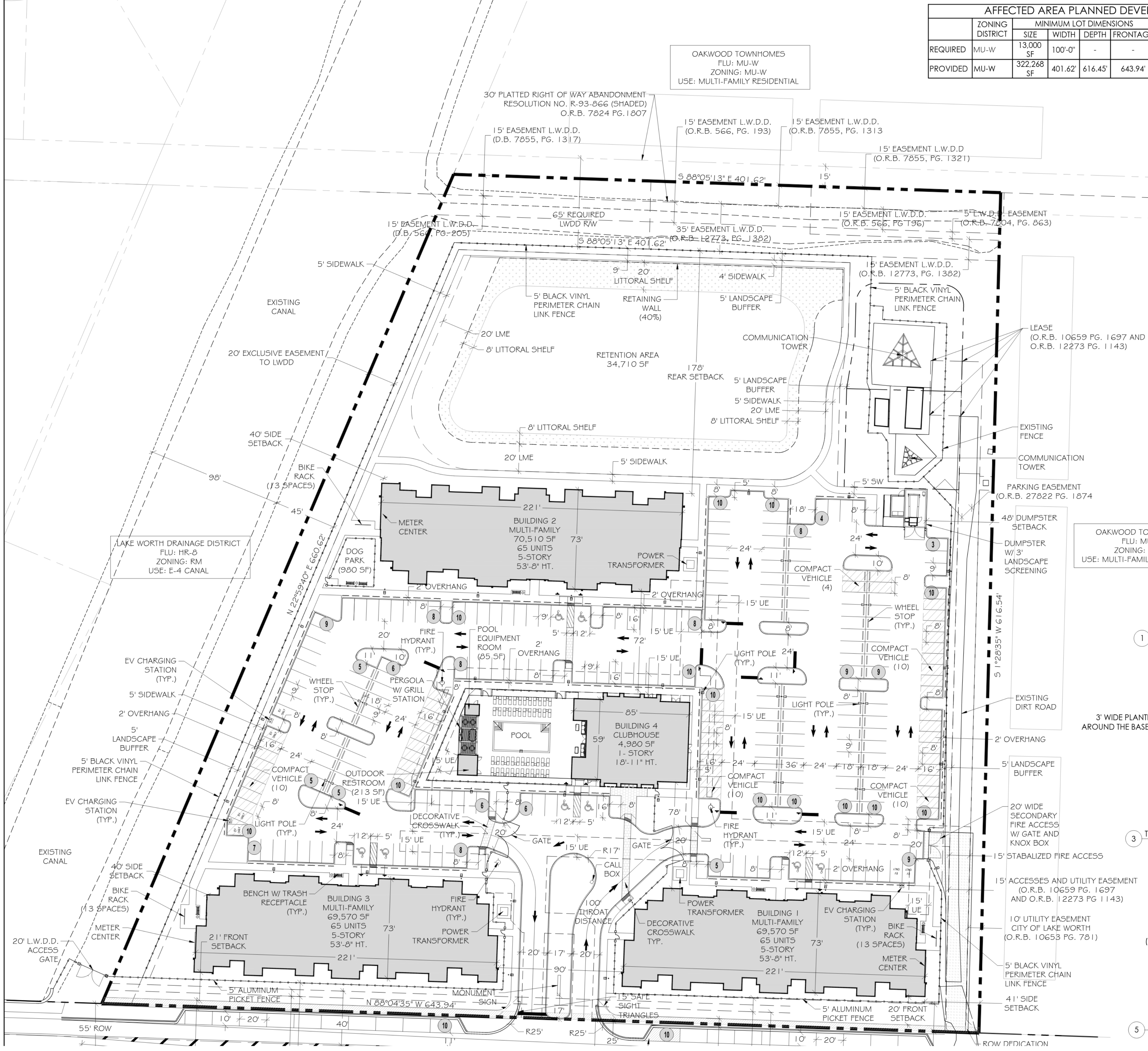
Principal

Insite Studio, Inc.



AFFECTED AREA PLANNED DEVELOPMENT REGULATIONS (PDR)											
	ZONING DISTRICT	SIZE	WIDTH	DEPTH	FRONTAGE	DENSITY	BLDG. COVERAGE	FRONT	SIDE	STREET	REAR
REQUIRED	MU-W	13,000 SF	100'-0"	-	-	30	50%	20'	20'	20'	10'
PROVIDED	MU-W	322,268 SF	401.62'	616.45'	643.94'	26.35	13%	20'	40'	-	178'

SITE DATA	
APPLICATION NAME	RESIDENCES AT LAKE WORTH
ADDRESS	2431, 2441, 2559 2ND AVENUE NORTH
PROPERTY CONTROL NUMBER (S)	38-43-44-20-01-097-0020 38-43-44-20-01-097-0010 38-43-44-20-01-096-0020
EXISTING ZONING	MU-W
PROPOSED ZONING	MU-W
EXISTING LAND USE	VACANT
PROPOSED LAND USE	MULTI-FAMILY RESIDENTIAL
FUTURE LAND USE (FLU)	MU-W
GROSS AREA	7.40 AC (322,268 S.F.)
MAX FLOOR AREA RATIO	2.40
PROPOSED FLOOR AREA RATIO	65
MAX BUILDING COVERAGE	50%
PROPOSED BUILDING COVERAGE	13.01%
MAX IMPERMEABLE SURFACE AREA	65%
PROPOSED IMPERMEABLE SURFACE AREA	49% (157,900 SF)
BUILDINGS	13.01% (41,930 SF)
COMMUNICATION TOWER	1.15% (3,722 SF)
SITE IMPROVEMENTS	34.4% (110,685 SF)
DENSITY (195 DU / 7.4 AC)	26.35 DU/AC
PROPOSED BUILDING HEIGHT	53'-8"
TOTAL BUILDING UNITS	195 UNITS
BUILDING 1 - MULTI-FAMILY	65 UNITS (69,570 SF)
BUILDING 2 - MULTI-FAMILY	65 UNITS (70,510 SF)
BUILDING 3 - MULTI-FAMILY	65 UNITS (69,570 SF)
BUILDING 4 - CLUBHOUSE AND ACCESSORY BUILDINGS	5,278 SF
TOTAL WORKFORCE UNITS	30
REQUIRED PARKING	
RESIDENTIAL	
1 BED (105 DU X 1.5 PER UNIT)	158 SPACES
2 BEDS (85 DU X 1.75 PER UNIT)	149 SPACES
3 BEDS (5 DU X 2 PER UNIT)	10 SPACES
TOTAL REQUIRED	317 SPACES
25% AFFORDABLE / WORKFORCE REDUCTION	-80 SPACES
TOTAL REQUIRED WITH REDUCTION	237 SPACES
PROVIDED PARKING	288 SPACES
STANDARD SPACES	214 SPACES
COMPACT VEHICLE	54 SPACES
BIKE SPACES 39 (4/1 STANDARD PARKING SPACE)	10 SPACES
HANDICAP PARKING	8 SPACES
TAZ	317

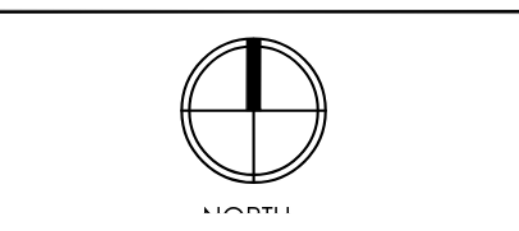


Consultants:

Revisions:


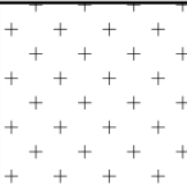
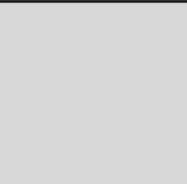
7/29/22 - COMMENTS
10/12/22 - RESUBMITTAL
01/13/23 - RESUBMITTAL
03/13/23 - RESUBMITTAL

**RESIDENCES AT LAKE WORTH**  
Lake Worth, Florida  
Richman Group Development



IMPERMEABLE SITE DATA	
MAX IMPERMEABLE SURFACE AREA	65%
PROPOSED IMPERMEABLE SURFACE AREA	49% (157,900 SF)
BUILDINGS	13.4% (43,293 SF)
COMMUNICATION TOWER	1.15% (3,722 SF)
SITE IMPROVEMENTS	34.4% (110,885 SF)
DENSITY (195 DU / 7.4 AC)	26.35 DU/AC

**LEGEND**

-  - SITE IMPROVEMENTS
-  - COMMUNICATION TOWER
-  - BUILDINGS

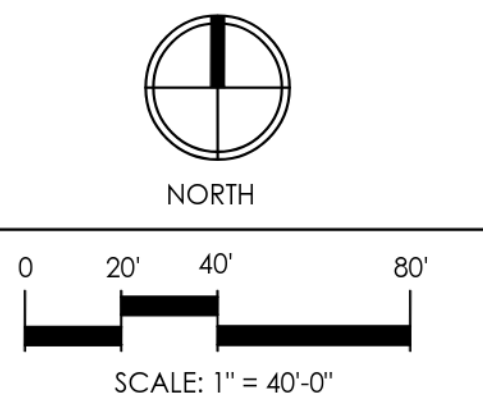


**insite studio**  
 planning + landscape architecture  
 8144 Okeechobee Blvd, Suite A, West Palm Beach, FL 33411  
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 www.insitestudio.com | License #: LC26000606

Consultants:

Revisions:  
 7/29/22 - COMMENTS  
 10/12/22 - RESUBMITTAL  
 01/13/23 - RESUBMITTAL  
 03/13/23 - RESUBMITTAL

**RESIDENCES AT LAKE WORTH**  
 Lake Worth, Florida  
 Richman Group Development



Drawn By: TAC  
 Drawing #: 1264  
 Date: 04/11/2022

**IMPERMEABLE AREA EXHIBIT**

SHEET # **EXB.1**

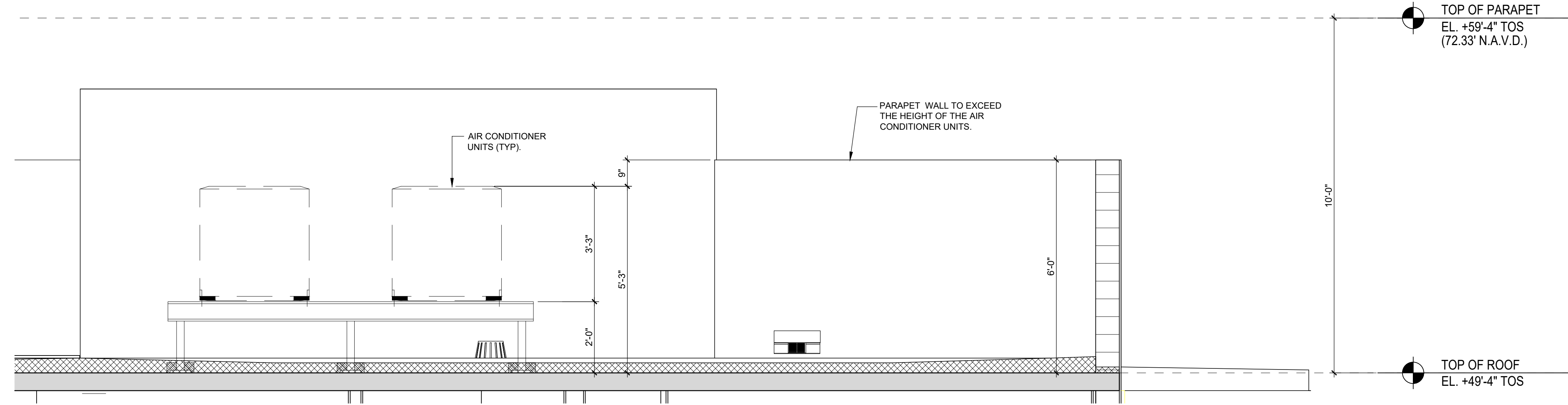
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Javier Font AR No. 12547

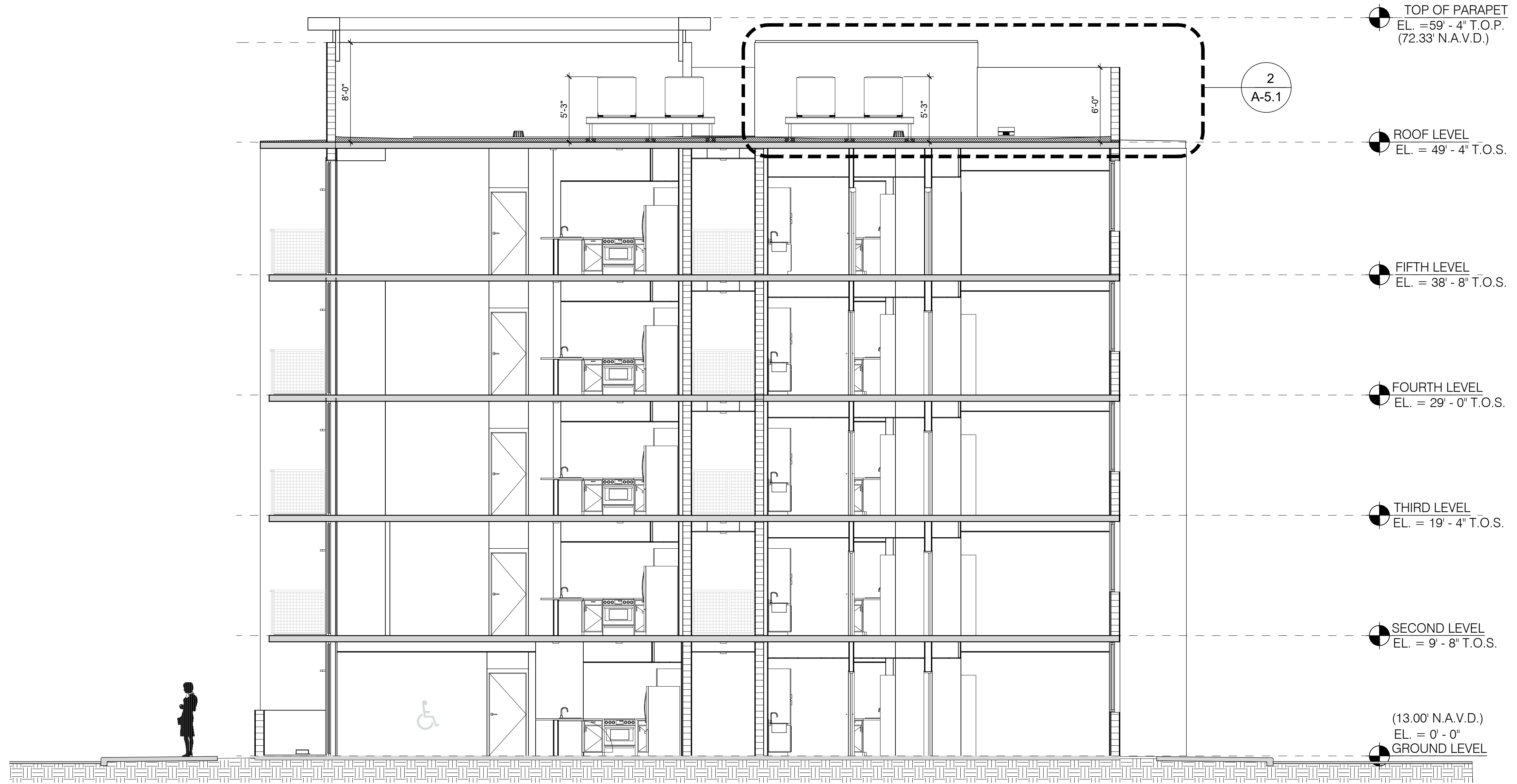
PROPOSED RESIDENTIAL DEVELOPMENT  
**RESIDENCES AT LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

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DATE:  
 10-12-2022  
 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 SECTION  
 - RESIDENTIAL BUILDING  
 SHEET NO:  
**A-5.1**



**2 ENLARGED SECTION**  
 SCALE: 1/2" = 1'



**1 RESIDENTIAL BUILDING SECTION**  
 SCALE: 3/16" = 1'

SEAL:

Javier Font AR No. 12547

PROPOSED RESIDENTIAL DEVELOPMENT

**RESIDENCES AT LAKE WORTH**

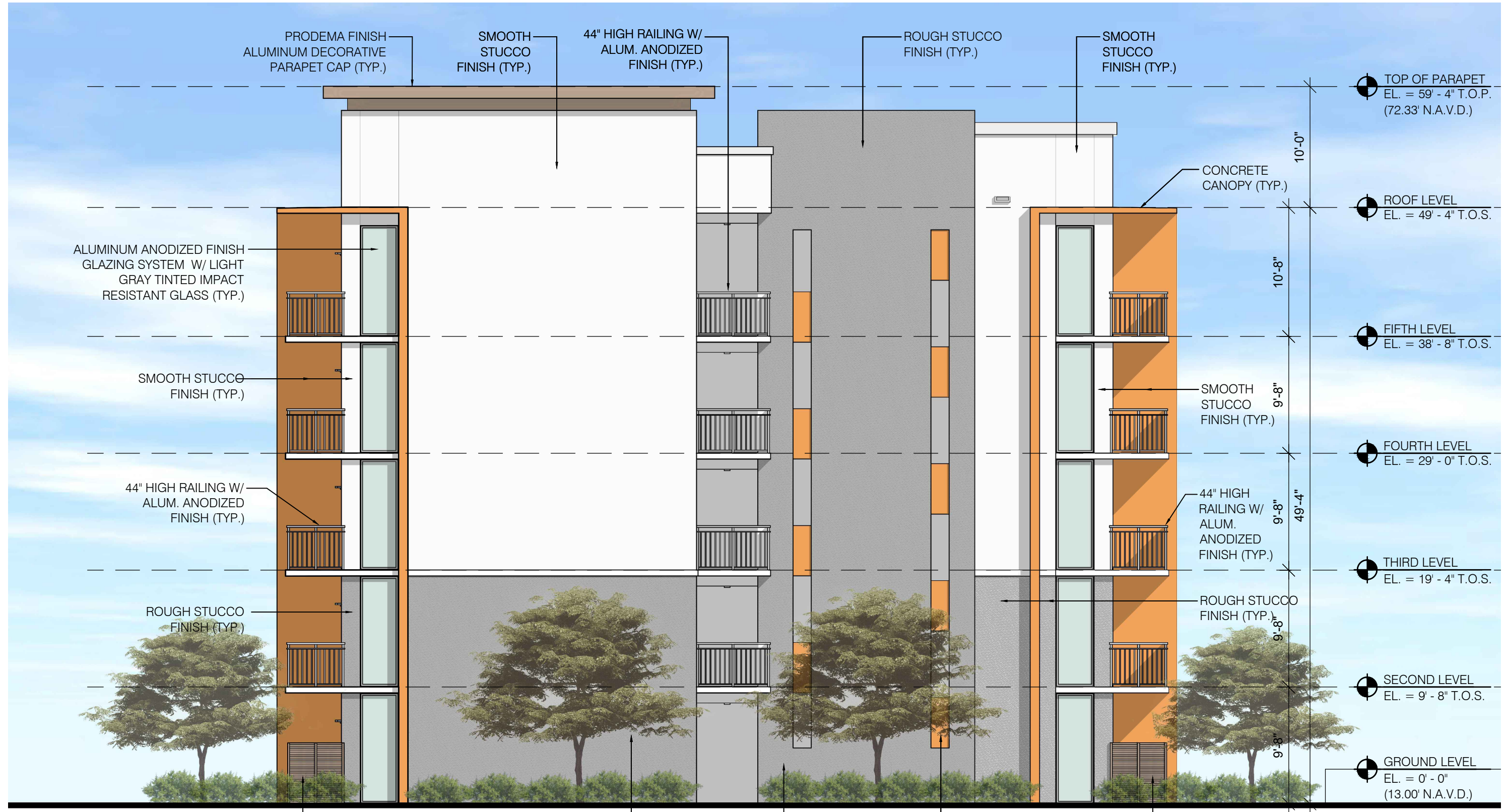
2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

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DATE:  
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 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 ELEVATIONS  
 - RESIDENTIAL BUILDING  
 SHEET NO:  
**A-2.0**



**1 FRONT ELEVATION (INTERIOR PARKING AREA)**  
 SCALE: 1/8" = 1'



**2 SIDE ELEVATION**  
 SCALE: 1/8" = 1'

SEAL:

Javier Font AR No. 12547

PROPOSED RESIDENTIAL DEVELOPMENT

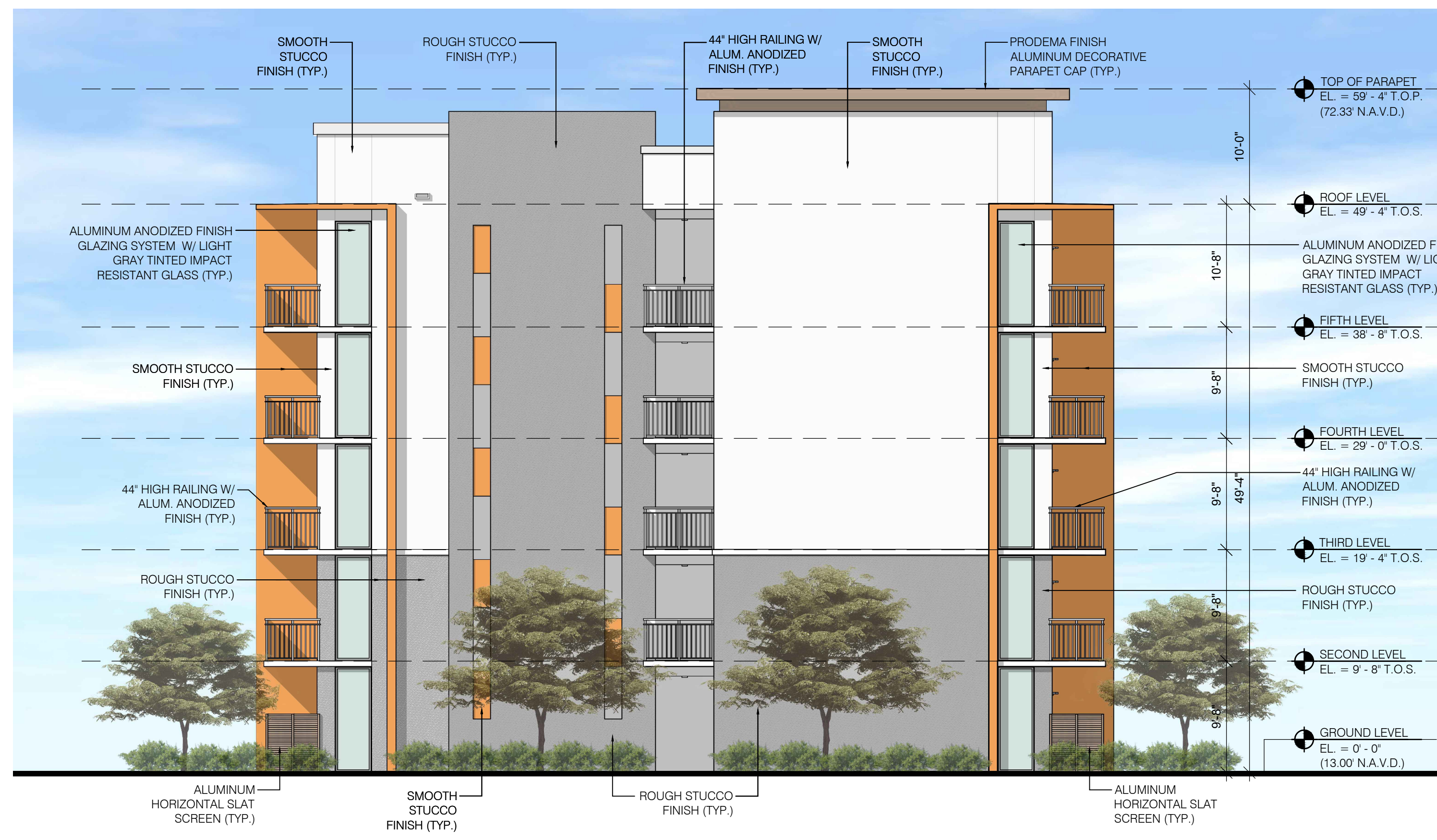
**RESIDENCES AT LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

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 10-12-2022  
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 21-092  
 DRAWING NAME:  
 ELEVATIONS  
 - RESIDENTIAL BUILDING  
 SHEET NO:  
**A-2.1**



**1 REAR ELEVATION (2ND AVE. & REAR PROPERTY LINE)**  
 SCALE: 1/8" = 1'-0"



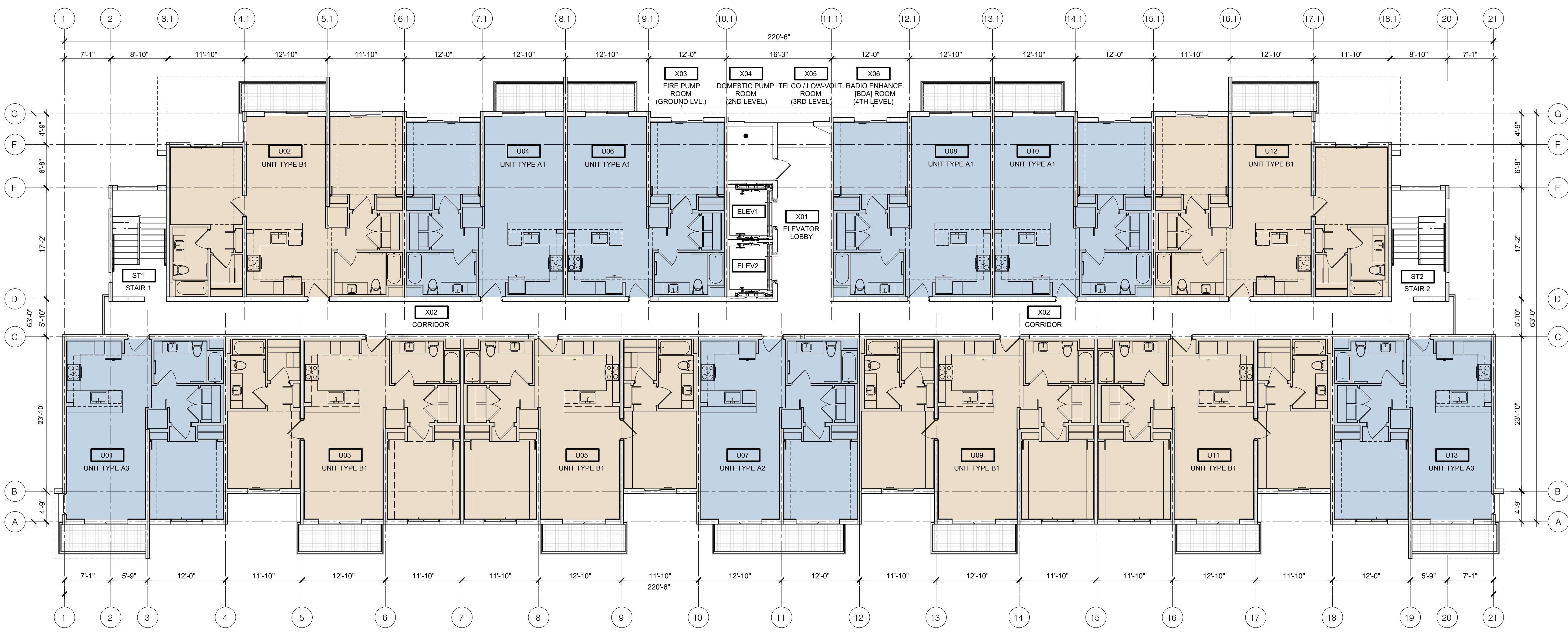
**2 SIDE ELEVATION**  
 SCALE: 1/8" = 1'

SEAL:

Javier Font AR No. 12547

PROPOSED RESIDENTIAL DEVELOPMENT  
**RESIDENCES AT LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

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 TYPICAL LEVEL FLOOR PLAN - RESIDENTIAL BLDG.  
 SCALE: 1/8" = 1'

DATE:  
 10-12-2022  
 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 TYPICAL LEVEL FLOOR PLAN  
 - RESIDENTIAL BLDG.  
 SHEET NO:  
**A-1.1**

SEAL:

Javier Font AR No. 12547

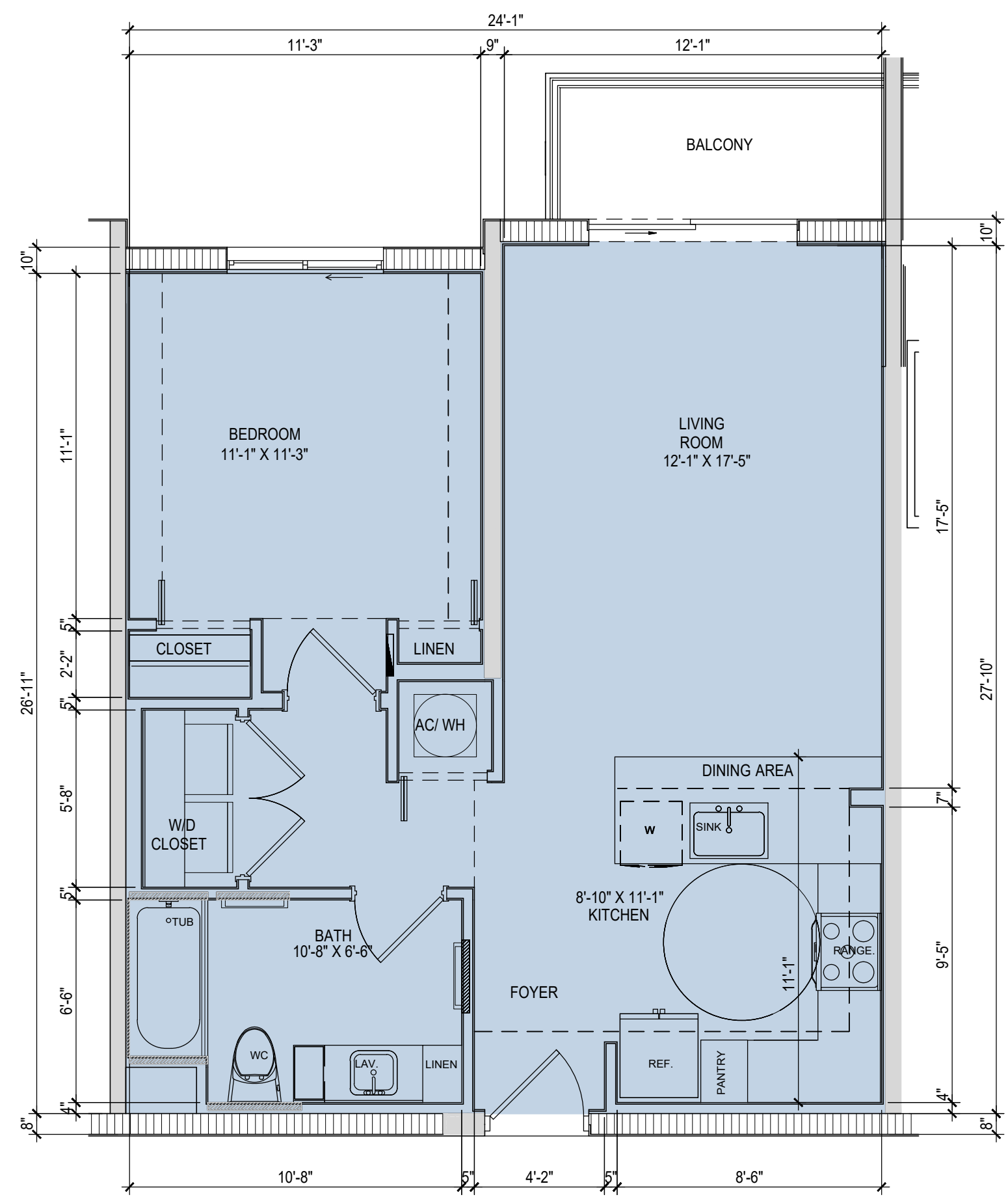
PROPOSED RESIDENTIAL DEVELOPMENT

**RESIDENCES AT LAKE WORTH**

2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

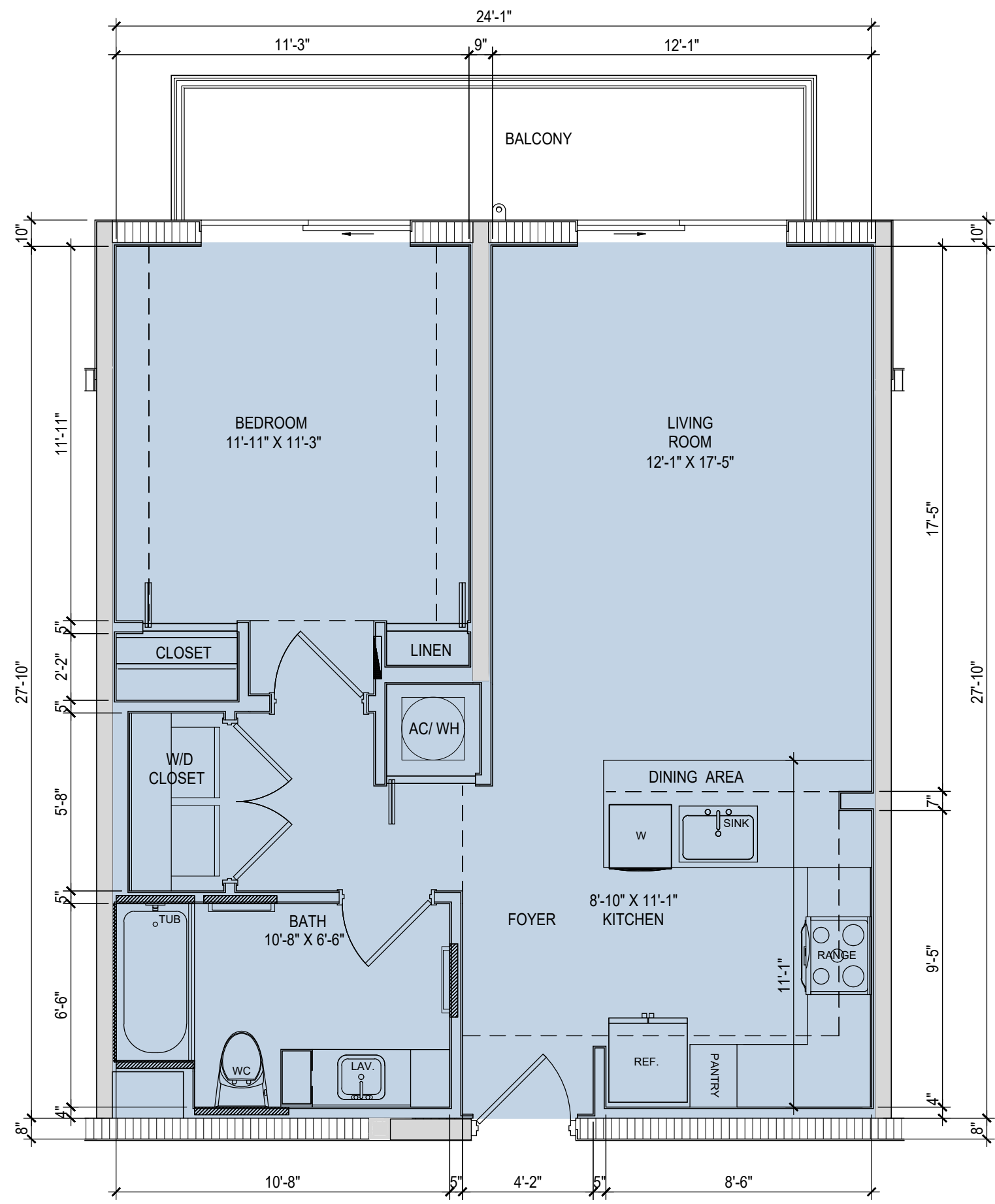
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DATE:  
 10-12-2022  
 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 UNIT TYPES  
 SHEET NO:  
**A-4.1**



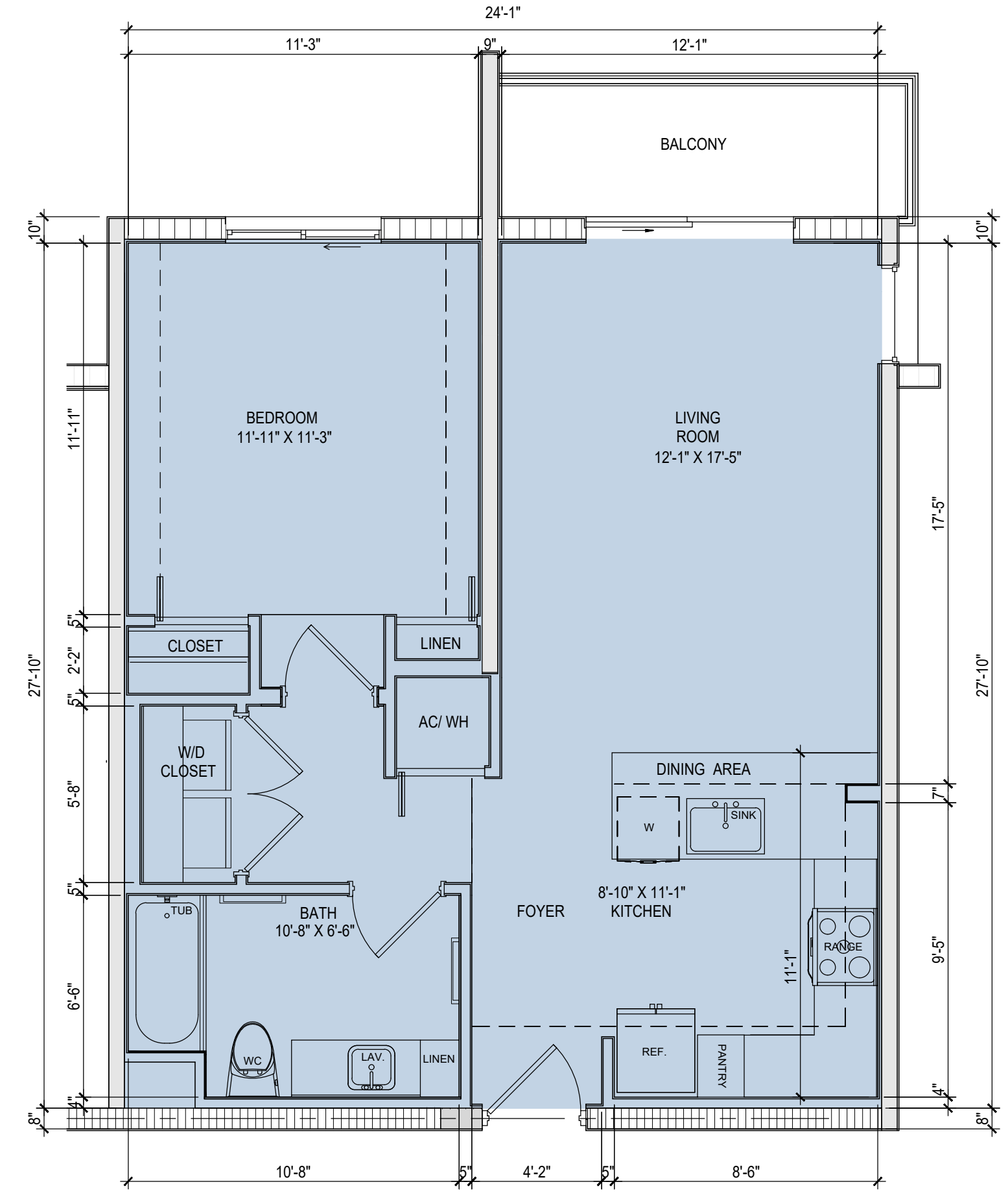
**FLOOR PLAN - UNIT TYPE A1 (1BD/1BA)**

SCALE: 1/4" = 1'-0" LEASE-ABLE AREA: 716 SF  
 NET AREA: 649 SF



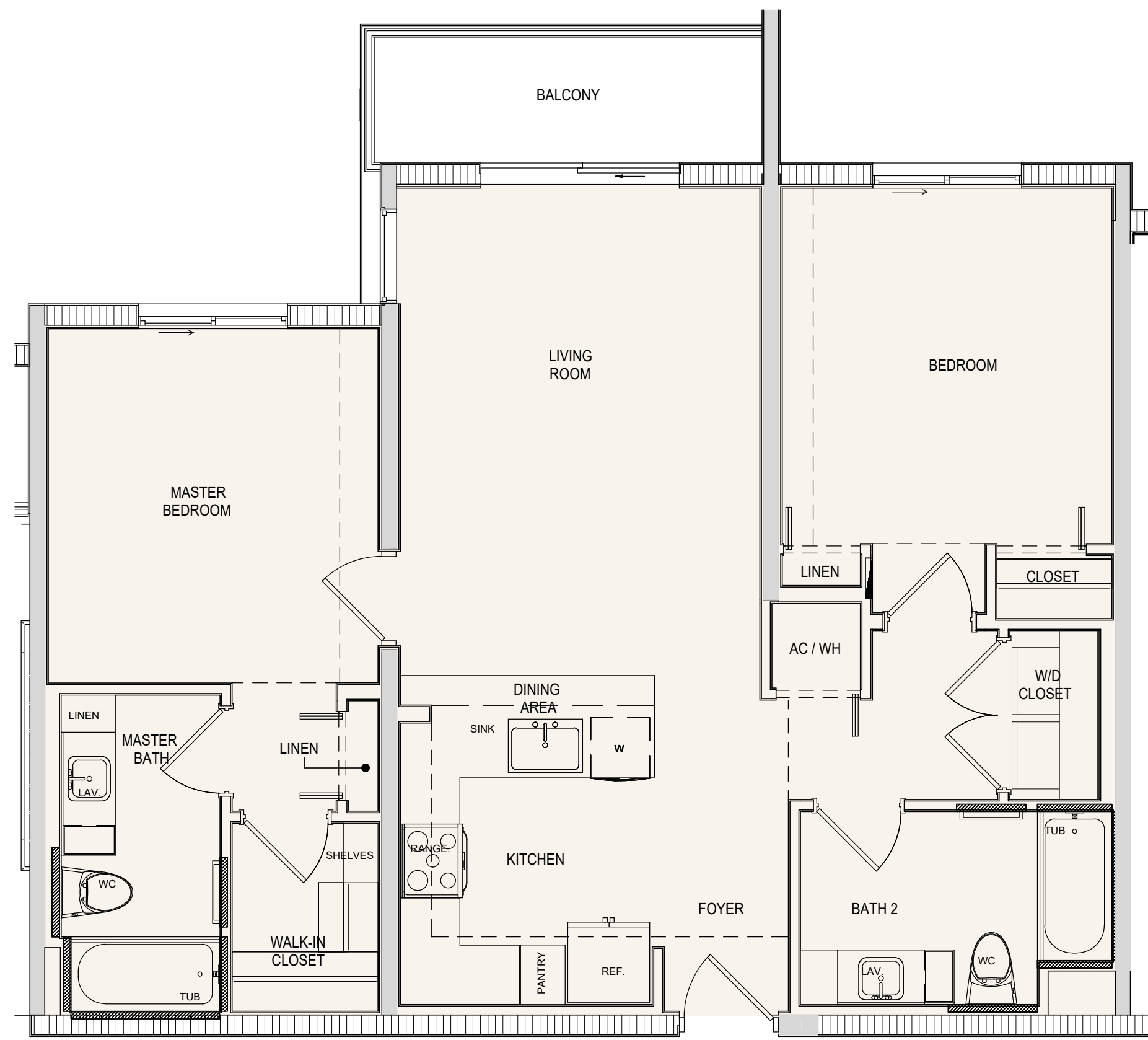
**FLOOR PLAN - UNIT TYPE A2 (1BD/1BA)**

SCALE: 1/4" = 1'-0" LEASE-ABLE AREA: 729 SF  
 NET AREA: 662 SF



**FLOOR PLAN - UNIT TYPE A3 (1BD/1BA)**

SCALE: 1/4" = 1'-0" LEASE-ABLE AREA: 729 SF  
 NET AREA: 662 SF



**FLOOR PLAN - UNIT TYPE B1 (2BD/2BA)**

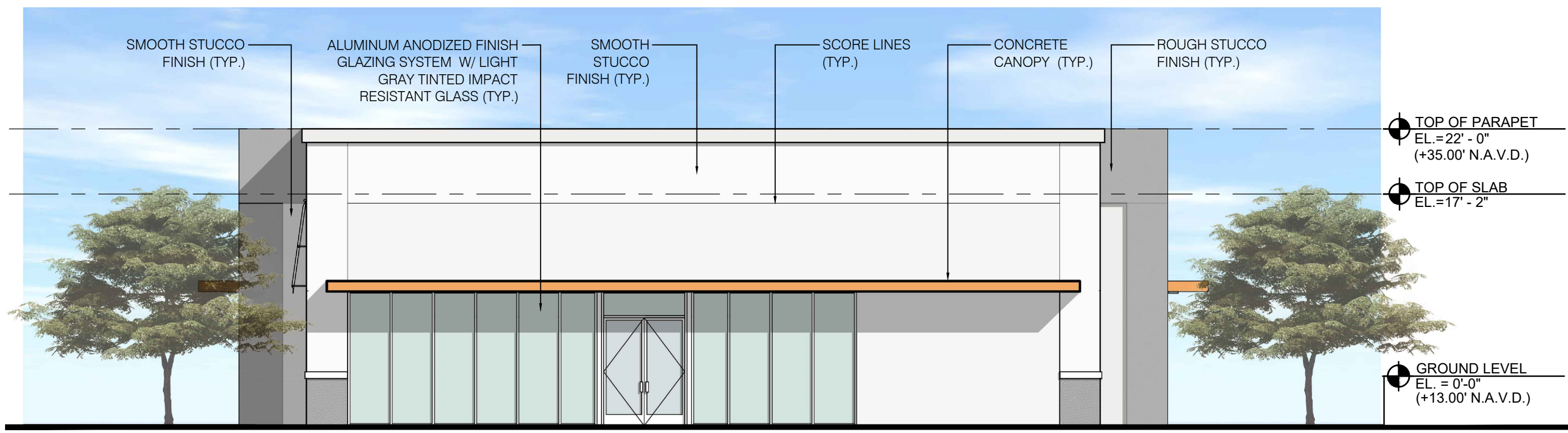
SCALE: 1/4" = 1'-0" LEASE-ABLE AREA: 1013 SF  
 NET AREA: 923 SF

SEAL:

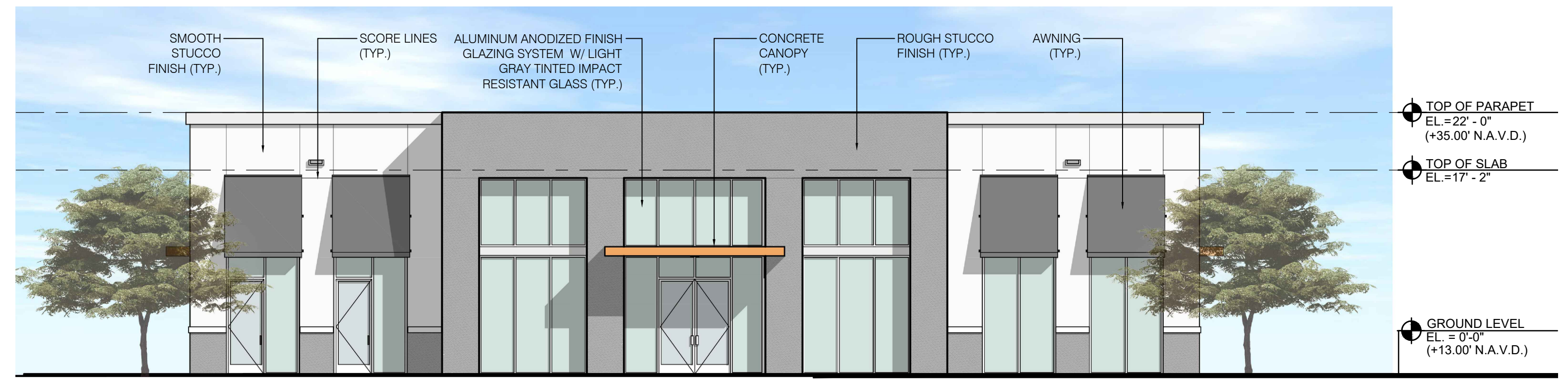
Javier Font AR No. 12547

PROPOSED RESIDENTIAL DEVELOPMENT  
**RESIDENCES AT LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

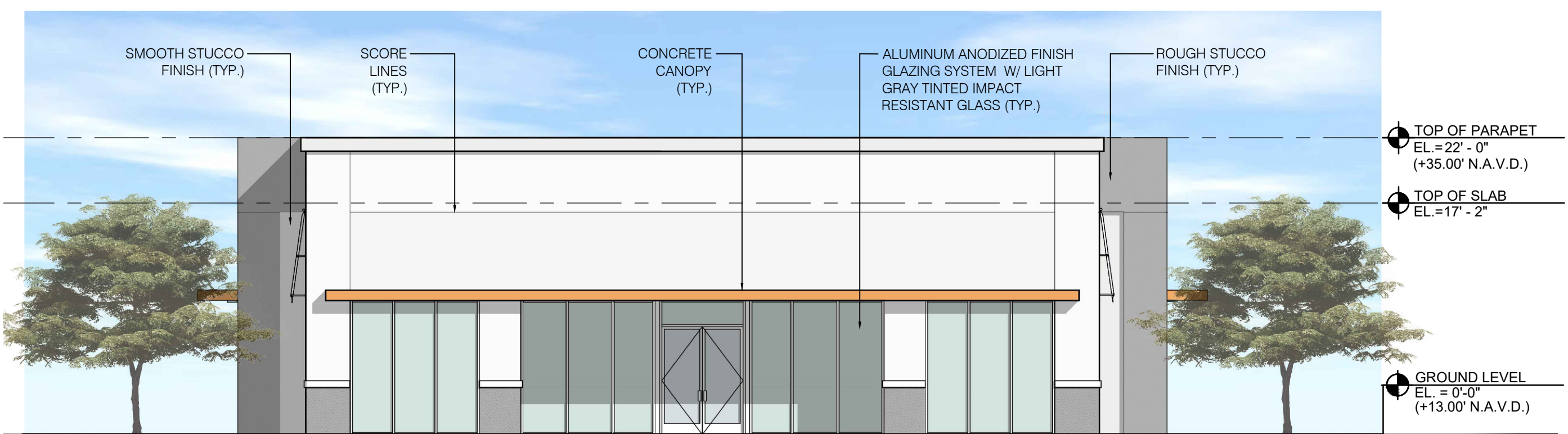
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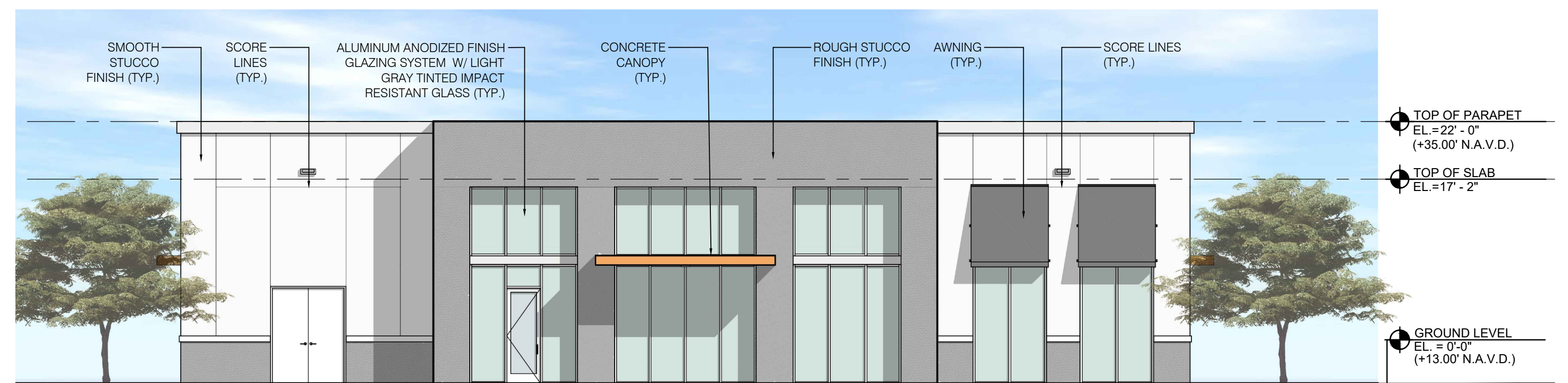
**2 SIDE (RIGHT) ELEVATION**  
 SCALE: 1/8" = 1'



**1 FRONT ELEVATION**  
 SCALE: 1/8" = 1'



**4 SIDE (LEFT) ELEVATION**  
 SCALE: 1/8" = 1'

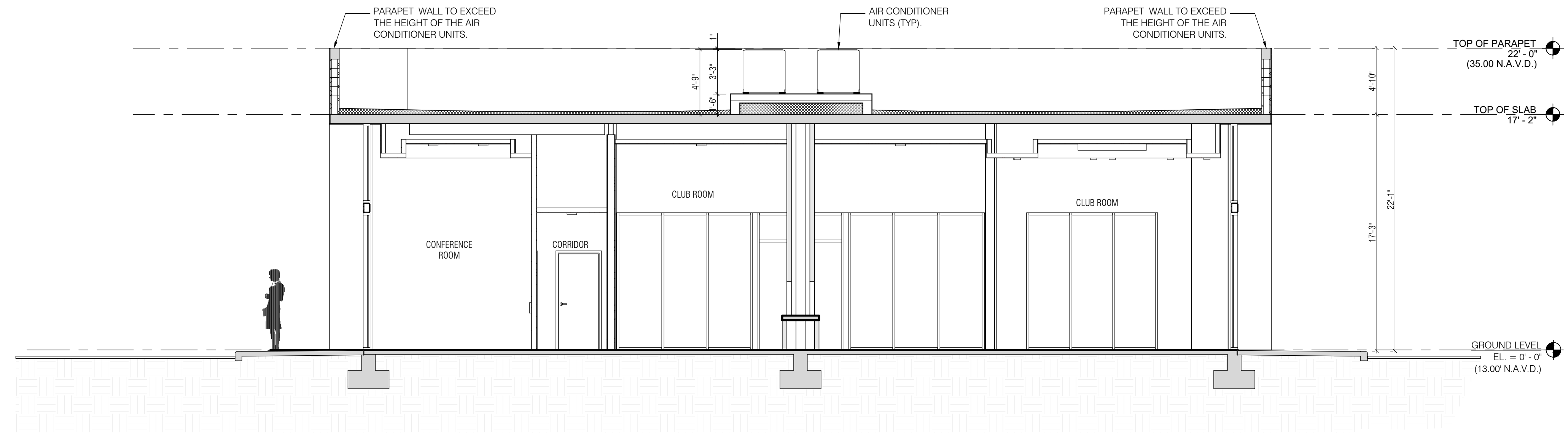


**3 REAR ELEVATION**  
 SCALE: 1/8" = 1'



SEAL:

Javier Font AR No. 12547

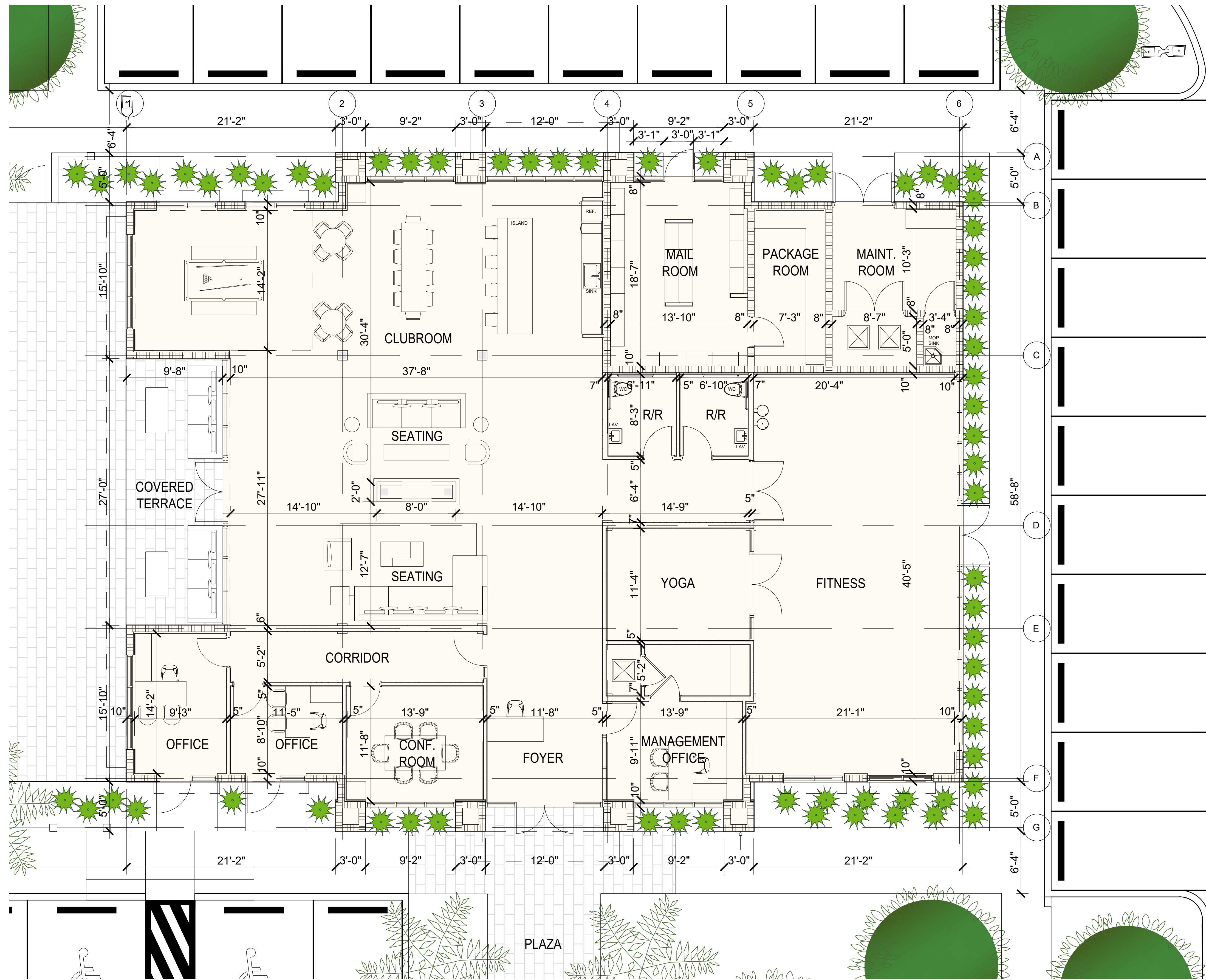


1 CLUBHOUSE SECTION  
 SCALE: 3/16" = 1'

PROPOSED RESIDENTIAL DEVELOPMENT  
**RESIDENCES AT LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

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DATE:  
 10-12-2022  
 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 SECTION - CLUBHOUSE  
 SHEET NO:  
**A-5.2**



**GROUND FLOOR PLAN - CLUBHOUSE**

SCALE: 3/16" = 1'

SEAL:  
  
 Javier Font AR No. 12547

PROPOSED RESIDENTIAL DEVELOPMENT  
**RESIDENCES AT LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

DATE:  
 10-12-2022  
 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 GROUND FLOOR PLAN  
 - CLUBHOUSE  
 SHEET NO:  
**A-1.3**

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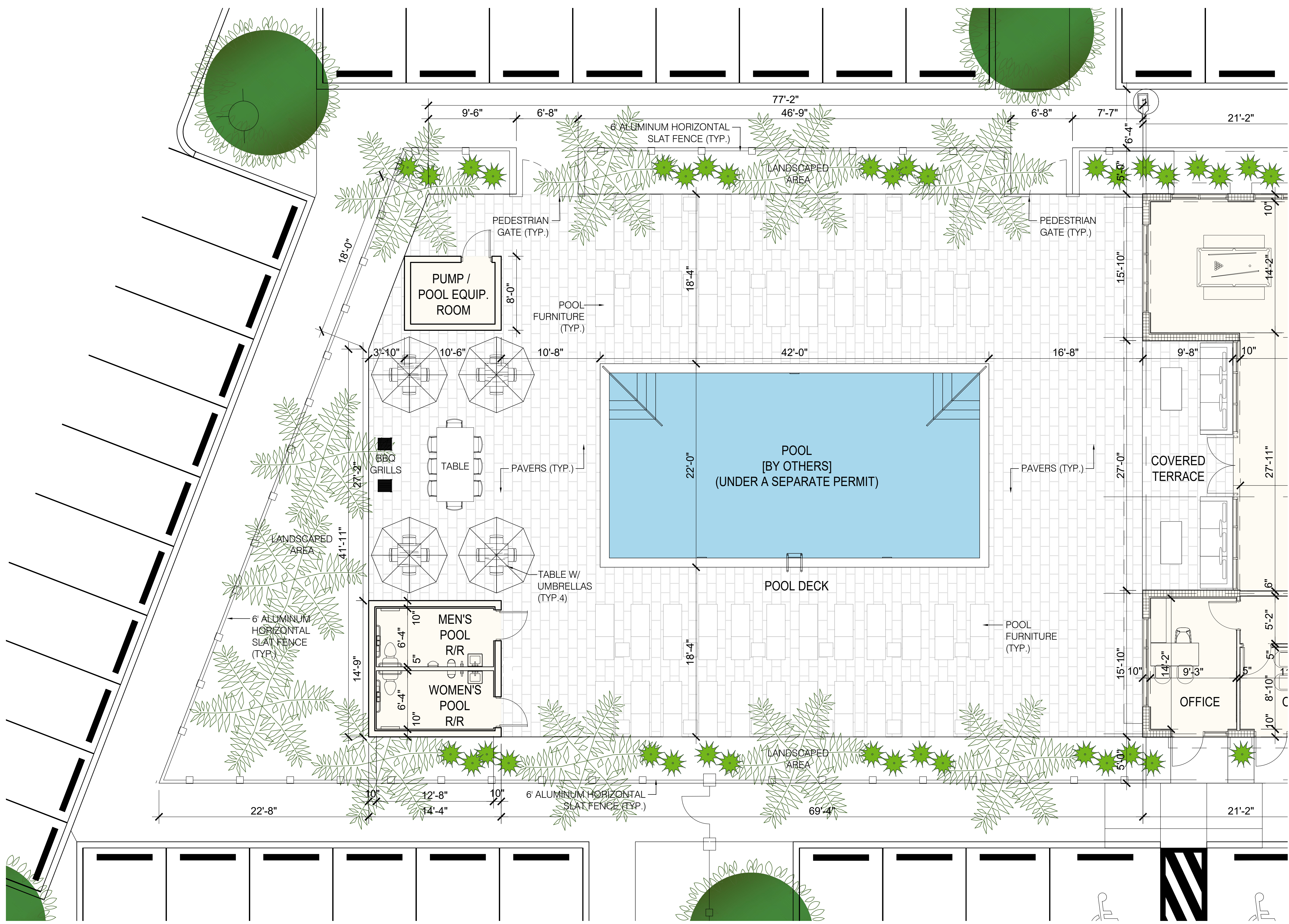
SEAL:

Javier Font AR No. 12547

PROPOSED RESIDENTIAL DEVELOPMENT  
**RESIDENCES AT LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

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DATE:  
 10-12-2022  
 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 POOL DECK PLAN  
 - CLUBHOUSE  
 SHEET NO:  
**A-1.4**



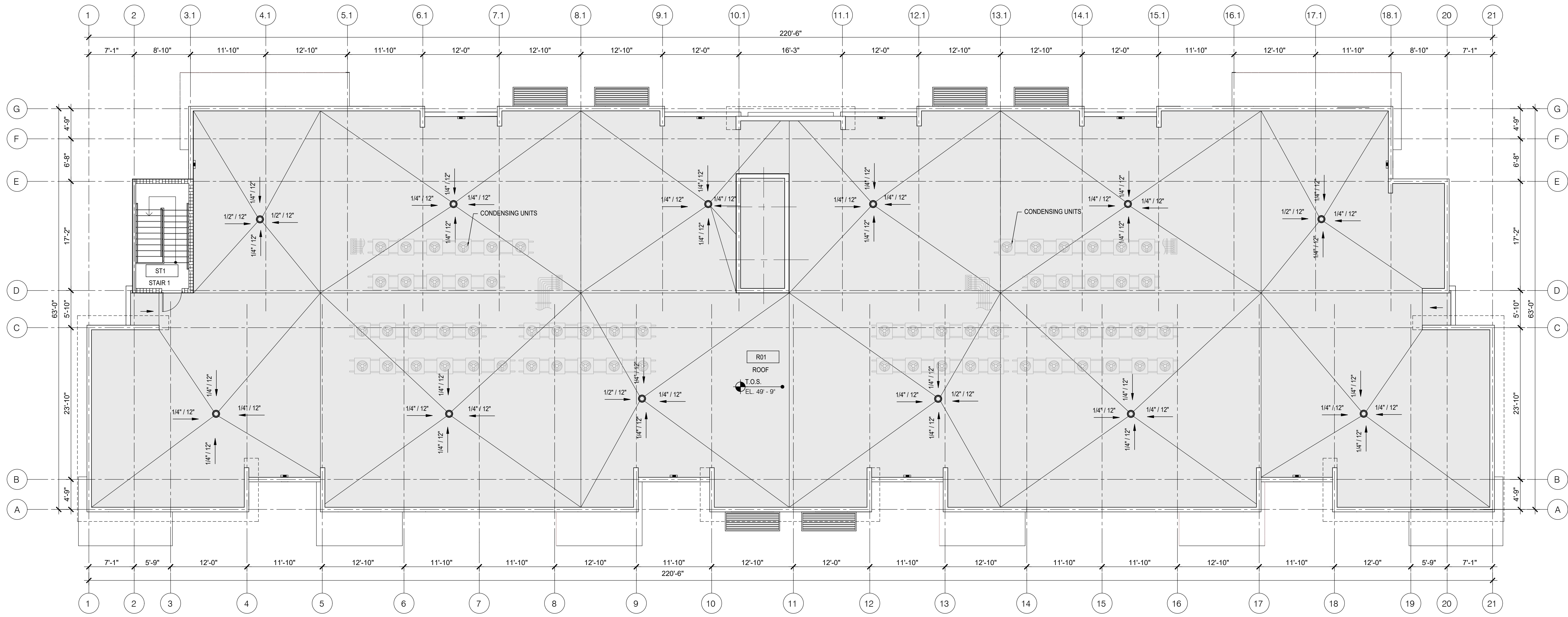
**POOL DECK PLAN - CLUBHOUSE**  
 SCALE: 3/16" = 1'

SEAL:

Javier Font AR No. 12547

PROPOSED RESIDENTIAL DEVELOPMENT  
**RESIDENCES AT LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

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 **ROOF PLAN - RESIDENTIAL BUILDING**

SCALE: 1/8" = 1'

DATE:  
 10-12-2022  
 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 ROOF PLAN  
 - RESIDENTIAL BUILDING  
 SHEET NO:  
**A-1.2**

SEAL:

Javier Font AR No. 12547



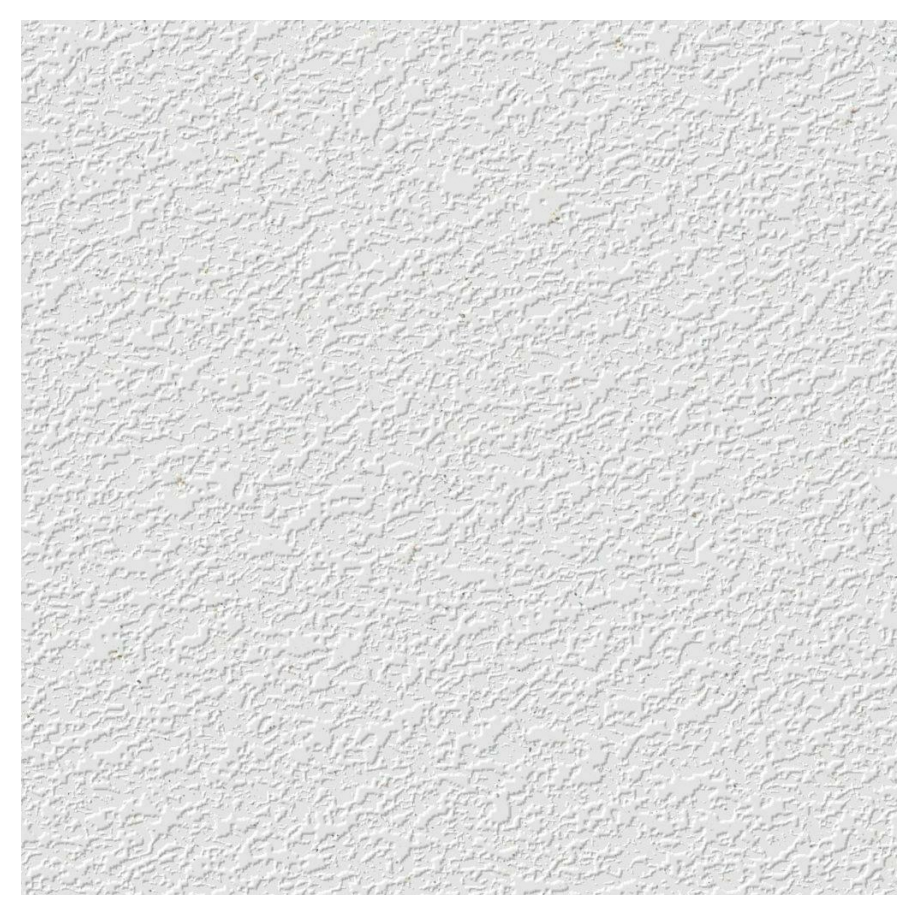
**1** ANNODIZED ALUMINUM SLIDING GLASS DOOR W/ LIGHT GREY TINT



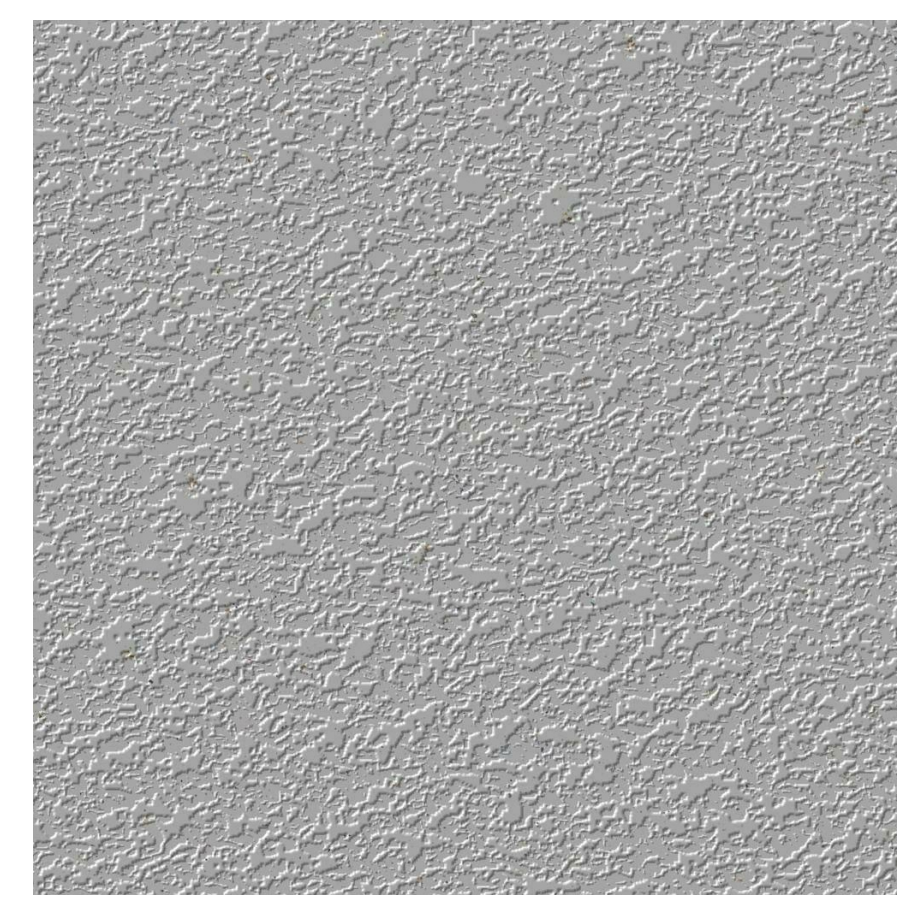
**2** ANNODIZED ALUMINUM WINDOW W/ LIGHT GREY TINT



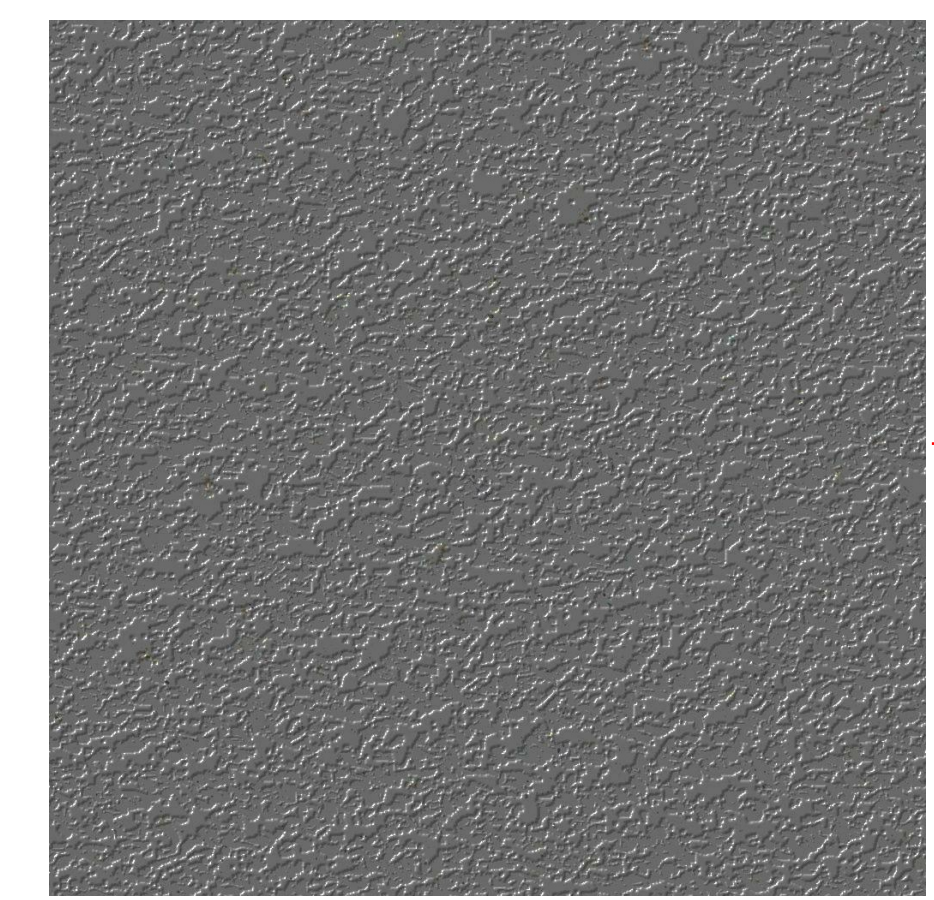
**3** PERFORATED METAL MESH RAILING



**4** 3/4" WHITE SHERWIN WILLIAMS SW 7063



**5** 3/4" LIGHT GREY STUCCO SHERWIN WILLIAMS SW 7065



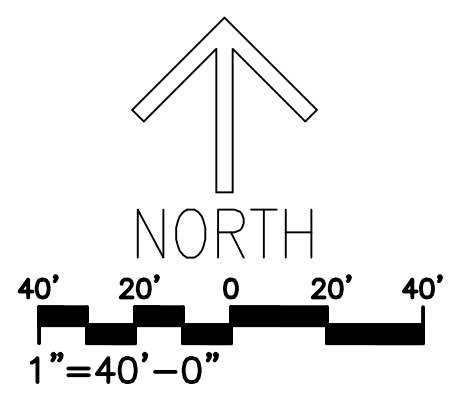
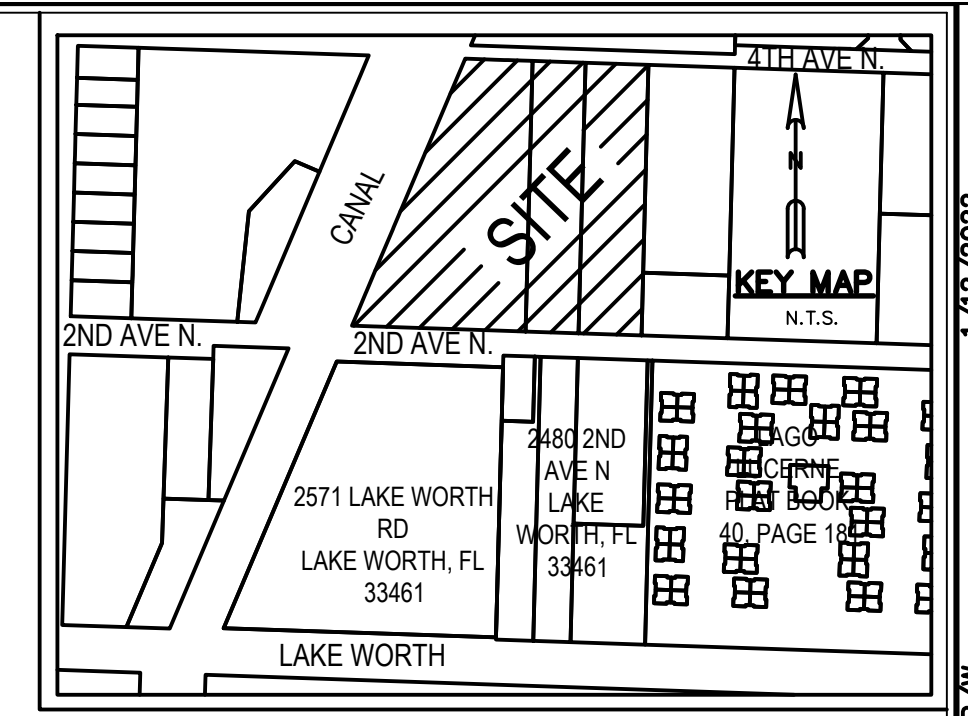
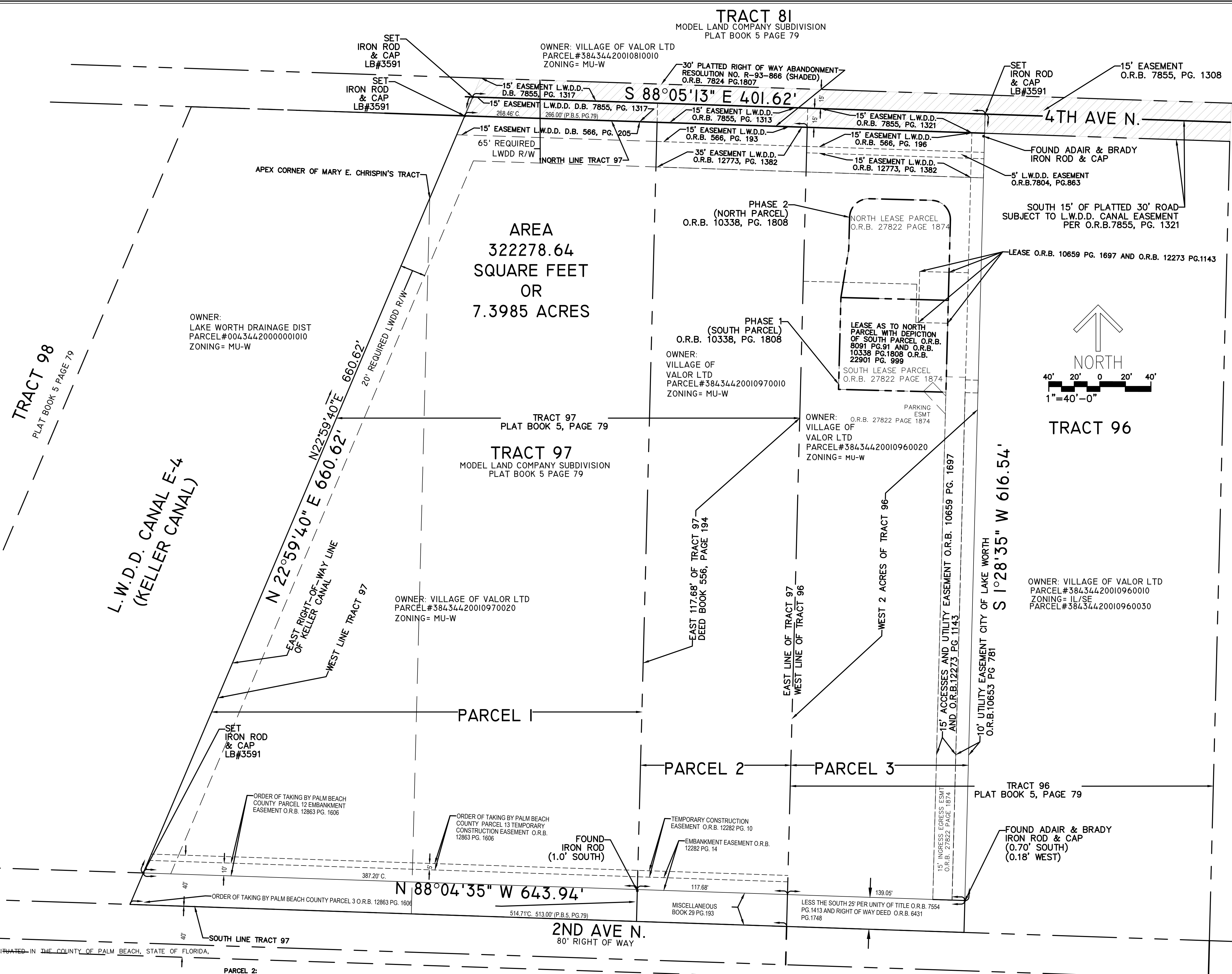
**6** 3/4" DARK GREY STUCCO SHERWIN WILLIAMS SW 7067

PROPOSED MIXED-USE DEVELOPMENT  
**VILLAGE OF VALOR LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

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DATE:  
 01-31-2022  
 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 CLUBHOUSE SITE  
 PLAN  
 SHEET NO:  
**A-4.0**

- LEGEND NOTES**
- ALUM - ALUMINUM
  - BLDG - BUILDING
  - BEL - BELLSOUTH
  - B.C.R. - BROWARD COUNTY RECORDS
  - C - CALCULATED
  - C.B. - CATCH BASIN
  - C.M.P. - CORRUGATED METAL PIPE
  - CALC. - CALCULATED
  - CCS - CONCRETE BLOCK & STUCCO CONC. - CONCRETE
  - COR. - CORNER
  - COV. - COVERED
  - D.E. - DRAINAGE EASEMENT
  - D.O.T. - DEPARTMENT OF TRANSPORTATION
  - E.O.P. - EDGE OF PAVEMENT
  - E.O.W. - EDGE OF WATER
  - ELEC. - ELECTRIC
  - ELEV. - ELEVATION
  - ESM. - EASEMENT
  - EX - EXISTING
  - FPL - FLORIDA POWER & LIGHT
  - F.F. - FINISHED FLOOR
  - FND. - FOUND
  - GV - GATE VALVE
  - HOPE - HIGH-DENSITY POLYETHYLENE
  - ICV - IRRIGATION CHECK VALVE
  - IR/CAP - IRON ROD & CAP
  - TWP. - TOWNSHIP
  - M.B. - MISCELLANEOUS BOOK
  - M.H. - MANHOLE
  - M. - MEASURED
  - NO. - NUMBER
  - O.E. - OVERHEAD ELECTRIC
  - O/L - ON LINE
  - O.R.B. - OFFICIAL RECORD BOOK
  - P.B. - PLAT BOOK
  - P.B.C.R. - PALM BEACH COUNTY RECORDS
  - P. - PLATED
  - P.I. - POINT OF INTERSECTION
  - P.O.B. - POINT OF BEGINNING
  - P.O.C. - POINT OF COMMENCEMENT
  - NPB.C.D. - NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT
  - MPP - POWERPOLE
  - P.R.M. - PERMANENT REFERENCE MONUMENT
  - R - RADIUS
  - R/W - RIGHT-OF-WAY
  - RGE. - RANGE
  - S.B.T. - SOUTHERN BELL TELEPHONE
  - SAN. - SANITARY
  - SEC - SECTION
  - SQ. FT. - SQUARE FEET
  - T.O.B. - TOP OF BANK
  - YD. - YARD DRIAN
  - U.E. - UTILITY EASEMENT
  - WM - WATER METER
  - SM - STORM MANHOLE
  - SM - SANITARY MANHOLE
  - W - WATER VALVE
  - EW - EDGE OF WATER
  - TOB - TOP OF BANK
  - SW - SWALE LINE
  - [POWER] - OVER HEAD POWER LINE
  - T - T - T - AT&T LINE
  - F - F - F - FPL LINE
  - C - C - C - COMCAST LINE
  - SET 5/8" IR/CAP LB 3591 UNLESS NOTED
  - Δ - DELTA (CENTRAL ANGLE)
  - L.W.D.D. - LAKE WORTH DRAINAGE DISTRICT
  - BFP - BACK FLOW PREVENTOR
  - 16.0 - EXISTING ELEVATION
  - GV - GATE VALVE
  - LP - LIGHT POLE
  - CP - CONCRETE POWER POLE
  - GW - GUY WIRE
  - WS - WATER SERVICE FROM OLD BLUE 27" STAKE



**SCHEDULE B - SECTION II EXCEPTIONS**  
FIRST AMERICAN TITLE INSURANCE COMPANY  
COMMITMENT FILE NUMBER: 1062-5693711  
COMMITMENT DATE: OCTOBER 12, 2021 AT 8:00 AM

Exception	Instrument Book & Page	Affect on Property
10	Plat Book 5, Page 79	Affects as shown
12	Deed Book 566, Page 205	Affects as shown
13	ORB 7855, Page 1317	Affects as shown
14	ORB 28938, Page 1730	Unable to plot
15	Deed Book 566, Page 193	Affects as shown
16	ORB 7855, Page 1313	Affects as shown
17	ORB 12282, Page 14	Affects as shown
18	ORB 12773, Page 1382	Affects as shown
19	ORB 28938, Page 1729	Unable to plot
20	Deed Book 566, Page 196	Affects as shown
21	ORB 6340, Page 1344	Affects not plottable
22	ORB 7554, Page 1413	Affects not plottable
23	ORB 7554, Page 1417	Affects not plottable
24	ORB 7804, Page 863	Affects as shown
25	ORB 7855, Page 1321	Affects as shown
26	ORB 10653, Page 781	Affects as shown
27	ORB 12773, Page 1382	Affects as shown
28	ORB 7566, Page 1248	Affects not plottable
28	ORB 8091, Page 91	Affects not plottable
28	ORB 10338, Page 1808	Affects not plottable
28	ORB 27723, Page 872	Affects not plottable
28	ORB 27822, Page 1870	Affects as shown
28	ORB 28008, Page 1295	Affects not plottable
28	ORB 30931, Page 849	Affects not plottable
29	ORB 10659, Page 1697	Affects as shown
30	ORB 11447, Page 1324	Affects not plottable
31	ORB 12273, Page 1143	Affects as shown
31	ORB 22901, Page 999	Affects as shown
32	ORB 20964, Page 1136	Affects not plottable
34		not a survey matter

- NOTES:**
- THIS SURVEY OR REPRODUCTIONS THEREOF ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL, OF A FLORIDA LICENSED PROFESSIONAL SURVEYOR AND MAPPER.
  - LANDS SHOWN HEREON WERE ABSTRACTED BY FIRST AMERICAN TITLE INSURANCE COMPANY, FILE NO. 1062-5693711, DATED OCTOBER 12, 2021.
  - THE "DESCRIPTION" SHOWN HEREON IS IN ACCORD WITH THE DESCRIPTION PROVIDED BY CLIENT.
  - UNDERGROUND FOUNDATIONS WERE NOT LOCATED.
  - ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
  - ORB. 8091, PG 91, GROUND SYSTEM 24 FEET (8 METERS) SQUARE COPPER GROUND SCREEN AT BASE OF THE TOWER PLUS 120 COPPER GROUND RADIALS VARYING IN LENGTH FROM APPROXIMATELY 150 FEET (.46 METERS) TO 184 FEET (56 METERS).
  - BEARINGS SHOWN HEREON ARE RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NAD83, 1990 ADJUSTMENT, UTILIZING THE SOUTH LINE OF TRACTS 96 AND 97 AS MONUMENTED, WHICH BEARS N88°04'35" W AND ALL OTHER BEARINGS ARE RELATIVE THERETO.
  - ELEVATIONS SHOWN HEREON ARE NORTH AMERICAN VERTICAL DATUM (NAVD.) CONZ2 EL=12.162, PER PALM BEACH COUNTY ENGINEERING DEPT. IS THE PARENT BENCHMARK.
  - ACCORDING TO THE NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 120192 0165 B, PANEL 165 OF 245, MAP REVISED DATE OCTOBER 15, 1982, THIS PROPERTY LIES IN ZONE A7 (EL12) 2/1/79.

**CERTIFICATE:**  
RICHMAN LAKE WORTH APARTMENTS, LLC, A DELAWARE LIMITED LIABILITY COMPANY  
FIRST AMERICAN TITLE INSURANCE COMPANY  
NELSON MULLINS RILEY & SCARBOROUGH, LLP  
TRUST BANK, ITS SUCCESSORS AND ASSIGNS AS THEIR INTERESTS MAY APPEAR.

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6(B), 7(A), 7(B)(1), 8, 9, 10(A), 10(B), 11(A), 12, 13, 16, 17, 18, 19, AND 21 OF TABLE A THEREOF.

THE FIELD WORK WAS COMPLETED ON **NOVEMBER 8, 2021**.  
DATE OF MAP: **DECEMBER 3, 2021**

**DESCRIPTION:**  
THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PALM BEACH, STATE OF FLORIDA, AND DESCRIBED AS FOLLOWS:

**PARCEL 1:**  
A PORTION OF LOT 97 OF MODEL LAND CO. SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF, RECORDED IN NAT BOOK 5, PAGE 79 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT A POINT WHERE THE NORTH LINE OF LAKE WORTH ROAD INTERSECTS WITH THE EAST LINE OF THE RIGHT OF WAY OF THE FIRST LATERAL CANAL WEST OF THE TOWN OF LAKE WORTH, RUNNING EAST A DISTANCE OF 394.32 FEET;  
THENCE NORTH PARALLEL WITH THE EAST LINE OF LOT 97 OF THE SUBDIVISION OF MODEL LAND CO. SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, A DISTANCE OF 625 FEET TO THE NORTH LINE OF LOT 97;  
THENCE WEST TO A POINT WHERE SAID NORTH LINE INTERSECTS THE EAST LINE OF THE RIGHT OF WAY OF SAID FIRST LATERAL CANAL;  
THENCE SOUTHWESTERLY FOLLOWING THE RIGHT OF WAY OF SAID FIRST LATERAL CANAL TO THE POINT OF BEGINNING.  
LESS AND EXCEPT THE SOUTH 25 FEET, SHOWN AS PARCEL NO. 3 IN THE ORDER OF TAKING BY PALM BEACH COUNTY, AND AN ADDITIONAL 10 FEET, SHOWN AS PARCEL 12, RECORDED IN OFFICIAL RECORD BOOK 12863, PAGE 1606, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.  
SUBJECT TO THE RIGHTS OF LAKE WORTH DRAINAGE DISTRICT TO THE NORTH 15 FEET OF SAID PARCEL DESCRIBED IN EASEMENT DEED RECORDED IN OFFICIAL RECORD BOOK 7855, PAGE 1317.

**PARCEL 2:**  
THE EAST 117.68 FEET OF LOT 97 OF MODEL LAND CO. SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 5, PAGE 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, FRONTING 117.68 FEET ON NORTH 2ND AVENUE AND 625 FEET DEEP THEREOF.  
LESS AND EXCEPT THE SOUTH 25.00 FEET OF THE EAST 117.00 FEET BY DEED TO PALM BEACH COUNTY, RECORDED IN MISCELLANEOUS RECORD BOOK 29, PAGE 193.  
SUBJECT TO THE RIGHTS OF LAKE WORTH DRAINAGE DISTRICT TO THE NORTH 15 FEET OF SAID PARCEL DESCRIBED IN EASEMENT DEED RECORDED IN OFFICIAL RECORD BOOK 7855, PAGE 1313.

**PARCEL 3:**  
THE WEST TWO ACRES OF TRACT 96 OF MODEL LAND CO. SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 5, PAGE 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.  
LESS AND EXCEPT THE SOUTH 25.00 FEET BY DEED TO PALM BEACH COUNTY, RECORDED IN OFFICIAL RECORDS BOOK 6431, PAGE 1748.  
SUBJECT TO THE RIGHTS OF LAKE WORTH DRAINAGE DISTRICT TO THE NORTH 15 FEET OF SAID PARCEL DESCRIBED IN EASEMENT DEED RECORDED IN OFFICIAL RECORD BOOK 7855, PAGE 1321.

11/20/21  
11/20/21  
06/29/16  
10/20/14  
10/15/14  
10/08/14  
07/08/14  
AMS  
DATE

FILE NAME: 6744-2 SUR SHEETS 1-3 - 1-12-22

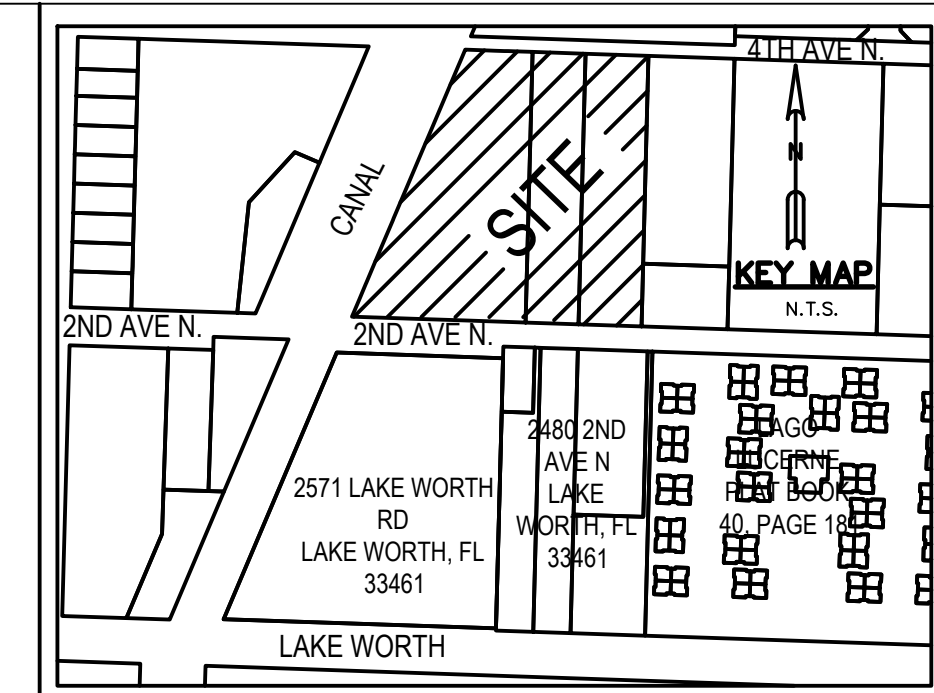
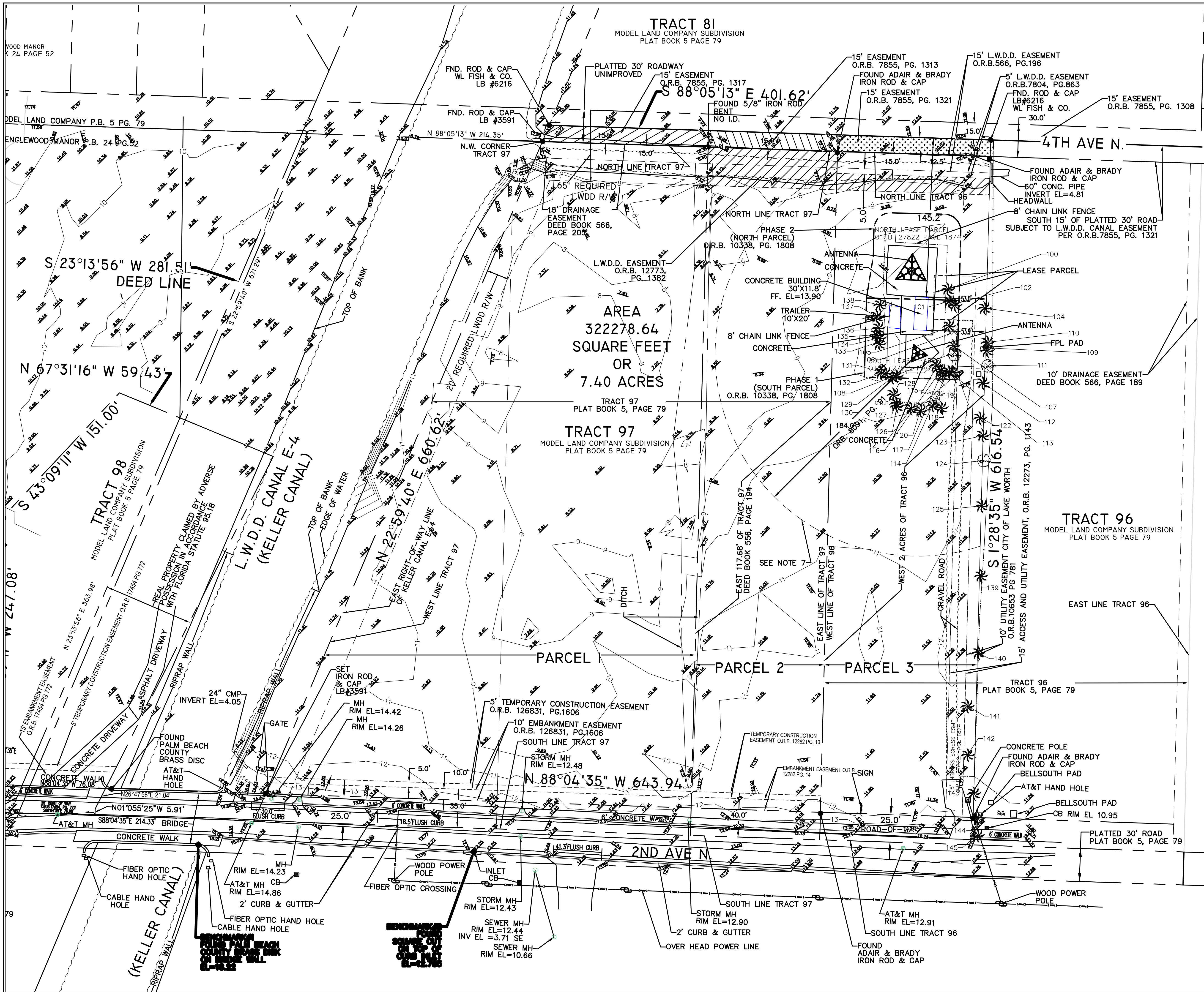
CAULFIELD & WHEELER, INC.  
CIVIL ENGINEERING - LAND PLANNING  
LANDSCAPE ARCHITECTURE - SURVEYING  
7301A W. PALMETTO PARK ROAD - SUITE 100A  
BOCA RATON, FLORIDA 33433  
PHONE (561) 392-1991 / FAX (561) 750-4452

**VILLAGE OF VALOR  
ALTA / ACSM SURVEY**

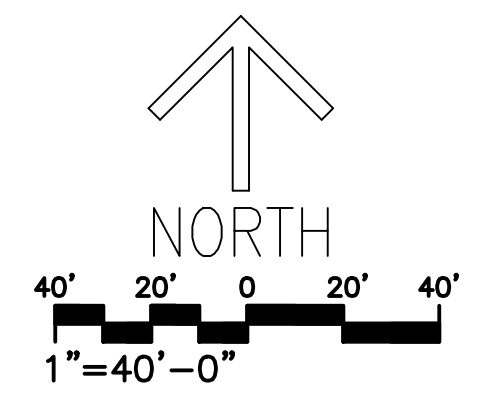
DATE 07/03/14  
DRAWN BY AMS  
F.B./ PG. N/A  
SCALE 40

DAVID P. LINDLEY  
REGISTERED LAND  
SURVEYOR NO. 5005  
STATE OF FLORIDA  
L.B. 3591

JOB # 6744-2  
SHT. NO. 1  
OF 3 SHEETS



LOCATION MAP



TREE TABLE			
Point #	TREE	Northing	Easting
100	24" CABBAGE PALM	832301.3840	956566.7160
101	24" CABBAGE PALM	832290.4680	956568.3930
102	24IN CAB PALM	832287.3010	956570.1400
104	15" CABBAGE PALM	832284.2040	956600.2380
105	15" CABBAGE PALM	832266.6600	956568.0040
106	20" OAK	832262.4610	956572.5280
107	18" CABBAGE PALM	832249.6330	956572.4520
108	24" OAK	832243.9150	956572.7610
109	20" CABBAGE PALM	832248.0640	956601.6640
110	20" CABBAGE PALM	832253.0410	956602.4240
111	24" OAK	832231.8230	956603.2080
112	20" CABBAGE PALM	832216.2120	956598.4870
113	15" CABBAGE PALM	832226.1530	956568.0820
114	14" CABBAGE PALM	832225.4520	956566.0330
115	20" CABBAGE PALM	832231.6960	956556.9760
116	20" CABBAGE PALM	832227.3240	956560.0970
117	12" CABBAGE PALM	832224.5290	956560.6220
118	12" CABBAGE PALM	832193.0818	956560.4782
119	24" CABBAGE PALM	832195.2468	956553.0582
120	24" CABBAGE PALM	832190.8628	956541.4132
121	24" CABBAGE PALM	832192.5248	956533.2182
122	30" CABBAGE PALM	832184.3828	956596.4342
123	24" CABBAGE PALM	832168.1798	956598.9642
124	30" OAK	832145.6408	956599.6762
125	24" CABBAGE PALM	832104.3648	956596.9392
126	18" CABBAGE PALM	832195.1928	956520.2842
127	18" CABBAGE PALM	832197.0688	956519.2312
128	18" CABBAGE PALM	832205.1098	956517.0872
129	30" CABBAGE PALM	832221.0518	956516.1952
130	18" CABBAGE PALM	832222.1928	956519.5032
131	30" CABBAGE PALM	832224.9358	956509.7142
132	18" CABBAGE PALM	832224.9468	956506.6662
133	18" CABBAGE PALM	832253.7068	956504.6622
134	18" CABBAGE PALM	832257.4798	956504.7992
135	30" CABBAGE PALM	832260.1588	956501.9162
136	30" CABBAGE PALM	832266.1018	956503.4802
137	24" CABBAGE PALM	832276.4448	956502.0782
138	30" CABBAGE PALM	832286.9978	956505.1292
139	12" CABBAGE PALM	832040.2008	956596.4952
140	18" CABBAGE PALM	831969.9478	956595.0932
141	12" CABBAGE PALM	831922.3138	956584.5932
142	12" CABBAGE PALM	831877.7928	956584.5122
143	18" CABBAGE PALM	831842.7938	956590.1052
144	12" QUEEN PALM	831819.6898	956594.4362
145	12" QUEEN PALM	831804.9858	956593.6252

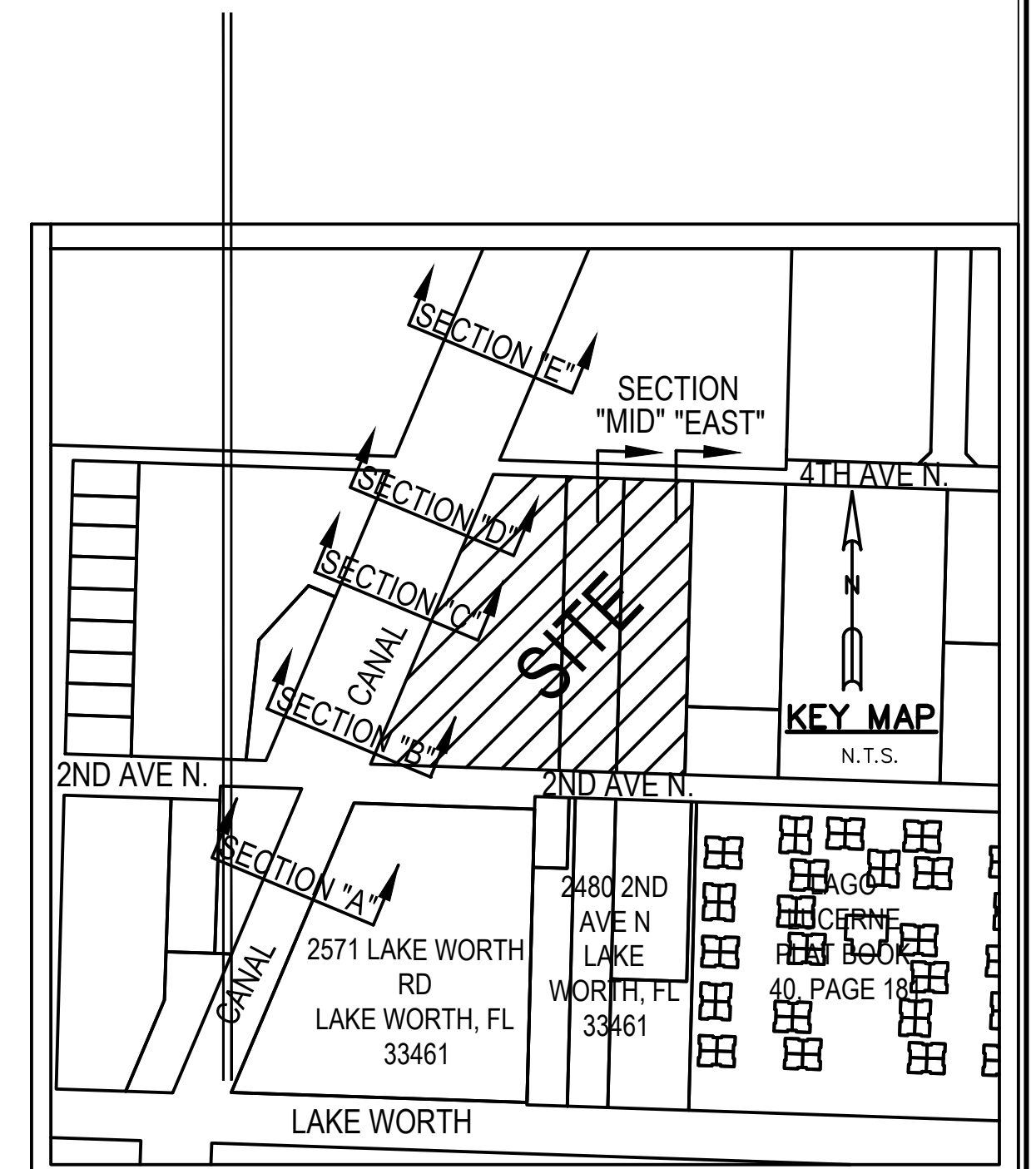
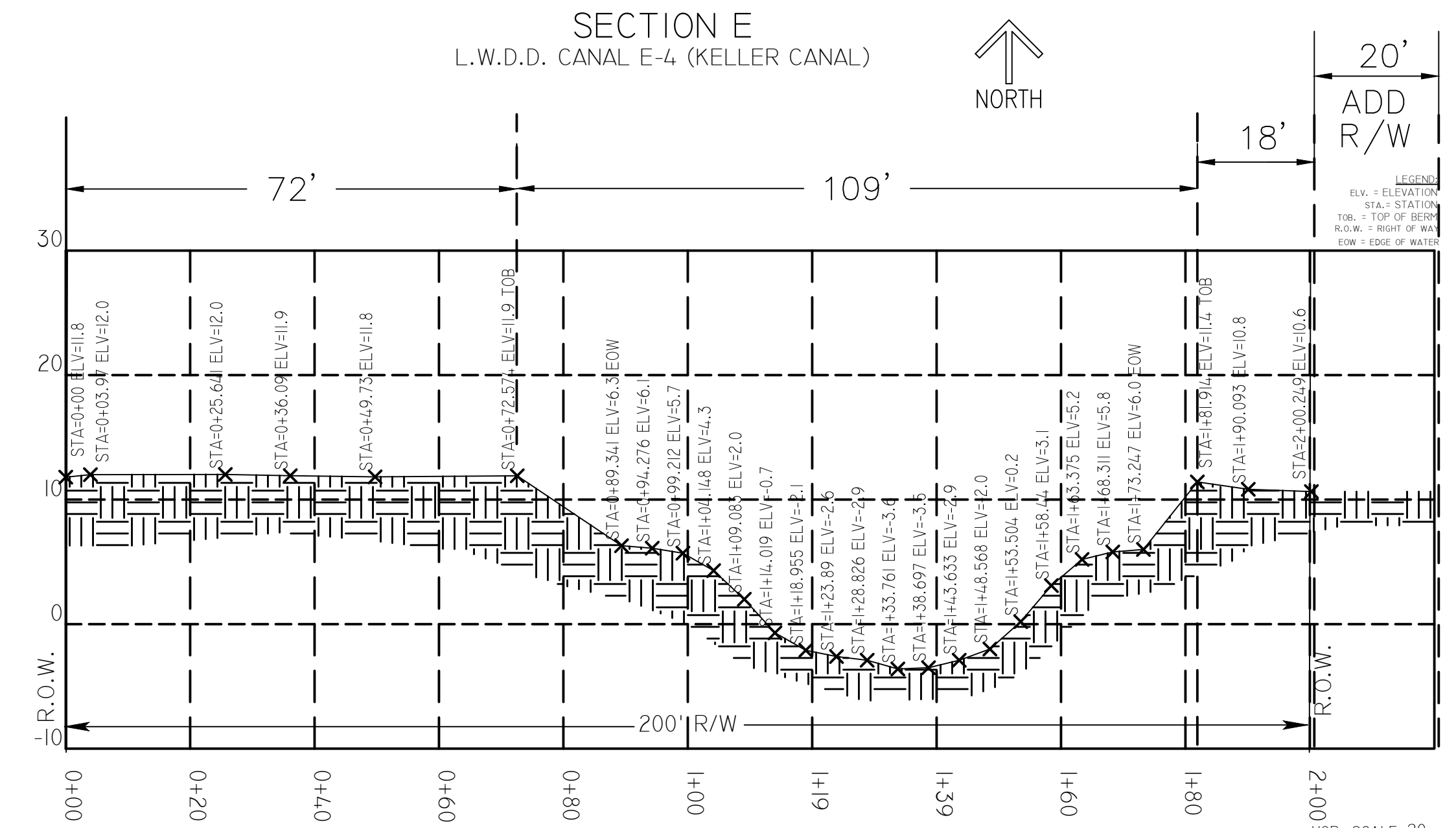
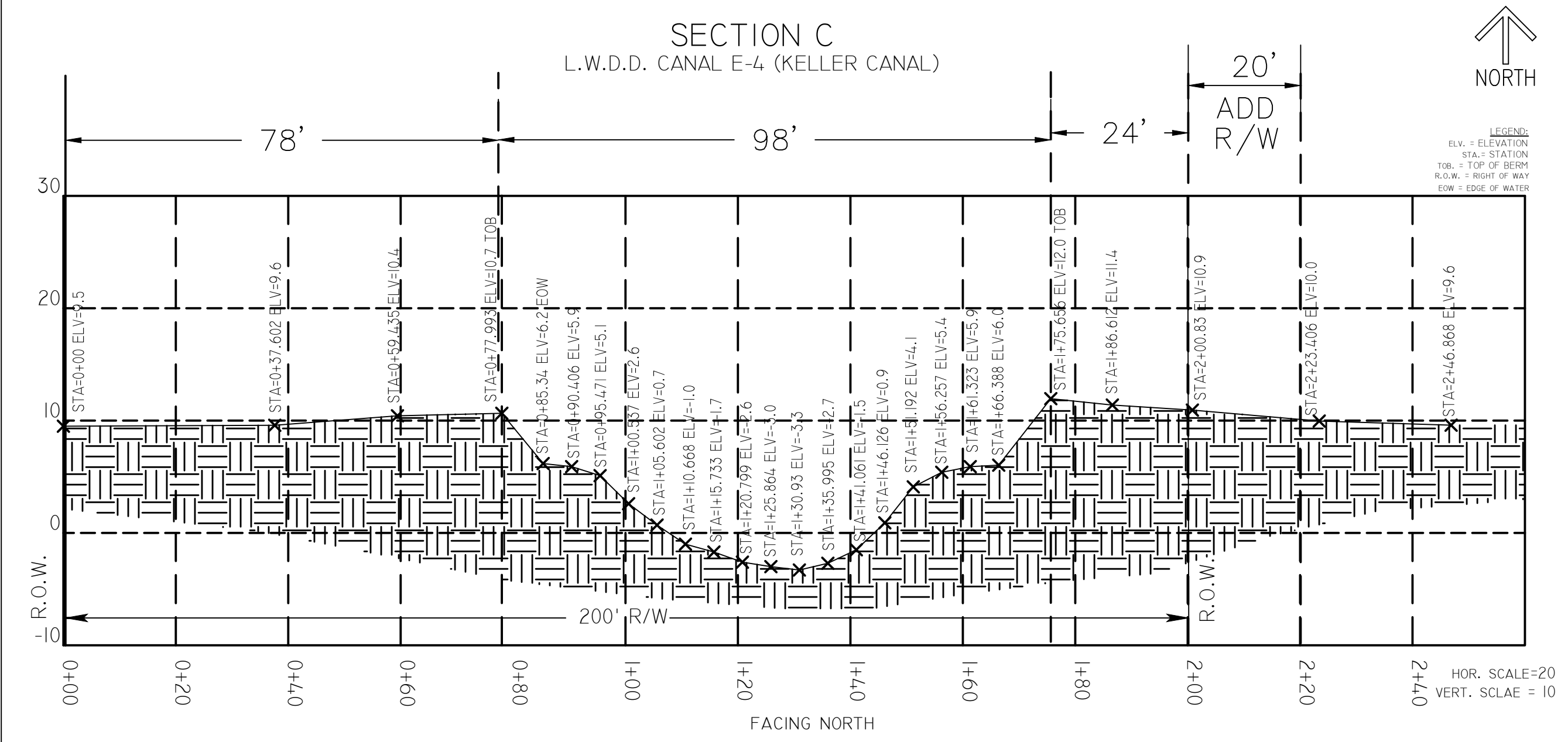
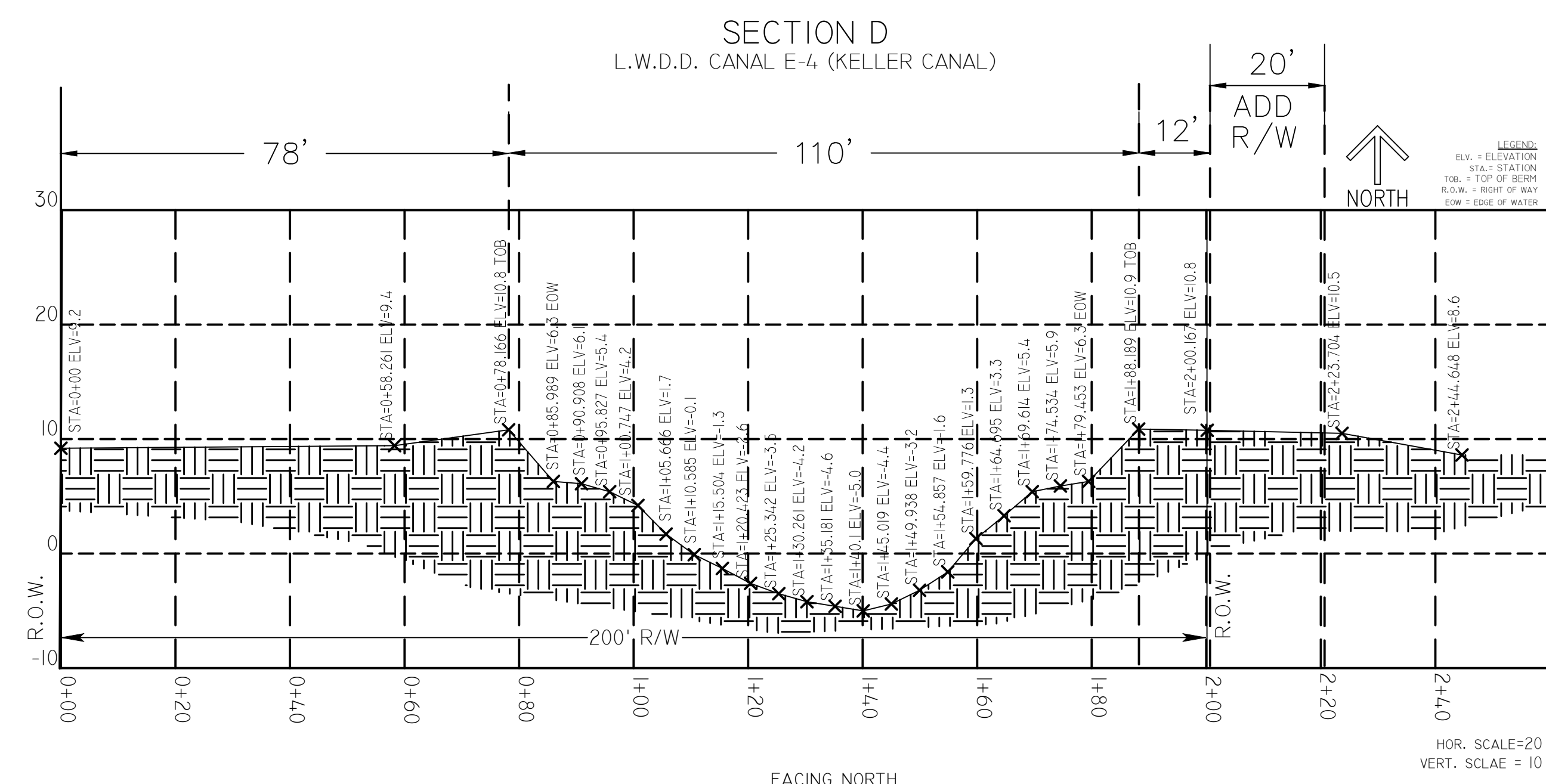
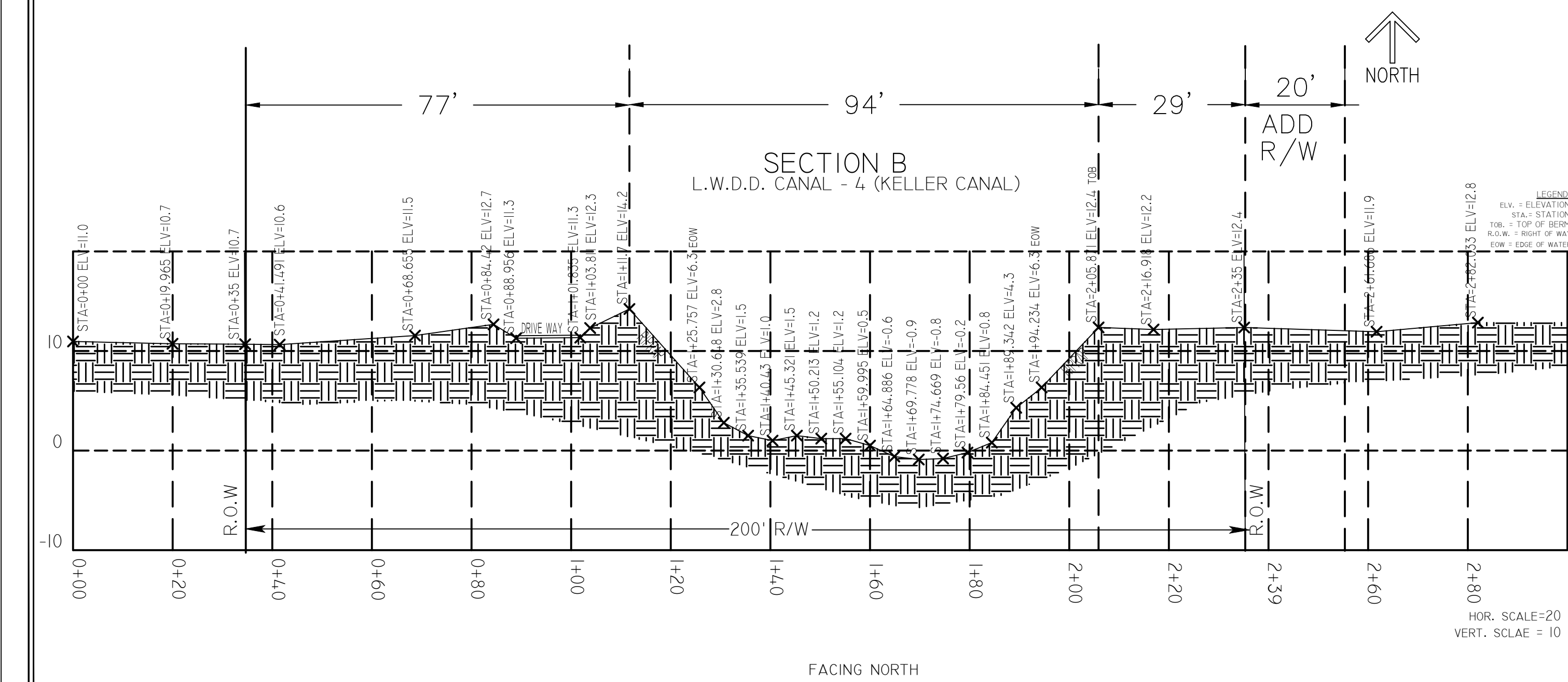
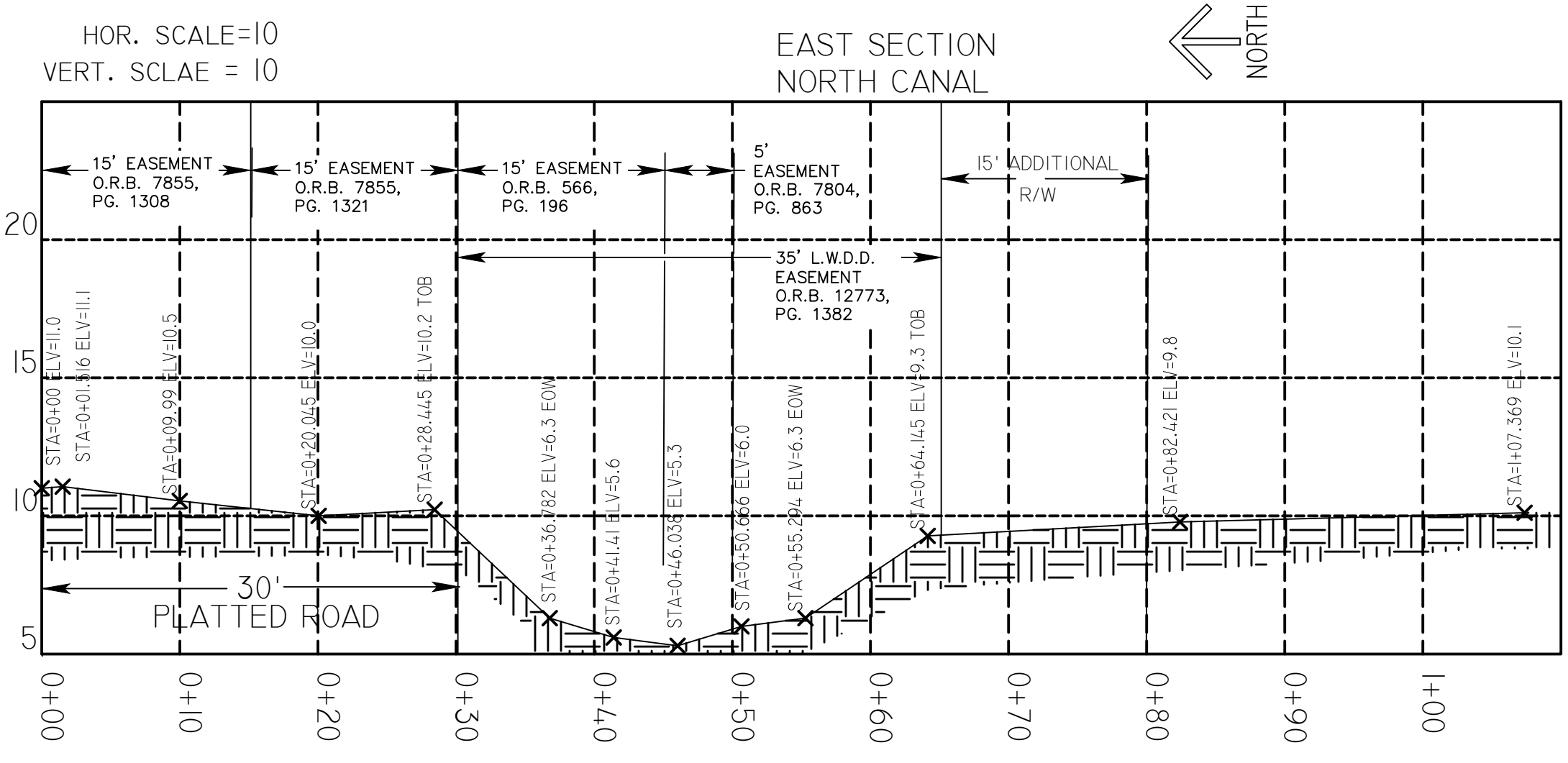
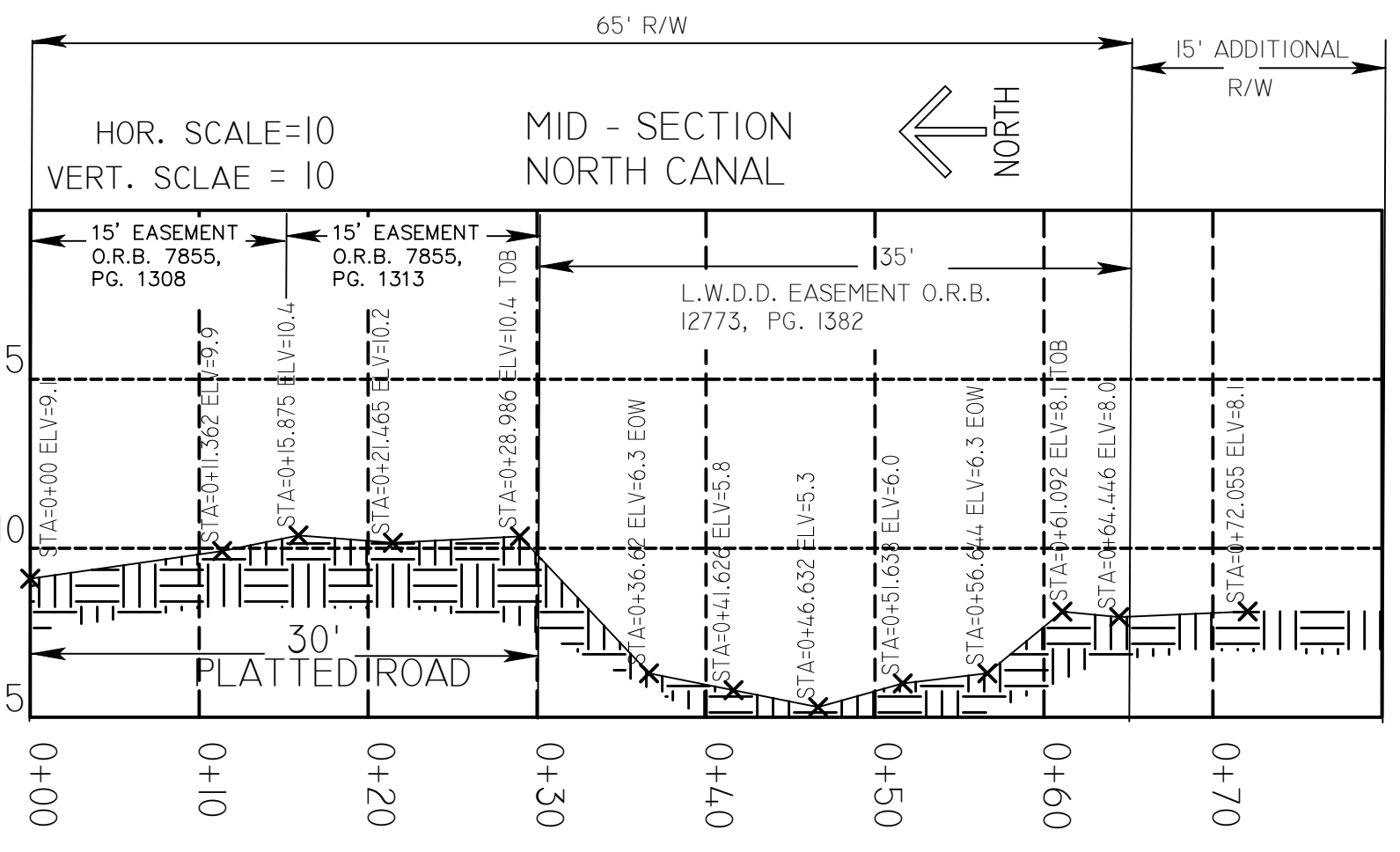
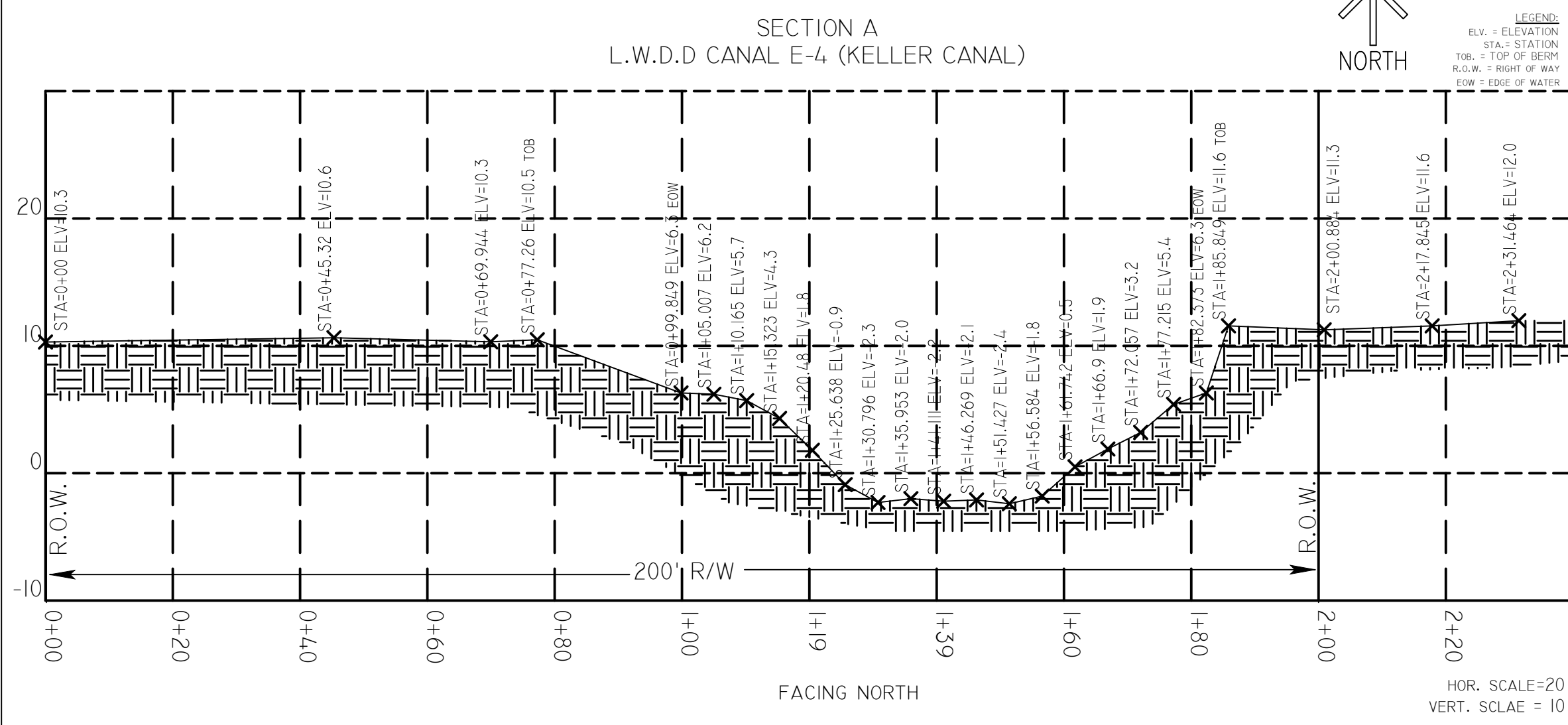
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11/09/21	TFL	
10/26/2021	TREE UPDATE	
06/29/16	ADDED CONTOUR	
10/15/14	ADDED LWOOD REQUIRED 8/W	
	REVISIONS	DATE
FILE NAME: 6744-2 SUR SHEETS 1-3 - 1-12-22.dwg		

CAULFIELD & WHEELER, INC.  
 CIVIL ENGINEERING - LAND PLANNING  
 LANDSCAPE ARCHITECTURE - SURVEYING  
 7301A W. PALMETTO PARK ROAD - SUITE 100A  
 BOCA RATON, FLORIDA 33433  
 PHONE (561) 392-1991 / FAX (561) 750-4452

VILLAGE OF VALOR ALTA / SURVEY

DATE 07/03/14  
 DRAWN BY AMS  
 F.B./ PG. N/A  
 SCALE 40

DAVID P. LINDLEY  
 REGISTERED LAND SURVEYOR NO. 5005  
 STATE OF FLORIDA  
 L.B. 3591



REVISED PER CLIENT REVIEW	11/16/21	TFL	BY
UPDATE TITLE INFORMATION	11/09/21	TFL	BY
REVISIONS			DATE
FILE NAME: 6744-2 SUR SHEETS 1-3 - 11-12-22			

**CAULFIELD & WHEELER, INC.**  
 CIVIL ENGINEERING - LAND PLANNING  
 LANDSCAPE ARCHITECTURE - SURVEYING  
 7301A W. PALMETTO PARK ROAD - SUITE 100A  
 BOCA RATON, FLORIDA 33433  
 PHONE (561) 392-1991 / FAX (561) 750-4452

**VILLAGE OF VALOR  
 LAKE WORTH DRAINAGE DISTRICT  
 CANAL E-4 (KELLER CANAL)**

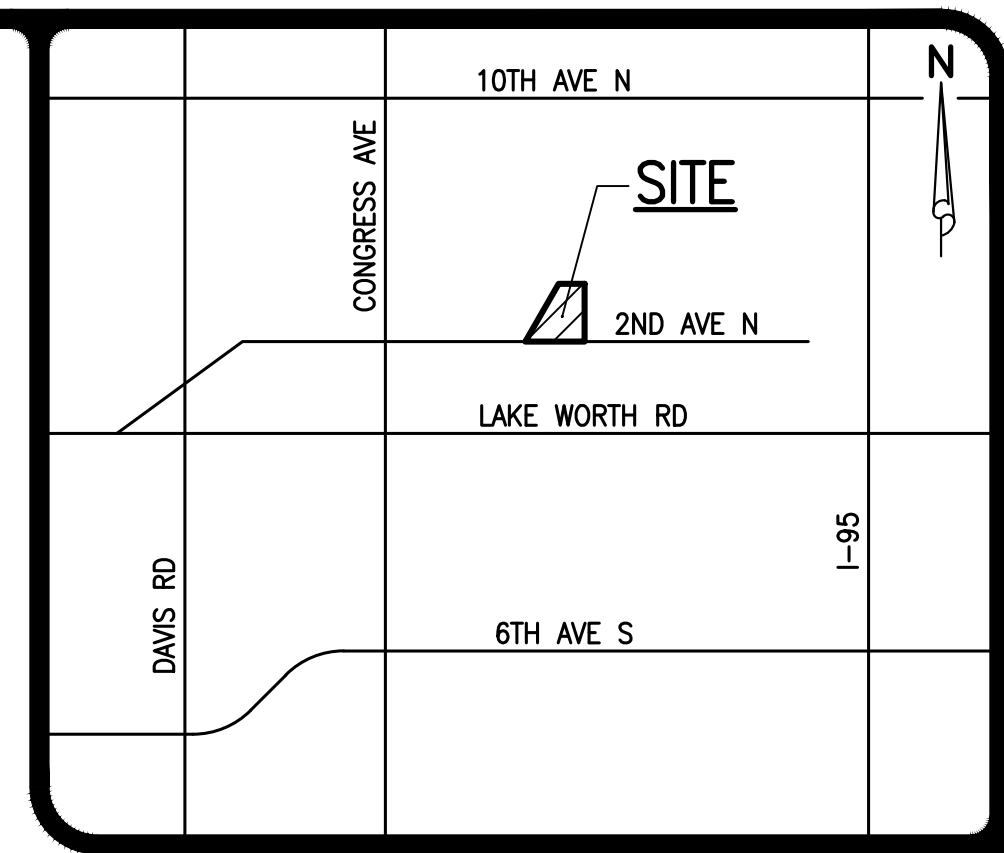
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DRAWN BY	AMS
F.B./PG.	N/A
SCALE	50

DAVID P. LINDLEY  
 REGISTERED LAND SURVEYOR NO. 5005  
 STATE OF FLORIDA  
 I.B. 3591

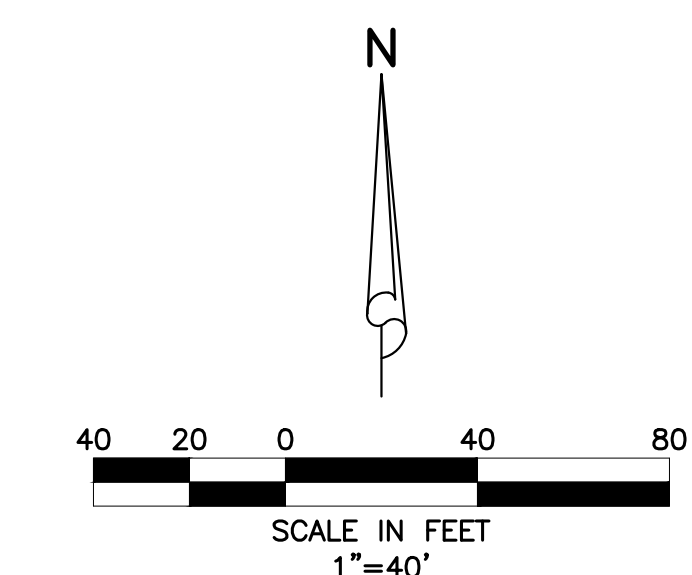


**NOTES:**

- 1.) THIS DESIGN IS CONCEPTUAL AND SUBJECT TO CHANGE BASED ON FINAL DESIGN.
- 2.) ALL WATER AND WASTEWATER CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF LAKE WORTH AND THE PALM BEACH COUNTY HEALTH DEPARTMENT.
- 3.) CONTRACTOR SHALL BE RESPONSIBLE FOR REMOVAL OF ALL DEMOLITION MATERIAL IN ACCORDANCE WITH ALL APPLICABLE GOVERNING AGENCY STANDARDS.
- 4.) LOCATIONS OF WATER AND SANITARY SEWER SERVICES, DRAINAGE STRUCTURES AND PIPES AND OTHER STRUCTURES TO BE COORDINATED WITH LANDSCAPE DESIGN DURING PREPARATION OF FINAL CIVIL ENGINEERING PLANS.
- 5.) CONSTRUCTION AND DEMOLITION TO COMPLY WITH N.F.P.A. 241.
- 6.) FIRE DEPARTMENT LOCKING CAPS WILL BE REQUIRED ON THE FIRE DEPARTMENT CONNECTION.



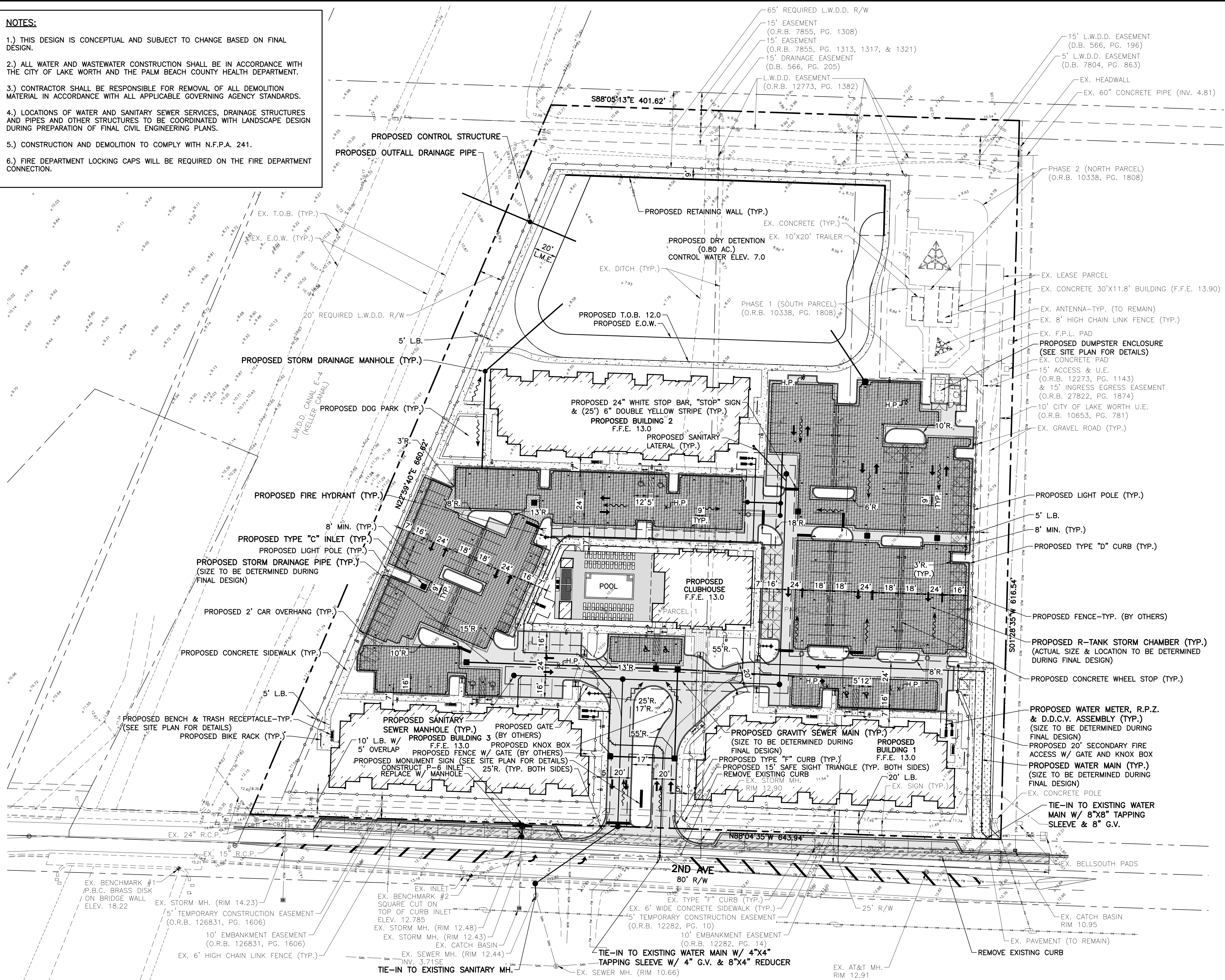
**LOCATION MAP**  
NOT TO SCALE



**LEGEND**

- PROPOSED STORM SEWER AND CATCH BASIN
- DIRECTION OF FLOW
- PROPOSED HIGH POINT
- EXISTING GRADE ELEVATION
- PROPOSED ASPHALT OR CONCRETE
- PROPOSED CONCRETE
- PROPOSED BRICK PAVERS/DECORATIVE PAVEMENT
- PROPOSED DETECTABLE WARNING SURFACE
- SAWCUT, REMOVE, & REPLACE EXISTING PAVEMENT, CONCRETE, CURB, ETC.
- PROPOSED R-TANK STORM CHAMBER
- PROPOSED COMPACT SPACES
- SEWER SERVICE W/ CLEAN-OUT
- FIRE HYDRANT W/ GATE VALVE
- PROPOSED SANITARY SEWER LINE, MANHOLE & FLOW DIRECTION
- WATER SERVICE & R.P.Z. (REFER TO POTABLE WATER SERVICE SINGLE METER (RESTAURANTS) DETAIL.)
- PROPOSED 24" WHITE STOP BAR, "STOP" SIGN & (25") 6" DOUBLE YELLOW STRIPING W/ BI-DIRECTIONAL AMBER R.P.M.'S
- EXISTING OVERHEAD POWER LINE & POWER POLE
- EXISTING STORM DRAINAGE PIPE
- EXISTING WATER MAIN
- EXISTING SEWER MAIN
- EXISTING FORCE MAIN

EXISTING DRAINAGE STRUCTURE SUMMARY			
STRUCTURE #	RIM ELEV.	INVERT ELEV.	STRUCTURE NOTES
CB1	16.03	8.00	EX. CONTROL STRUCTURE
CB2	15.32	10.80S 9.00E 8.15W	EX. P-3 CURB INLET



**NOTE: ALL ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM (N.A.V.D.) OF 1988 BASED ON A SURVEY PREPARED BY CAULFIELD & WHEELER, INC. (561) 392-1991.**

ERIK R. COOPER, P.E., STATE OF FLORIDA, PROFESSIONAL ENGINEER, LICENSE NO. 56934

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- 2.) REVISED CLUBHOUSE AND POOL AREA PER LATEST SITE PLAN CHANGES, 04/08/22 D.B.
- 1.) REVISED PER LATEST SITE PLAN CHANGES, 04/05/22 D.B.

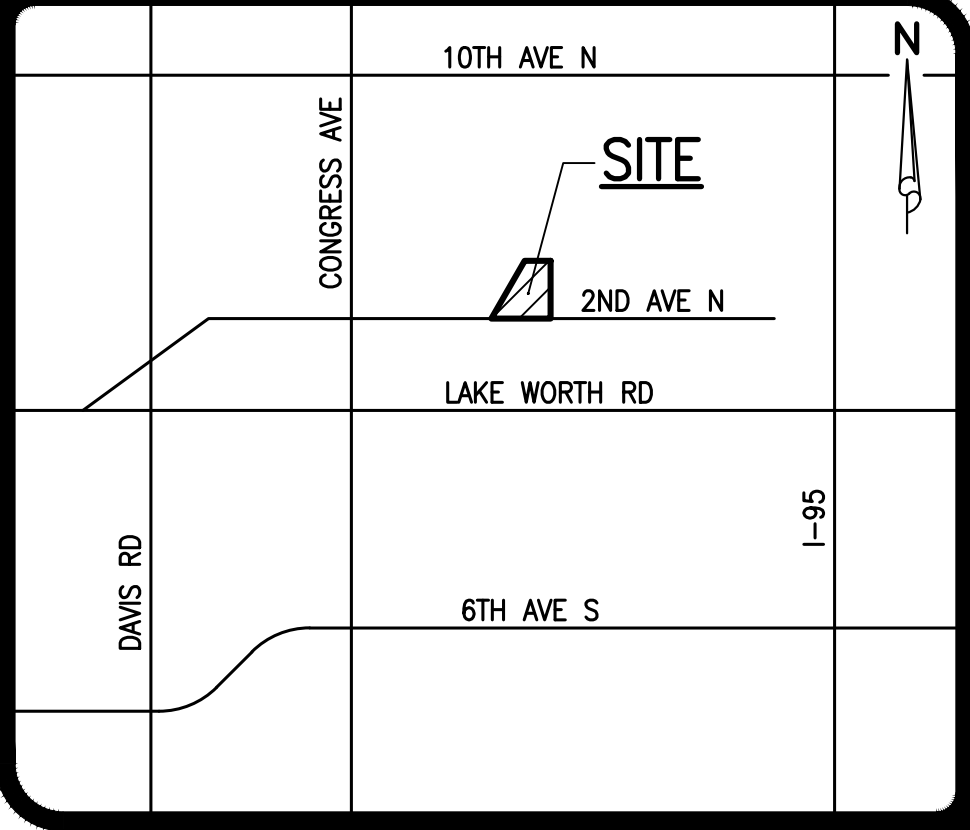
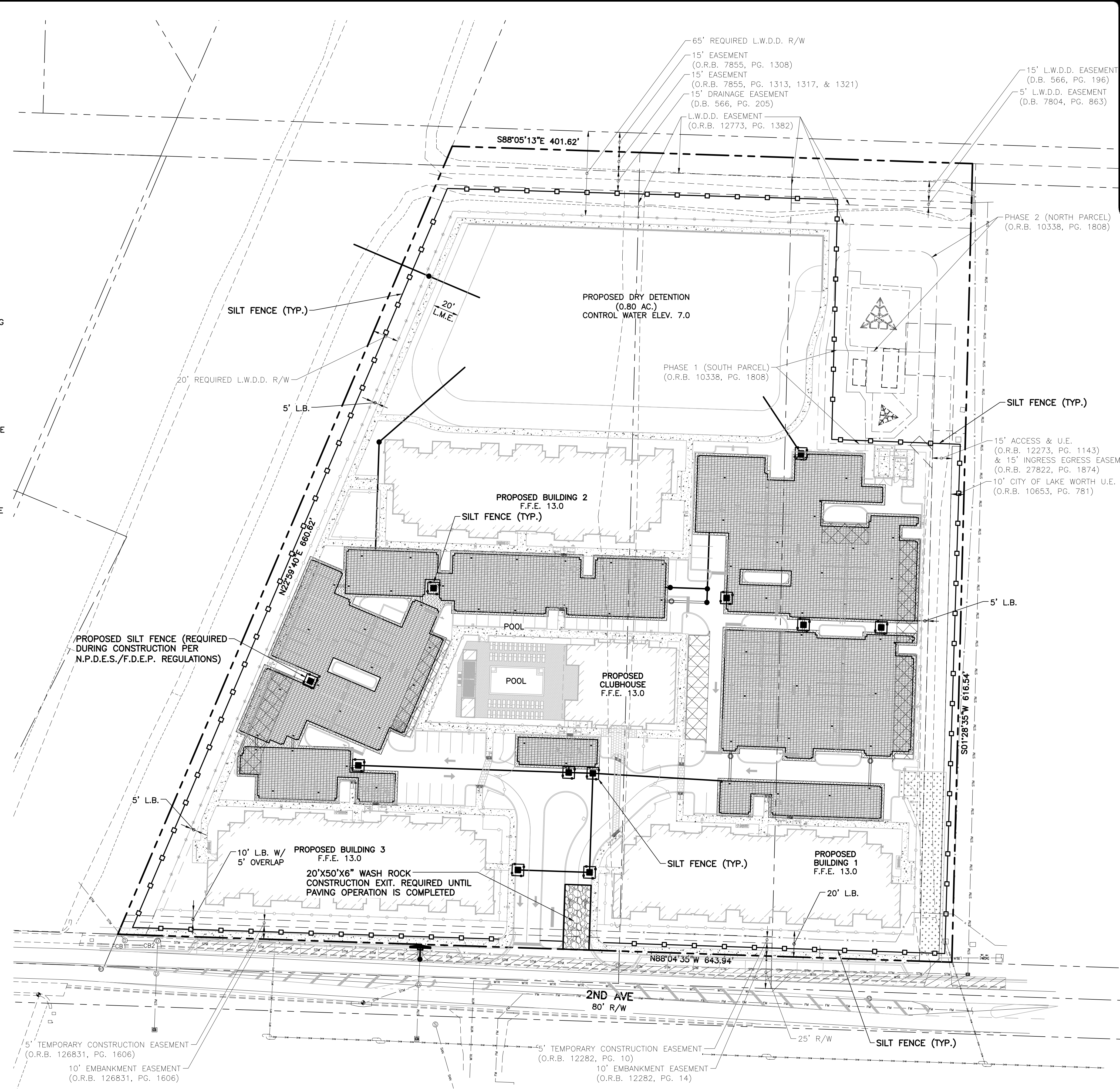
**SIMMONS & WHITE**  
ENGINEERING | PLANNING | CONSULTING | SINCE 1982  
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**RESIDENCES AT LAKE WORTH**  
SECTION 20, TOWNSHIP 44S., RANGE 43E.  
CITY OF LAKE WORTH, FLORIDA  
CONCEPTUAL PAVING, DRAINAGE,  
WATER AND WASTEWATER PLAN

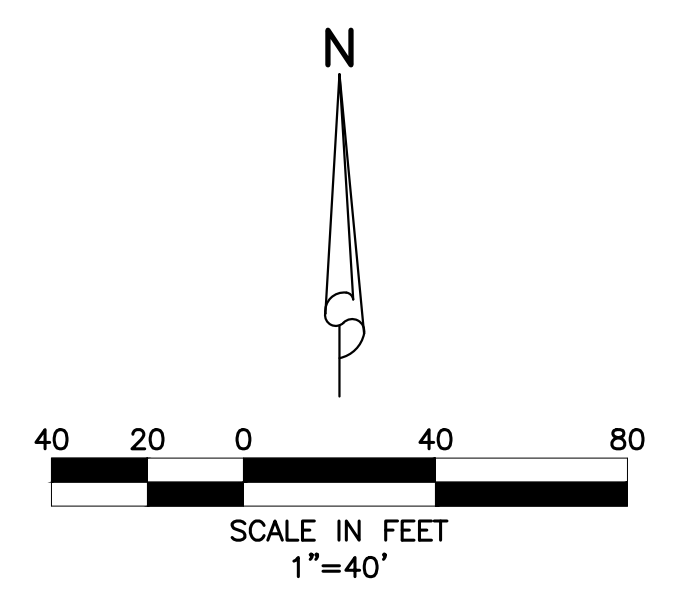
DESIGN E.C.	DRAWN C.O.	CHECKED	APPROVED	DATE	JOB NO. 21-173	DRAWING NO. 21173C01	SHEET 1 OF 3
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**POLLUTION PREVENTION NOTES:**

- 1.) THIS PLAN SHOULD BE USED AS A GUIDE, A COMPLETE STORMWATER POLLUTION PLAN SHOULD BE DEVELOPED TO MEET OR EXCEED F.D.E.P. REQUIREMENTS.
- 2.) CONTRACTOR IS RESPONSIBLE TO ENSURE THAT NO DIRT BE TRACKED OFF-SITE OR LEAVES THE SITE BY WIND, RUNOFF, OR OTHER MEANS.
- 3.) CONTRACTOR SHALL BE RESPONSIBLE FOR ALL N.P.D.E.S. REQUIREMENTS INCLUDING FILING OF N.O.I., MONITORING REPORTS AND N.O.T.
- 4.) POLLUTION PREVENTION MEASURES SHALL CONSIST OF, BUT NOT LIMITED TO, THE FOLLOWING:
  - A. CONSTRUCT WASHROCK PAD AT ALL POINTS EGRESS FOR WASHDOWN OF TRUCK TIRES.
  - B. CONSTRUCT EROSION CONTROL FENCE AND/OR TURBIDITY SCREENS ALONG PROPERTY LINES AS NEEDED.
  - C. NO AREA SHALL BE LEFT BARREN OR SUBJECT TO EROSION DURING CONSTRUCTION. SEEDING AND MULCHING IS REQUIRED FOR ANY AREAS ANTICIPATED TO BE BARREN DURING CONSTRUCTION FOR MORE THAN 15 DAYS.
  - D. TURBIDITY BARRIERS TO BE UTILIZED AT PROJECT OUTFALL.
  - E. OTHER MEASURES AS DIRECTED BY THE ENGINEER OR PALM BEACH COUNTY.
- 5.) IT IS THE CONTRACTORS RESPONSIBILITY TO COMPLY WITH ALL LOCAL, STATE AND FEDERAL POLLUTION PREVENTION REQUIREMENTS. FOR AFFECTED AREAS GREATER THAN 1 ACRE, COMPLIANCE SHALL INCLUDE (BUT IS NOT LIMITED TO) THE FOLLOWING:
  - A. PREPARATION OF A STORMWATER POLLUTION PREVENTION PLAN (S.W.P.P.P.) IN ACCORDANCE WITH THE D.E.P. "GENERIC PERMIT FOR STORMWATER DISCHARGE FROM LARGE AND SMALL CONSTRUCTION ACTIVITIES" (D.E.P. DOCUMENT NO. 62-621.300(4)(A))
  - B. SUBMITTAL OF THE NOTICE OF INTENT (N.O.I.) TO THE D.E.P.
  - C. MAINTENANCE AND INSPECTION OF THE ELEMENTS OF THE S.W.P.P.P.
  - D. MAINTENANCE OF RECORDS (INSPECTION REPORTS, N.O.I, S.W.P.P.P., ETC.)
  - E. SUBMITTAL OF THE NOTICE OF TERMINATION TO THE D.E.P. AT THE CONCLUSION OF THE PROJECT



**LOCATION MAP**  
NOT TO SCALE



**LEGEND**

- SILT FENCE
- WASH ROCK

**48 HOURS BEFORE DIGGING**  
BROWARD • PALM BEACH • INDIAN RIVER  
ST. LUCIE • MARTIN COUNTIES  
CALL TOLL FREE  
**1-800-432-4770**  
SUNSHINE STATE 1 CALL  
UNDERGROUND UTILITIES  
NOTIFICATION CENTER

**ERIK R. COOPER, P.E., STATE OF FLORIDA,**  
PROFESSIONAL ENGINEER, LICENSE NO. 56934

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REVISIONS	
DESIGN	E.C.
DRAWN	C.O.
CHECKED	
APPROVED	
DATE	

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**RESIDENCES AT LAKE WORTH**  
SECTION 20, TOWNSHIP 44S., RANGE 43E.  
CITY OF LAKE WORTH, FLORIDA  
**POLLUTION PREVENTION PLAN**

JOB NO.	DRAWING NO.	SHEET	OF
21-173	21173C02	2	3

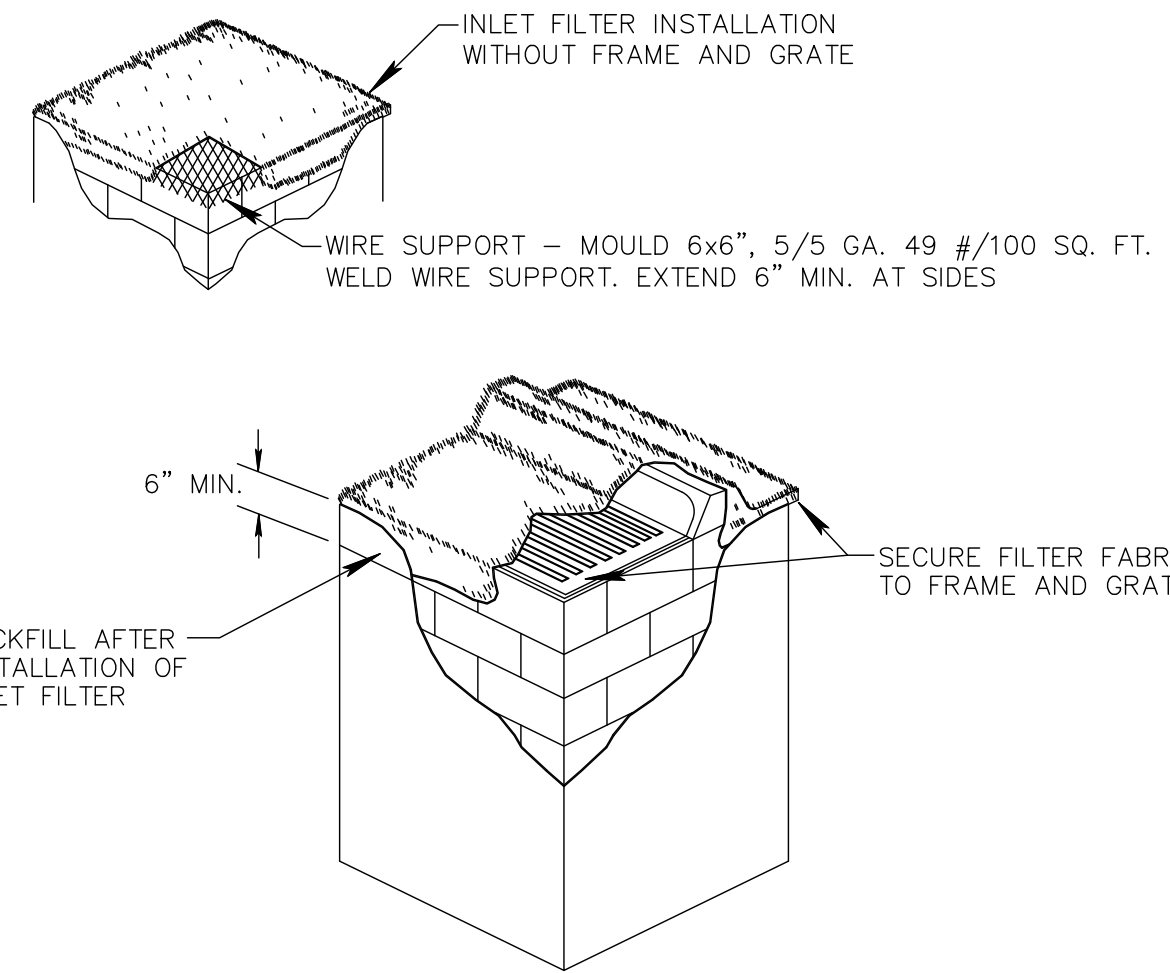
Y:\AUTOCAD\_FILES\2021\21-173\CONCEPTUAL\21173C01-02.dwg 10/12/2022 11:14 AM Connor O'Rourke

1. THE INTENT OF EROSION CONTROL MEASURES INDICATED GRAPHICALLY ON PLANS IS TO PROVIDE A BARRIER TO CONTAIN SILT AND SEDIMENT ON THE PROJECT SITE. THIS REPRESENTATION IS PROVIDED FOR THE CONVENIENCE OF THE CONTRACTOR. THE TEST OF EROSION CONTROL EFFECTIVENESS IS NOT TO BE DETERMINED BY ADHERENCE TO THE REPRESENT SET FORTH ON THE DRAWINGS AND SPECIFICATIONS, BUT BY MEETING THE REGULATIONS SET FORTH BY THE AUTHORITY HAVING JURISDICTION OVER WATER QUALITY CONTROL AND OTHER SEDIMENTATION RESTRICTION REQUIREMENTS IN THE REGION.
2. APPROVED EROSION AND SEDIMENT CONTROL MEASURES SHALL BE INSTALLED PRIOR TO ANY CLEARING, GRADING, EXCAVATION, FILLING, OR OTHER LAND DISTURBANCE ACTIVITIES, EXCEPT THOSE OPERATIONS NEEDED TO INSTALL SUCH MEASURES.
3. INSPECTION OF ALL EROSION CONTROL MEASURES SHALL BE CONDUCTED WEEKLY, OR AFTER EACH RAINFALL EVENT. REPAIR, AND/OR REPLACEMENT OF SUCH MEASURES SHALL BE MADE PROMPTLY, AS NEEDED.
4. KEEP DUST WITHIN TOLERABLE LIMITS BY SPRINKLING OR OTHER ACCEPTABLE MEANS.
5. ADDITIONAL EROSION AND SEDIMENT CONTROL MEASURES MAY BE REQUIRED IF DEEMED NECESSARY BY ONSITE INSPECTION.
6. FAILURE TO PROPERLY INSTALL AND MAINTAIN EROSION CONTROL PRACTICES SHALL RESULT IN CONSTRUCTION BEING HALTED.
7. DRAINAGE INLETS SHALL BE PROTECTED BY FILTER AND GRADED ROCK AS PER INLET PROTECTION DETAIL.
8. ANY ACCESS ROUTES TO SITE SHALL BE BASED WITH CRUSHED STONE, WHERE PRACTICAL.
9. EROSION CONTROL MEASURES ARE TO BE MAINTAINED UNTIL PERMANENT GROUND COVER IS ESTABLISHED.
10. WHENEVER FEASIBLE, NATURAL VEGETATION SHALL BE RETAINED AND PROTECTED.
11. ALL WORK IS TO BE IN COMPLIANCE WITH THE RULES AND REGULATIONS SET FORTH BY THE STATE OF FLORIDA, DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE CITY OF DELRAY BEACH.
12. DISCHARGE FROM DEWATERING OPERATIONS SHALL BE RETAINED ONSITE IN A CONTAINMENT AREA.

CITY OF LAKE WORTH  
PUBLIC SERVICES DEPARTMENT

EROSION CONTROL NOTES  
DETAIL

25

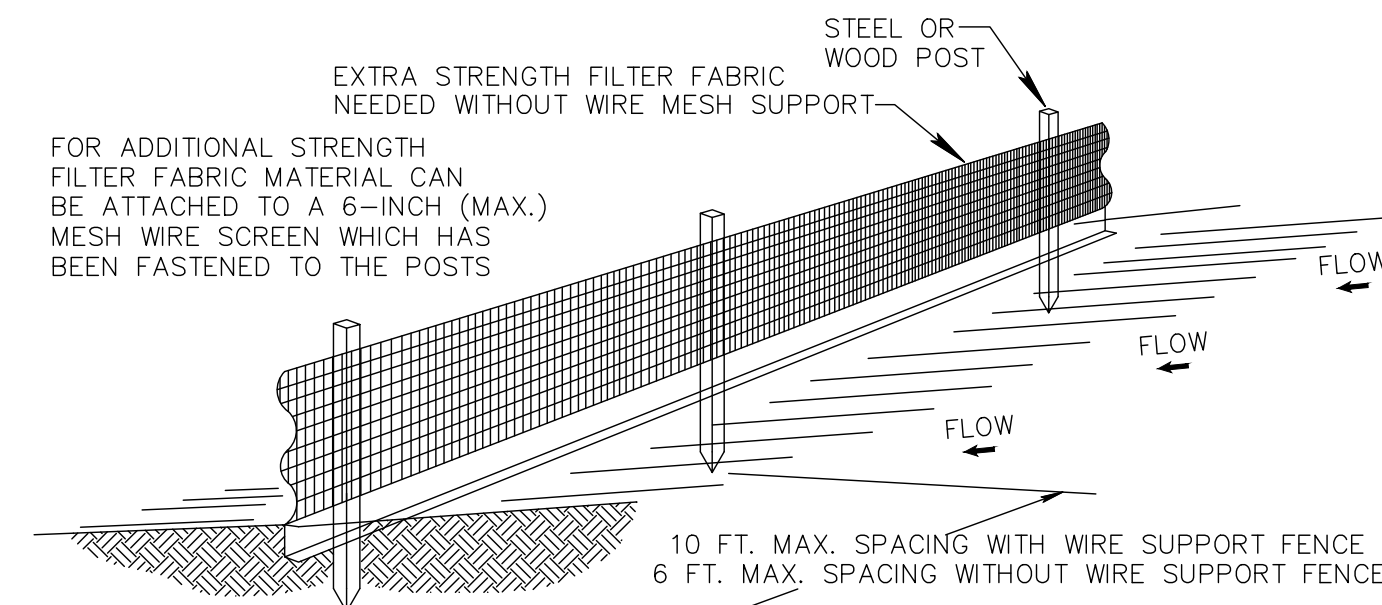


- NOTES:
1. CONTRACTOR IS TO CLEAN INLET FILTER AFTER EVERY STORM.
  2. CONTRACTOR TO REMOVE FABRIC JUST PRIOR TO PAVING.
- A SEDIMENT TRAP WILL BE EXCAVATED BEHIND THE CURB AT THE INLET. THE BASIN SHALL BE AT LEAST 12 TO 14 INCHES IN DEPTH, APPROXIMATELY 36 INCHES IN WIDTH, AND APPROXIMATELY 7 TO 10 FEET IN LENGTH PARALLEL TO THE CURB.
- STORM WATER WILL REACH THE SEDIMENT TRAP VIA CURB CUTS ADJACENT TO EACH SIDE OF THE INLET STRUCTURE. THESE OPENINGS SHALL BE AT LEAST 12 INCHES IN LENGTH. STORM WATER MAY ALSO REACH THE BASIN VIA OVERLAND FLOW LAND AREA BEHIND THE CURB. THE CURB CUTS SHALL BE REPAIRED WHEN THE SEDIMENT TRAP IS REMOVED.

CITY OF LAKE WORTH  
PUBLIC SERVICES DEPARTMENT

INLET FILTER DETAIL

26

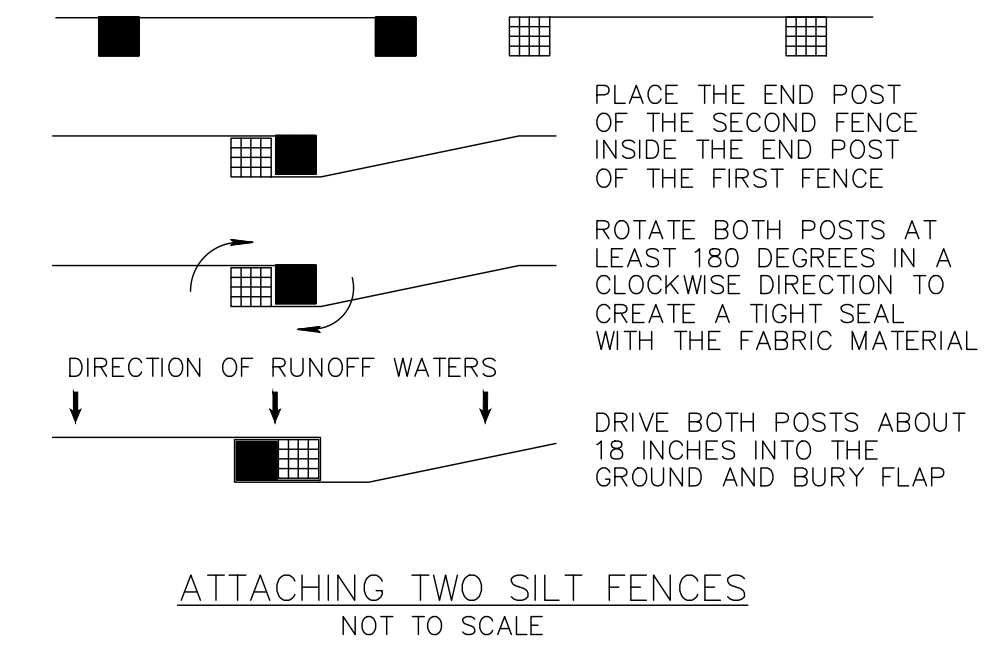
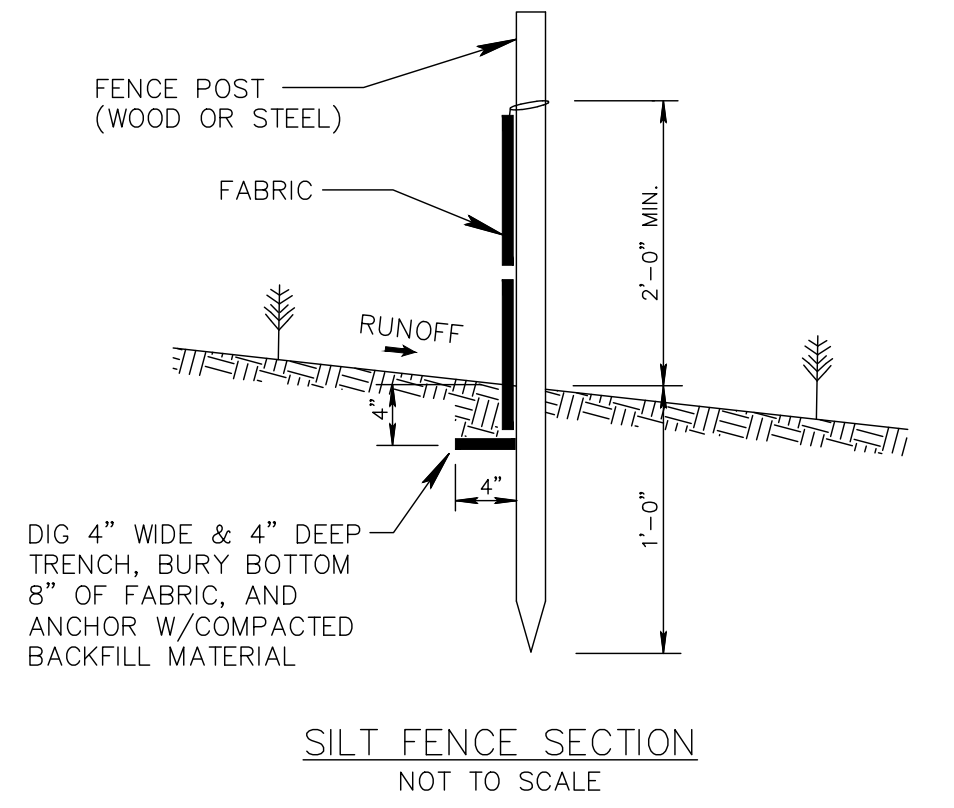


- NOTES:
1. THE HEIGHT OF A SILT FENCE SHALL NOT EXCEED 36 INCHES (90 CM).
  2. THE FILTER FABRIC SHALL BE PURCHASED IN A CONTINUOUS ROLL CUT TO THE LENGTH OF THE BARRIER TO AVOID THE USE OF JOINTS.
  3. POSTS SHALL BE SPACED A MAXIMUM OF 10 FEET (3 M) APART AT THE BARRIER LOCATION AND DRIVEN SECURELY INTO THE GROUND A MINIMUM OF 12 INCHES (30 CM). WHEN EXTRA STRENGTH FABRIC IS USED WITHOUT THE WIRE SUPPORT FENCE, POST SPACING SHALL NOT EXCEED 6 FEET (1.8 M).
  4. A TRENCH SHALL BE EXCAVATED APPROXIMATELY 4 INCHES (10 CM) WIDE AND 4 INCHES (10 CM) DEEP ALONG THE LINE OF POSTS AND UPSLOPE FROM THE BARRIER.
  5. WHEN STANDARD STRENGTH FILTER FABRIC IS USED, A WIRE MESH SUPPORT FENCE SHALL BE FASTENED SECURELY TO THE UPSLOPE SIDE OF THE POSTS USING HEAVY DUTY WIRE STAPLES AT LEAST 1 INCH (25 MM) LONG, TIE WIRES, OR HOG RINGS. THE WIRE SHALL EXTEND INTO THE TRENCH A MINIMUM OF 2 INCHES (5 CM) AND SHALL NOT EXTEND MORE THAN 36 INCHES (90 CM) ABOVE THE ORIGINAL GROUND SURFACE.
  6. THE STANDARD STRENGTH FILTER FABRIC SHALL BE STAPLED OR WIRED TO THE FENCE, AND 8 INCHES (20 CM) OF THE FABRIC SHALL BE EXTENDED INTO THE TRENCH. THE FABRIC SHALL NOT EXTEND MORE THAN 36 INCHES (90 CM) ABOVE THE ORIGINAL GROUND SURFACE.
  7. THE TRENCH SHALL BE BACKFILLED AND THE SOIL COMPACTED OVER THE FILTER FABRIC.
  8. ALL PROJECTS REQUIRE SUBMITTAL OF POLLUTION PREVENTION PLAN (PPP).
  9. ALL PROJECTS 1 AC. OR MORE MUST SUBMIT NOTICE OF INTENT (NOI) TO DDEP.

CITY OF LAKE WORTH  
PUBLIC SERVICES DEPARTMENT

SILT FENCE INSTALLATION DETAIL

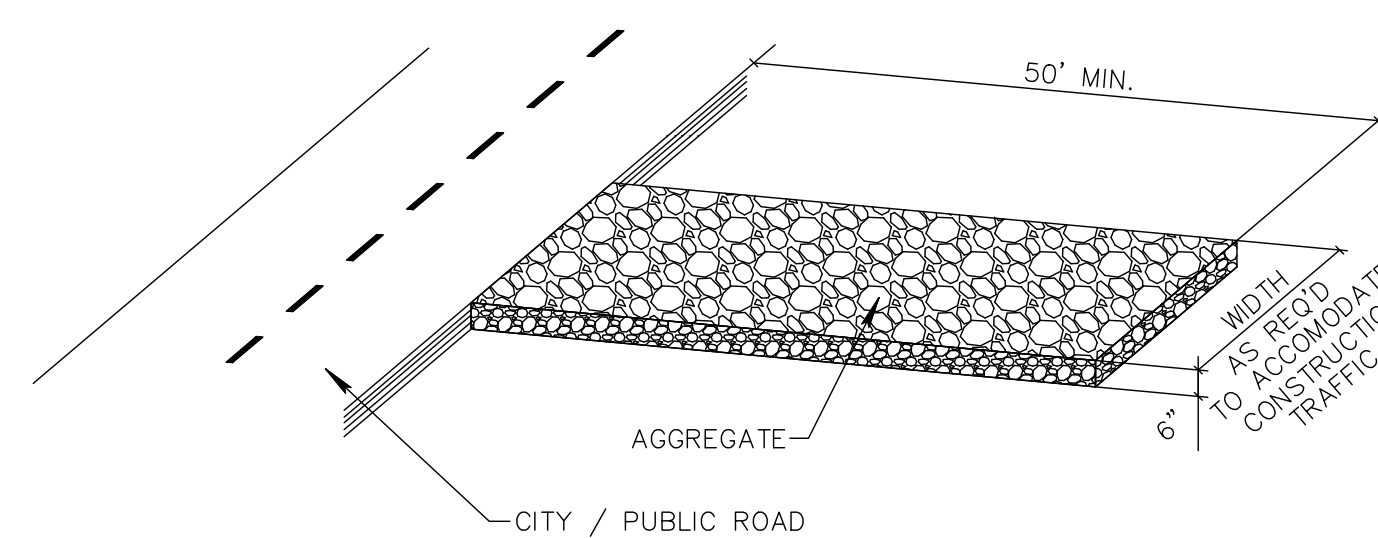
27



CITY OF LAKE WORTH  
PUBLIC SERVICES DEPARTMENT

SILT FENCE INSTALLATION DETAIL

28



NOTE:  
A CONSTRUCTION ENTRANCE SHALL BE CONSTRUCTED AND CONTAIN AN AGGREGATE LAYER (FDOT AGGREGATE NO.1), AT LEAST 6-INCHES THICK. IT MUST EXTEND TO THE WIDTH OF THE VEHICULAR INGRESS AND EGRESS AREA.  
CITY / PUBLIC ROAD TO BE KEPT FREE OF DEBRIS AND AGGREGATE

CITY OF LAKE WORTH  
PUBLIC SERVICES DEPARTMENT

STABILIZED CONSTRUCTION  
ENTRANCE DETAIL

29

ERIK R. COOPER, P.E., STATE OF FLORIDA, PROFESSIONAL ENGINEER, LICENSE NO. 56934

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RESIDENCES AT LAKE WORTH  
SECTION 20, TOWNSHIP 44S., RANGE 43E.  
CITY OF LAKE WORTH, FLORIDA  
POLLUTION PREVENTION NOTES

DESIGN E.C.	DRAWN C.O.	CHECKED	APPROVED	DATE	JOB NO. 21-173	DRAWING NO. 21173C03	SHEET 3	OF 3
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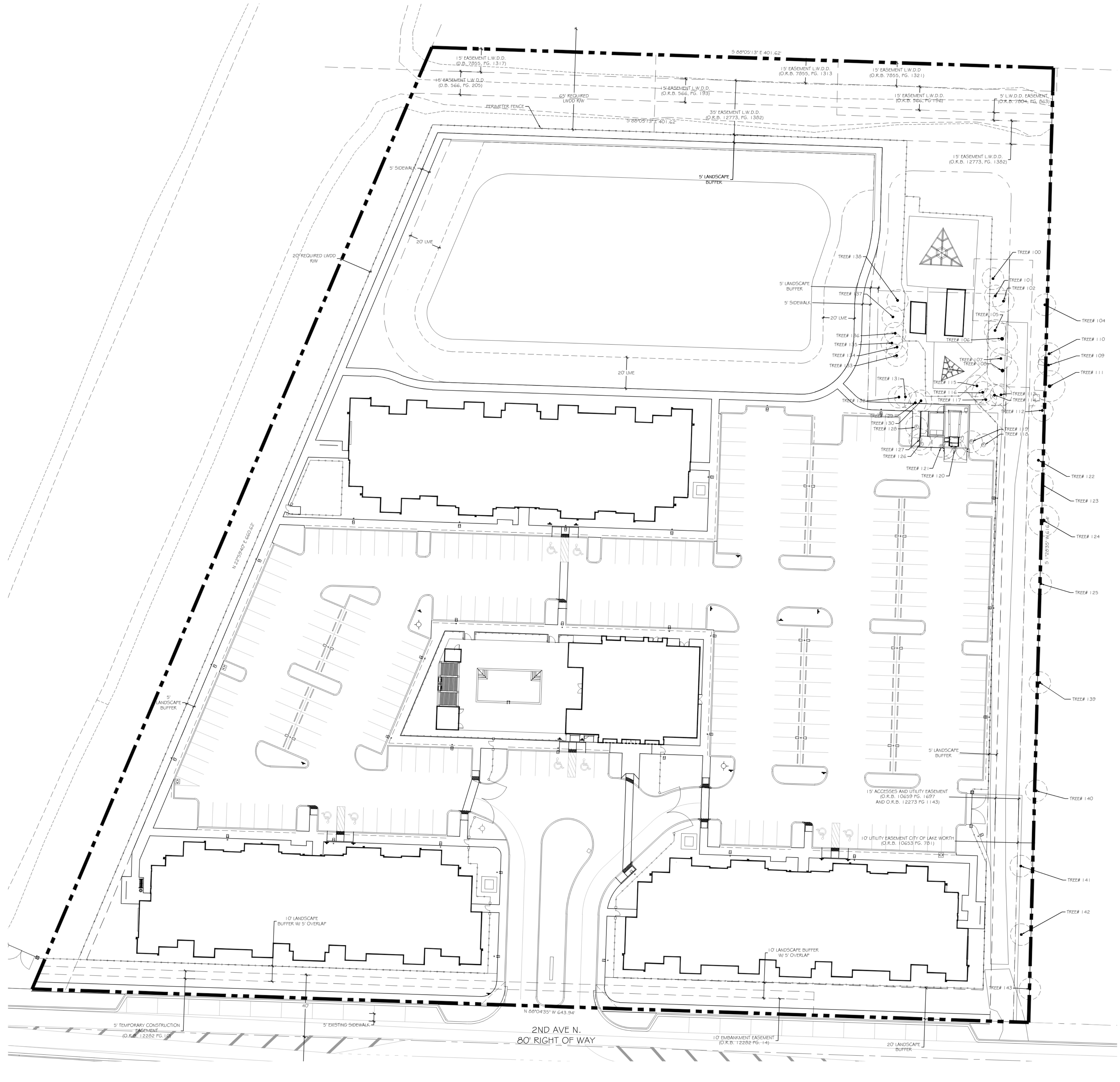
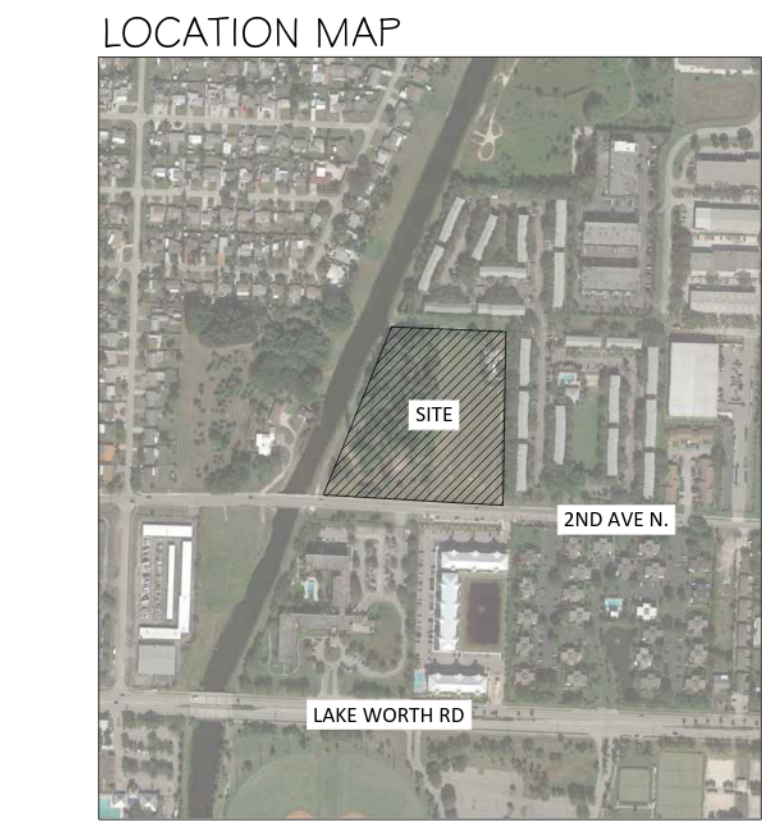
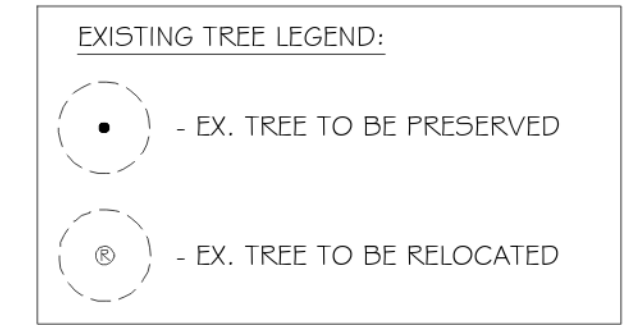
Consultants:

Revisions:  
 7/29/22- Comments  
 10/12/22- Comments  
 03/13/23- Resubmittal

**RESIDENCES AT LAKE WORTH**  
 Lake Worth, Florida  
 Richman Group Development

TAG #:	SPECIES:	DBH:	DISPOSITION:	NOTES:
100	CABBAGE PALM	24"	PRESERVE	
101	CABBAGE PALM	24"	PRESERVE	
102	CABBAGE PALM	24"	PRESERVE	
104	CABBAGE PALM	15"	PRESERVE	
105	CABBAGE PALM	15"	PRESERVE	
106	LIVE OAK	20"	PRESERVE	
107	CABBAGE PALM	18"	PRESERVE	
108	LIVE OAK	24"	PRESERVE	
109	CABBAGE PALM	20"	PRESERVE	
110	CABBAGE PALM	20"	PRESERVE	
111	LIVE OAK	24"	PRESERVE	
112	CABBAGE PALM	20"	PRESERVE	
113	CABBAGE PALM	15"	PRESERVE	
114	CABBAGE PALM	14"	PRESERVE	
115	CABBAGE PALM	20"	PRESERVE	
116	CABBAGE PALM	20"	PRESERVE	
117	CABBAGE PALM	12"	PRESERVE	
118	CABBAGE PALM	12"	RELOCATE	
119	CABBAGE PALM	24"	RELOCATE	
120	CABBAGE PALM	24"	RELOCATE	
121	CABBAGE PALM	24"	RELOCATE	
122	CABBAGE PALM	30"	PRESERVE	
123	CABBAGE PALM	24"	PRESERVE	
124	LIVE OAK	30"	PRESERVE	
125	CABBAGE PALM	24"	PRESERVE	
126	CABBAGE PALM	18"	RELOCATE	
127	CABBAGE PALM	18"	RELOCATE	
128	CABBAGE PALM	18"	RELOCATE	
129	CABBAGE PALM	30"	PRESERVE	
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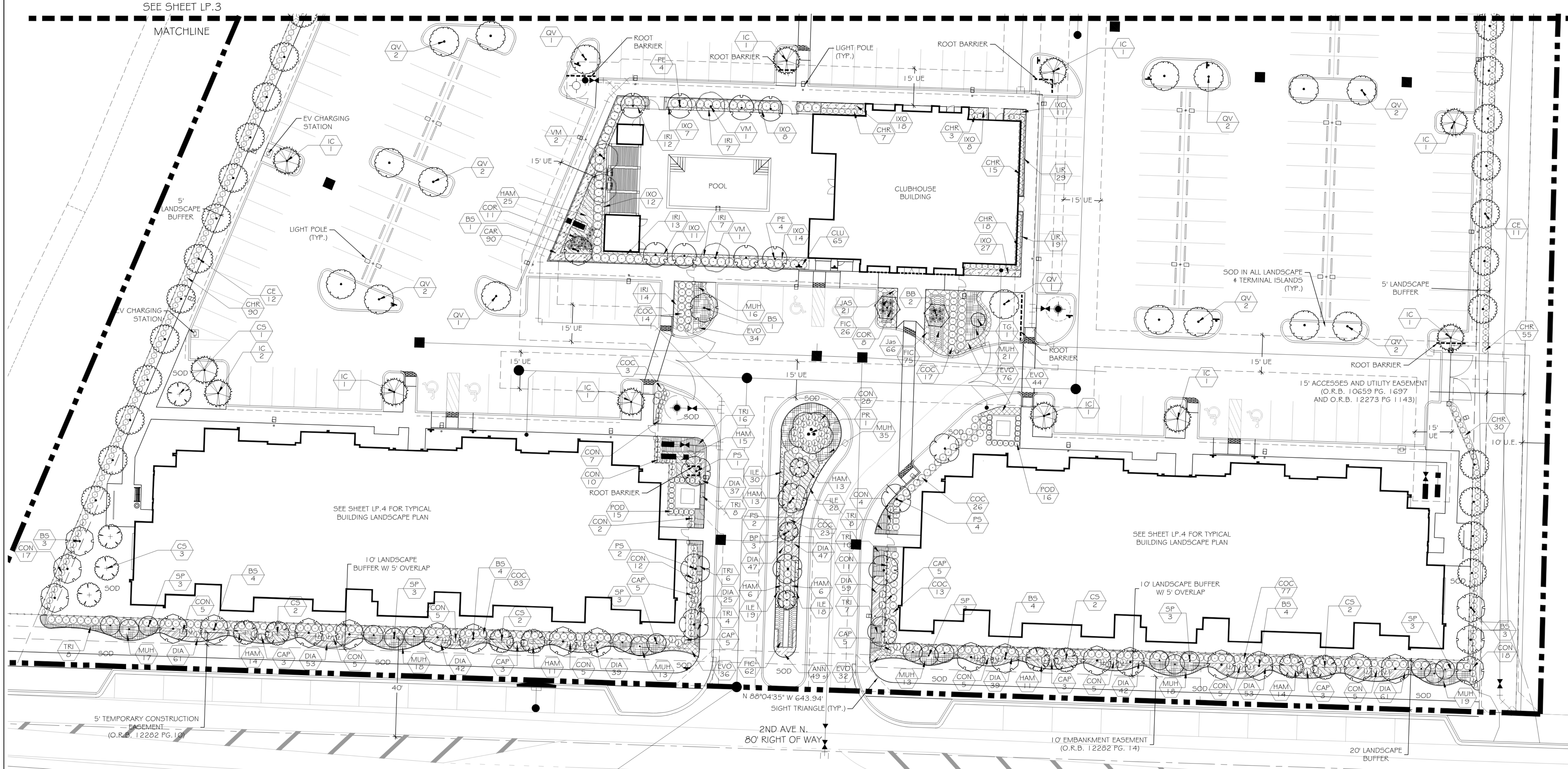
NOTES:  
 -EXISTING TREE AND PALM LOCATIONS AND SIZES PROVIDED BY TREE AND TOPO SURVEY BY CAULFIELD & WHEELER, INC.  
 -ALL RELOCATED TREE MATERIAL MUST HAVE IRRIGATION AT TIME OF INSTALLATION.



Consultants:

Revisions:  
 7/29/22- Comments  
 10/12/22- Comments  
 03/13/23- Resubmittal

**RESIDENCES AT LAKE WORTH**  
 Lake Worth, Florida  
 Richman Group Development

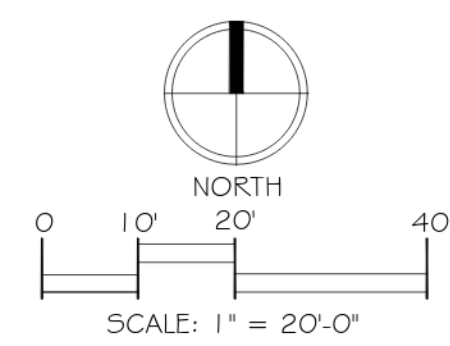
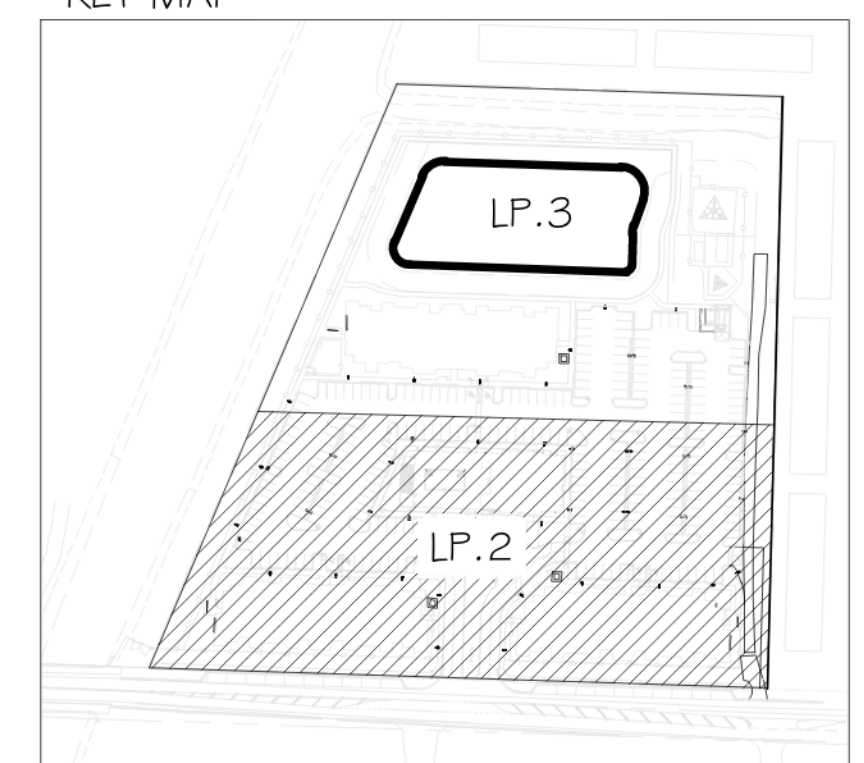


LANDSCAPE REQUIREMENT CHART:

LOCATION/ AREA	CODE REQUIREMENT	REQUIRED	PROVIDED
NORTH PL: 401.62 L.F. 5' LANDSCAPE BUFFER (SHEET LP.3)	1 TREE PER 20 L.F. 2' HT. HEDGE	20 TREES 2' HT. HEDGE	20 TREES 2' HT. HEDGE
EAST PL: 616.54 L.F. 5' LANDSCAPE BUFFER (SHEETS LP.2 & LP.3)	1 TREE PER 20 L.F. 2' HT. HEDGE	31 TREES 2' HT. HEDGE	31 TREES 2' HT. HEDGE
WEST PL: 660.62 L.F. 5' LANDSCAPE BUFFER (SHEETS LP.2 & LP.3)	1 TREE PER 20 L.F. 2' HT. HEDGE	33 TREES 2' HT. HEDGE	33 TREES 2' HT. HEDGE
SOUTH PL: 643.94 L.F. MINUS ENTRANCE = 584.3 L.F. 10' LA. BUFFER W/ OVERLAP 20' LANDSCAPE BUFFER (SHEET LP.2)	1 SMALL TREE PER 15 L.F. OR 1 MEDIUM TREE PER 20 L.F. OR 1 LARGE TREE PER 25 L.F. 2' HT. HEDGE & GROUNDCOVER	39 SMALL TREES OR 30 MEDIUM TREES OR 24 LARGE TREES 2' HT. HEDGE & GROUNDCOVER	24 LARGE TREES 6' HT. HEDGE & GROUNDCOVER
NATIVE TREE REQ5: (SHEET LP.2 & LP.3)	75% OF ALL REQUIRED TREES	75% OF TOTAL	89% OF TOTAL
NATIVE PLANTING REQ5: (SHEET LP.2 & LP.3)	75% OF ALL REQUIRED VEGETATION	75% OF TOTAL	92% OF TOTAL
TREES AND PALMS OVERALL SITE: (SHEET LP.2 & LP.3)	PALMS SHALL NOT BE MORE THAN 20% OF REQUIRED TREES	PALMS 20% OR LESS OF REQUIRED TREES	TREES: 191 (89.3%) PALMS: 23 (10.7%)

NOTES:  
 -AREAS LABELED 'SOD' TO BE ST. AUGUSTINE SOD.  
 -All RELOCATED TREE MATERIAL MUST HAVE IRRIGATION AT TIME OF  
 INSTALLATION.

KEY MAP



Consultants:

Revisions:  
 7/29/22- Comments  
 10/12/22- Comments  
 03/13/23- Resubmittal

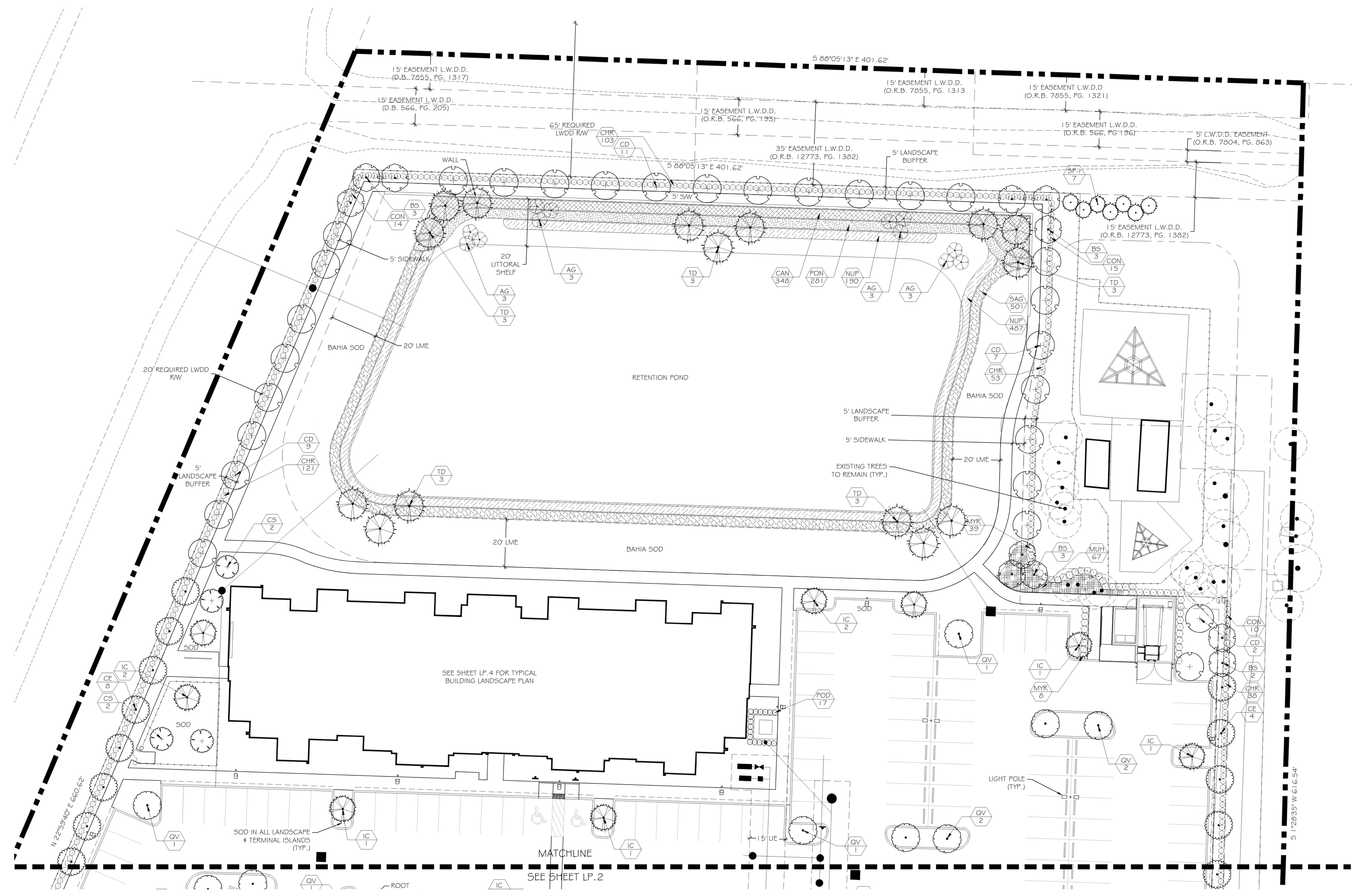
**RESIDENCES AT LAKE WORTH**  
 Lake Worth, Florida  
 Richman Group Development

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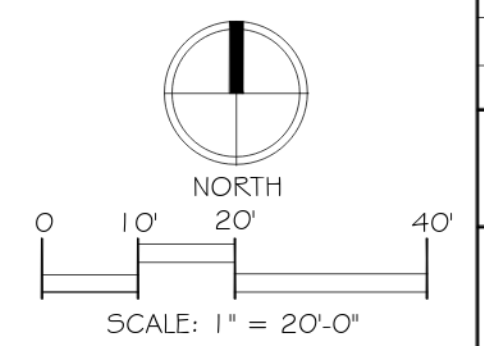
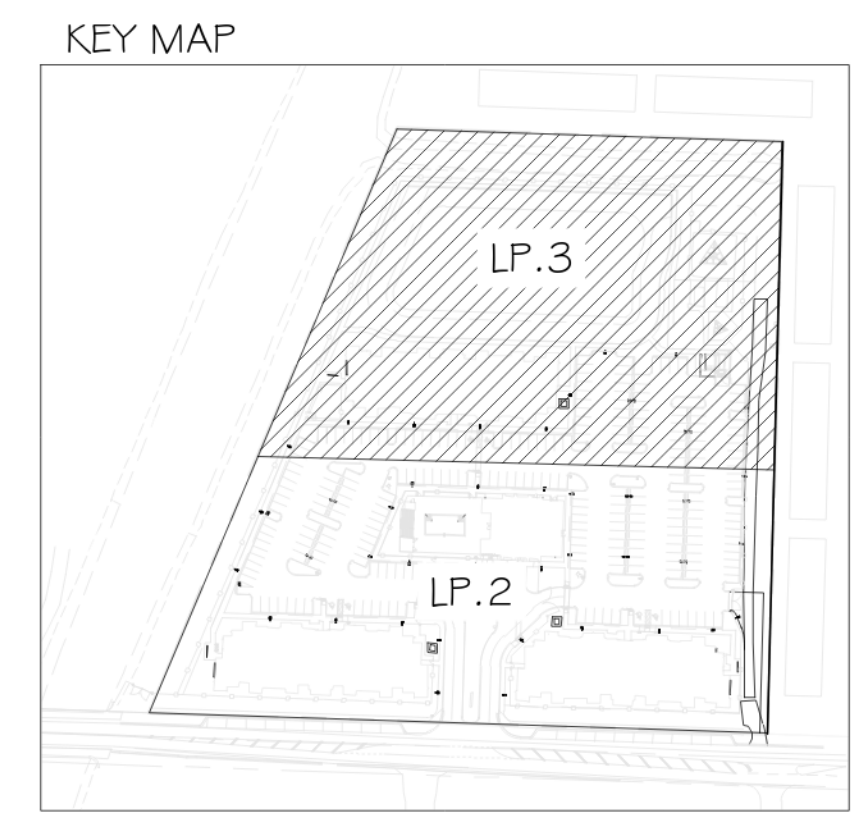
Drawn By: AC  
 Drawing #: 1264  
 Date: 04/11/2022

LANDSCAPE PLAN

SHEET # LP.3



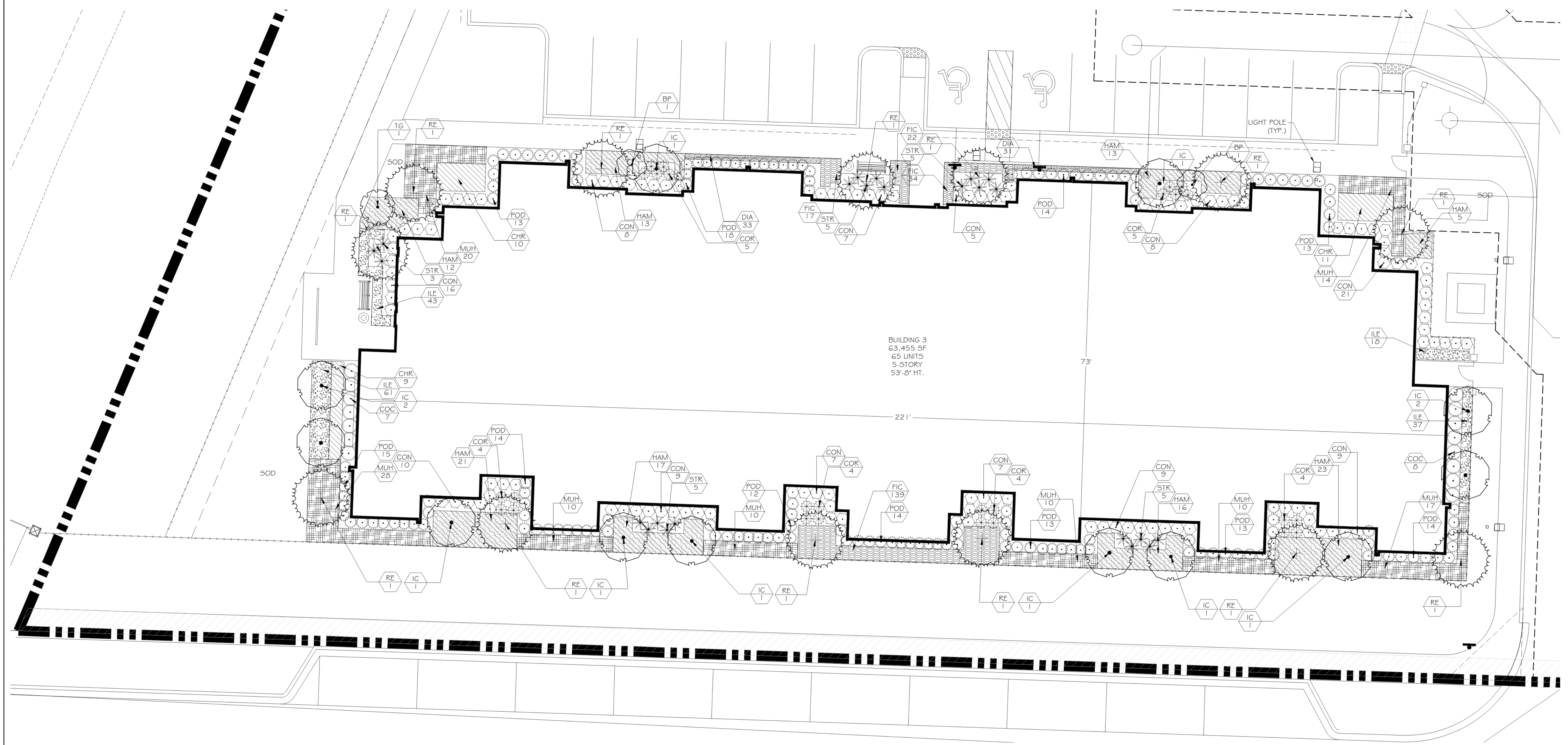
NOTES:  
 -AREAS LABELED "SOD" TO BE ST. AUGUSTINE SOD.  
 -ALL RELOCATED TREE MATERIAL MUST HAVE IRRIGATION AT TIME OF INSTALLATION.  
 -SEE SHEET LP.2 FOR PLANT SCHEDULE.



Consultants:

Revisions:  
 7/29/22- Comments  
 10/12/22- Comments  
 03/13/23- Resubmittal

**RESIDENCES AT LAKE WORTH**  
 Lake Worth, Florida  
 Richman Group Development



BUILDING 3  
 63,455 SF  
 65 UNITS  
 5-STORY  
 53'-0" HT.

**TYPICAL BUILDING FOUNDATION PLANTINGS:**

FACADE:	FACADE LENGTH:	(5' WIDTH) PLANTING AREA REQUIRED:	PLANTING AREA PROVIDED:	(1 PER 5 S.F.) SHRUBS REQUIRED:	SHRUBS PROVIDED:
NORTH	221 L.F.	1,105 S.F.	1,490 S.F.	221	338
SOUTH	221 L.F.	1,105 S.F.	1,963 S.F.	221	468
EAST	73 L.F.	365 S.F.	777 S.F.	73	149
WEST	73 L.F.	365 S.F.	1,503 S.F.	73	161

NOTE:  
 -AREAS LABELED "SOD" TO BE ST. AUGUSTINE SOD.

**PLANT SCHEDULE**

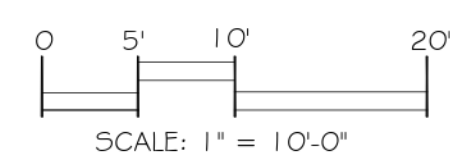
TREES	QTY	BOTANICAL NAME	COMMON NAME	REMARKS
BP	2	Bougainvillea x 'Purple Queen' TM	Purple Queen Bougainvillea	5' HT. X 3' SPR. STANDARD
IC	12	Ilex cassine	Dahoon Holly	12" HT. X 5' SPR. 2.5" CAL. MIN.
RE	13	Roystonea elata	Florida Royal Palm	18" G.W. MIN.
TG	1	Tibouchina granulosa	Purple Glory Tree	8' HT. X 4' SPR.

SHRUBS	QTY	BOTANICAL NAME	COMMON NAME	REMARKS
COC	15	Coccoloba uvifera	Sea Grape	30" HT. X 24" SPR. @ 36" O.C.
CON	116	Conocarpus erectus 'Sericeus'	Silver Buttonwood	36" HT. X 30" SPR. @ 30" O.C.
COR	26	Cordyline fruticosa 'Red Sister'	Hawaiian Ti	36" HT. X 24" SPR. @ 2.5' O.C.
POD	153	Podocarpus macrophyllus	Podocarpus	48" HT. X 30" SPR. @ 2.5' O.C.
STR	23	Strelitzia reginae	Orange Bird Of Paradise	36" HT. X 30" SPR. @ 3' O.C.

SHRUB AREAS	QTY	BOTANICAL NAME	COMMON NAME	REMARKS
CHR	30	Chrysobalanus icaco 'Red Tip'	Red Tip Coccoloba	30" HT. X 24" SPR. @ 30" O.C.
DIA	64	Dianella tasmanica 'Blueberry'	Blueberry Flax Lily	12" HT. X 10" SPR. @ 12" O.C.
FIC	212	Ficus microcarpa 'Green Island'	Green Island Ficus	14" HT. X 14" SPR. @ 14" O.C.
HAM	120	Hamelia nodosa	Dwarf Firebush	24" HT. X 18" SPR. @ 30" O.C.
ILE	159	Ilex vomitoria 'Nana'	Dwarf Yaupon Holly	12" HT. X 10" SPR. @ 12" O.C.
MUH	119	Muhlenbergia capillaris	Pink Muhly	24" HT. X 18" SPR. @ 30" O.C.



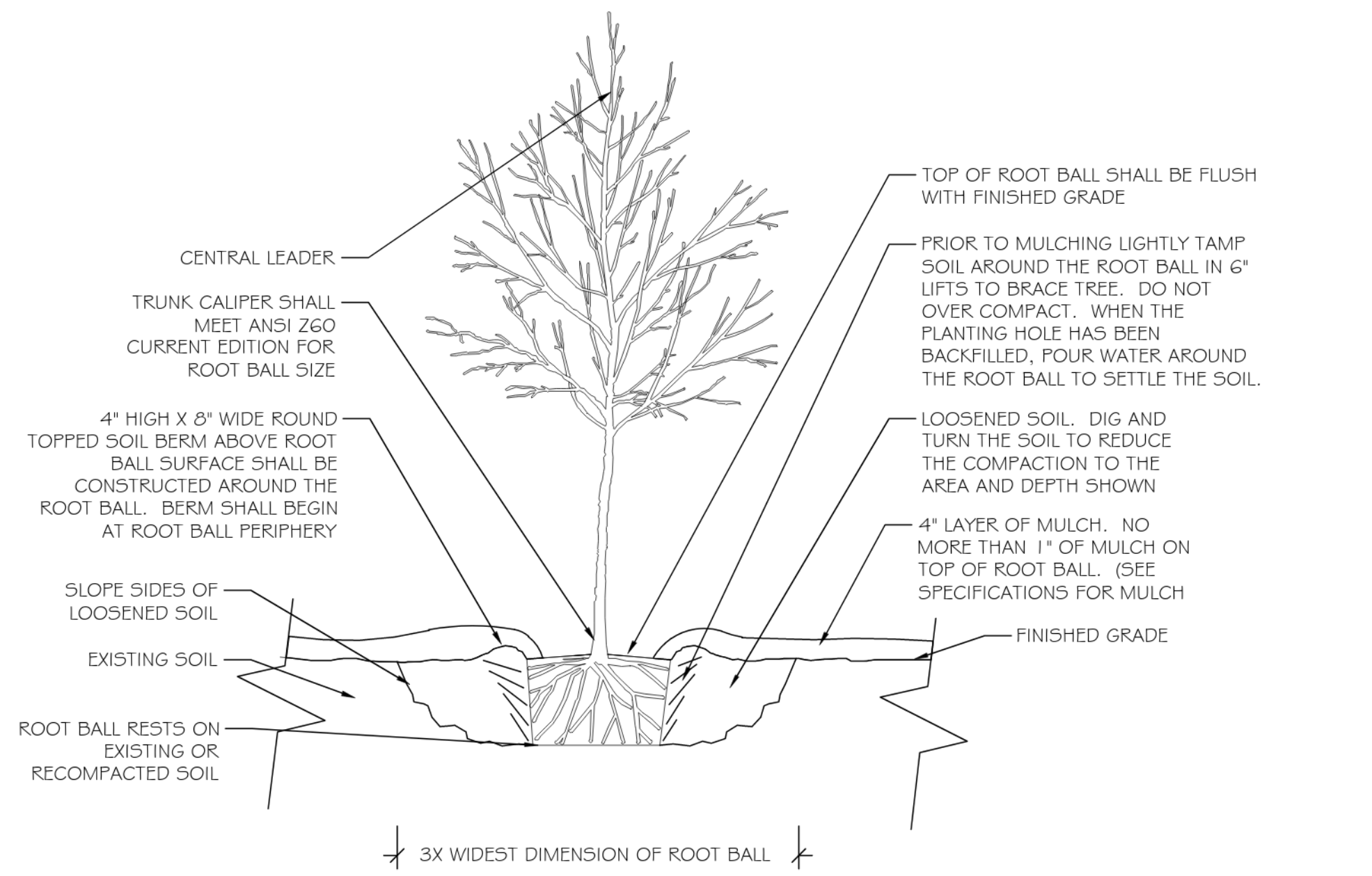
ALWAYS CALL 811 TWO FULL BUSINESS DAYS BEFORE YOU DIG TO HAVE UNDERGROUND UTILITIES LOCATED AND MARKED.



Drawn By: AC  
 Drawing #: 1264  
 Date: 04/11/2022

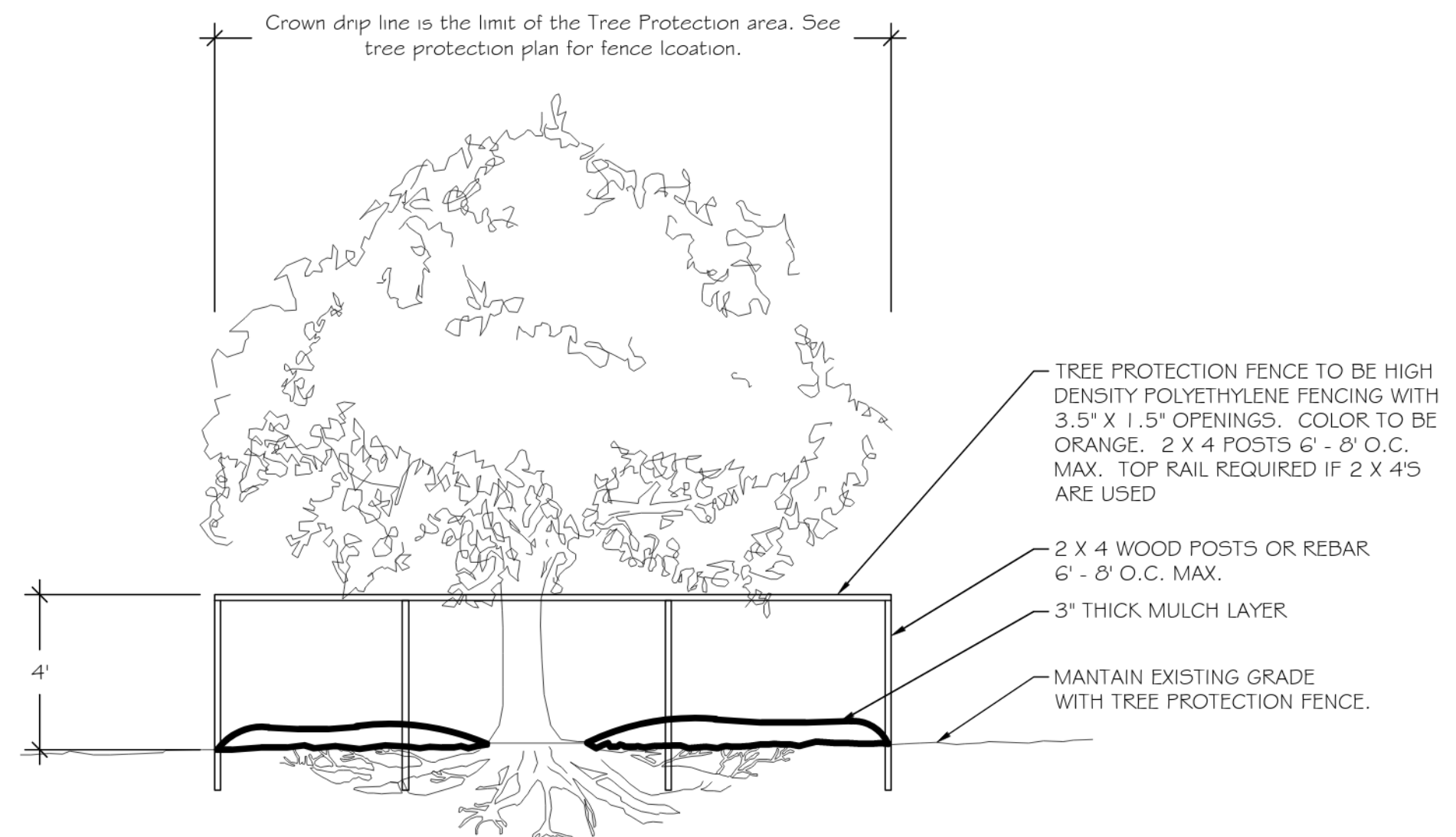
TYPICAL BUILDING  
 LANDSCAPE PLAN

SHEET # LP.4



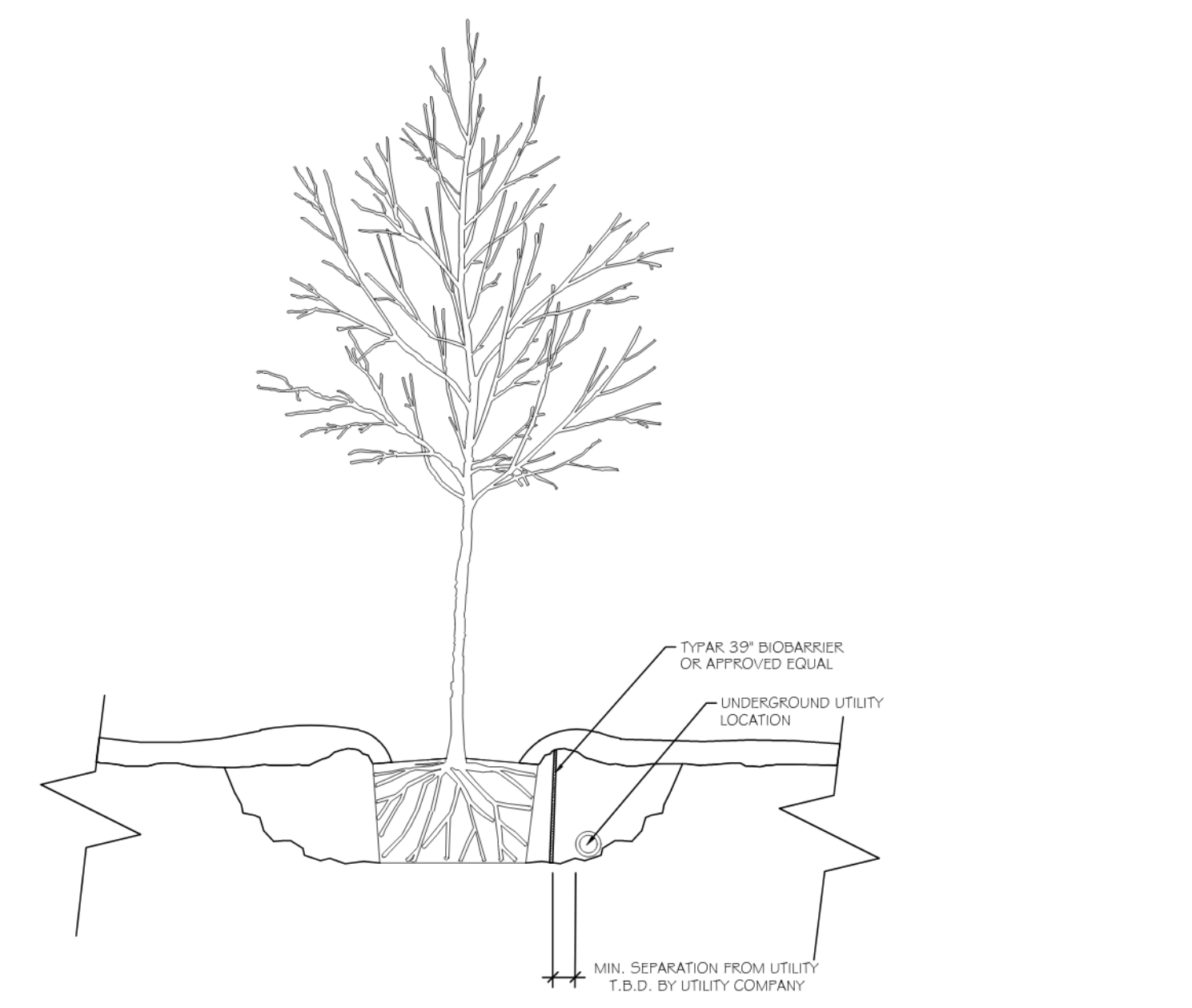
**1 TREE PLANTING DETAIL** 1/2" = 1'-0"

NOTES:  
 1. TREES SHALL BE OF QUALITY PRESCRIBED IN CROWN OBSERVATIONS AND ROOT OBSERVATIONS DETAILS AND SPECIFICATIONS.  
 2. SEE SPECIFICATIONS FOR FURTHER REQUIREMENTS RELATED TO THIS DETAIL.

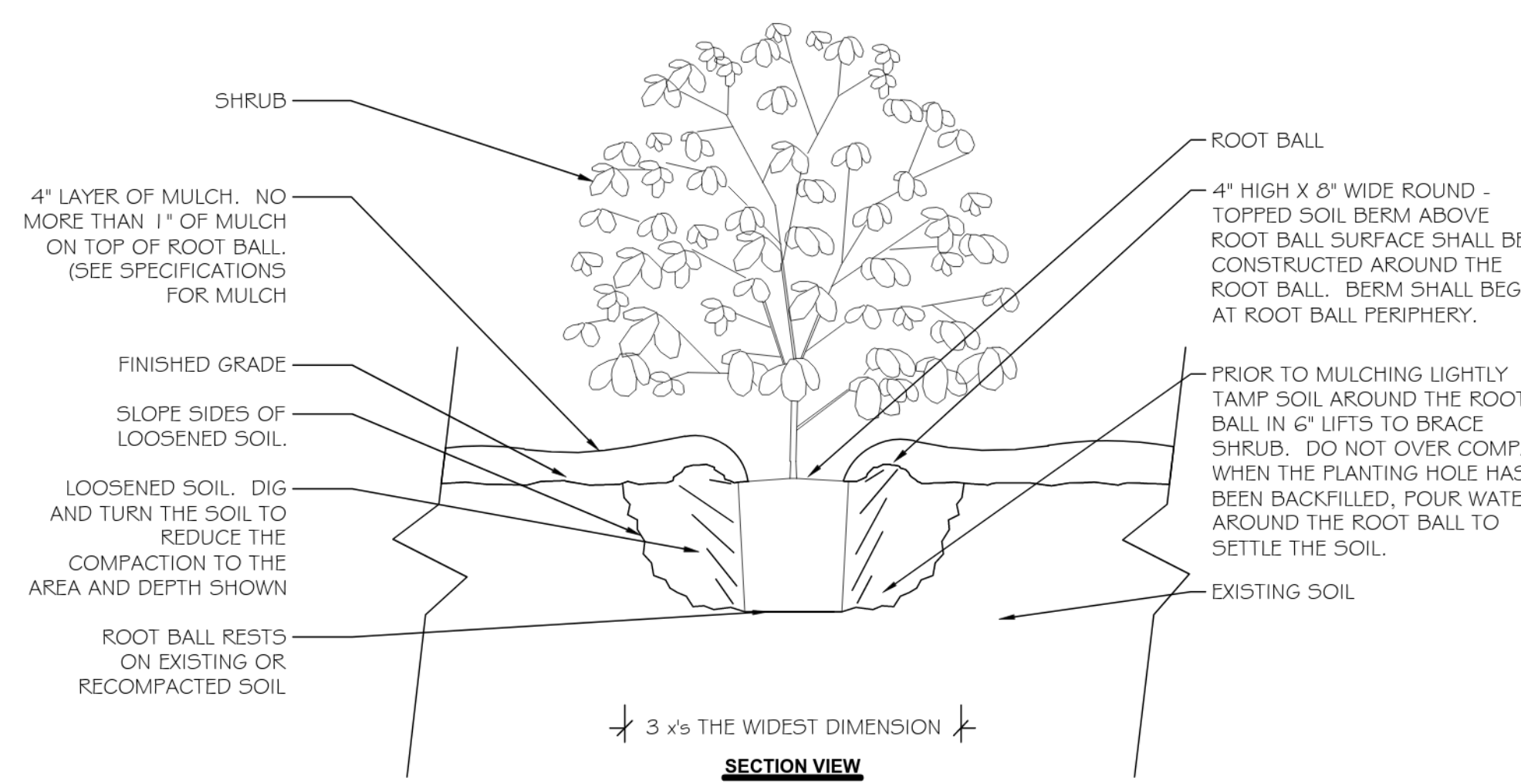


**4 TREE PROTECTION DETAIL** SCALE: 1/4" = 1'-0"

NOTES:  
 1. KEEP OUT OF TREE PROTECTION AREA  
 2. FENCE TO BE INSTALLED ALONG DRIPLINE OF EXISTING TREES  
 3. NO EQUIPMENT SHALL OPERATE INSIDE THE PROTECTIVE FENCING INCLUDING DURING FENCE INSTALLATION AND REMOVAL.

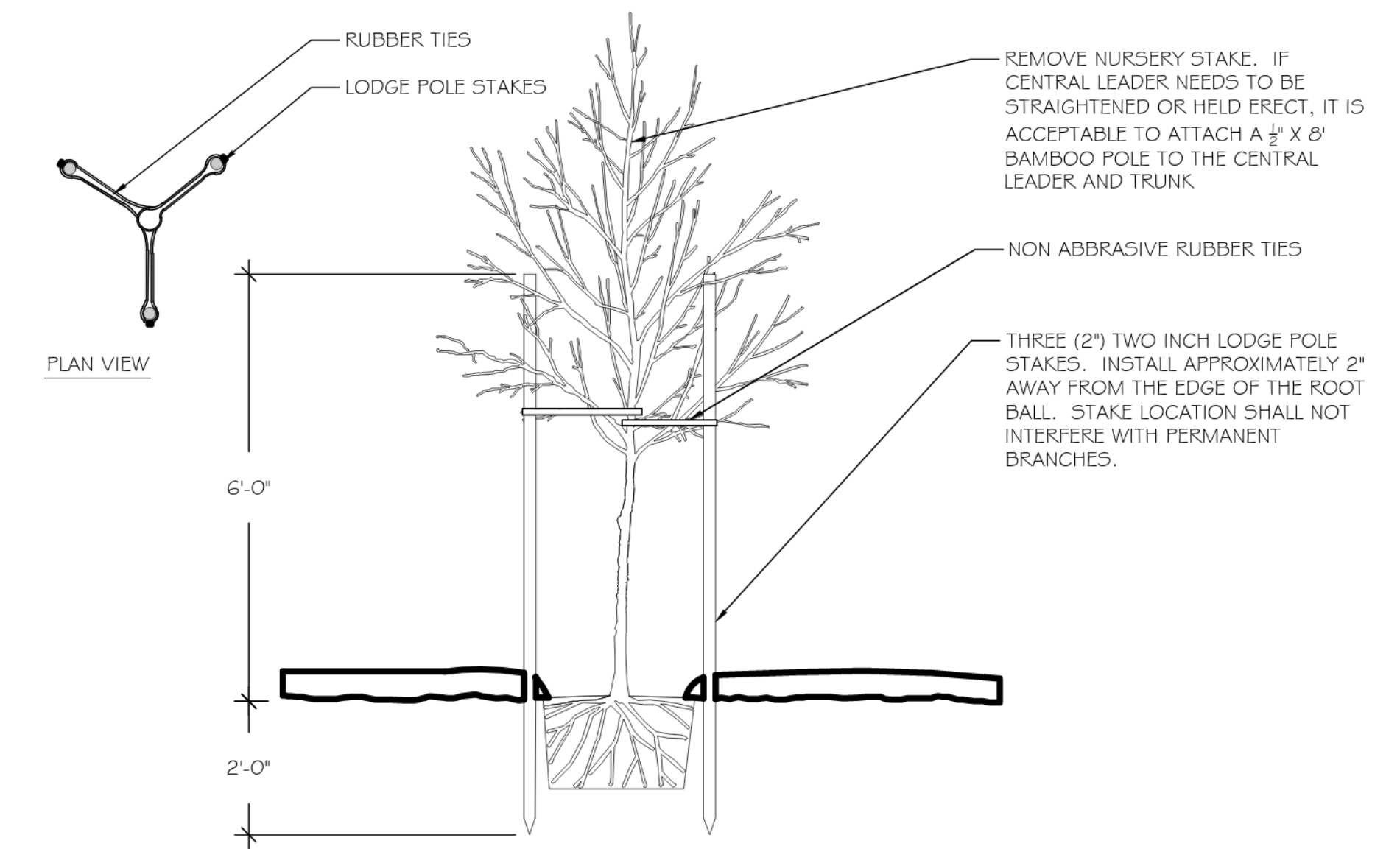


**7 ROOT BARRIER DETAIL** 1/2" = 1'-0"

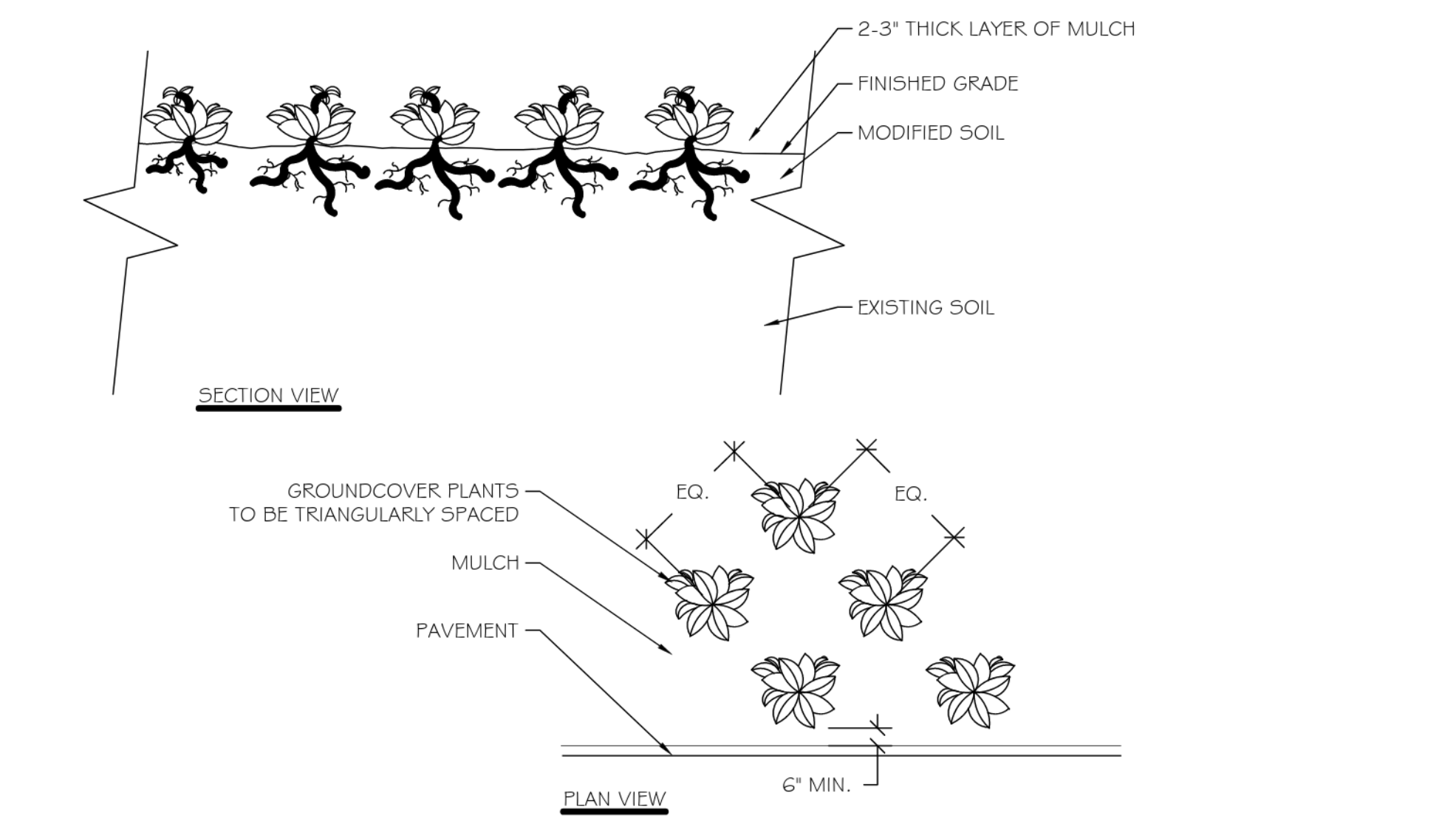


**2 SHRUB PLANTING DETAIL** 3/4" = 1'-0"

NOTES:  
 1. SHRUB SHALL BE OF QUALITY PRESCRIBED IN THE ROOT OBSERVATIONS DETAIL AND SPECIFICATIONS  
 2. SEE SPECIFICATIONS FOR FURTHER REQUIREMENTS RELATED TO THIS DETAIL.

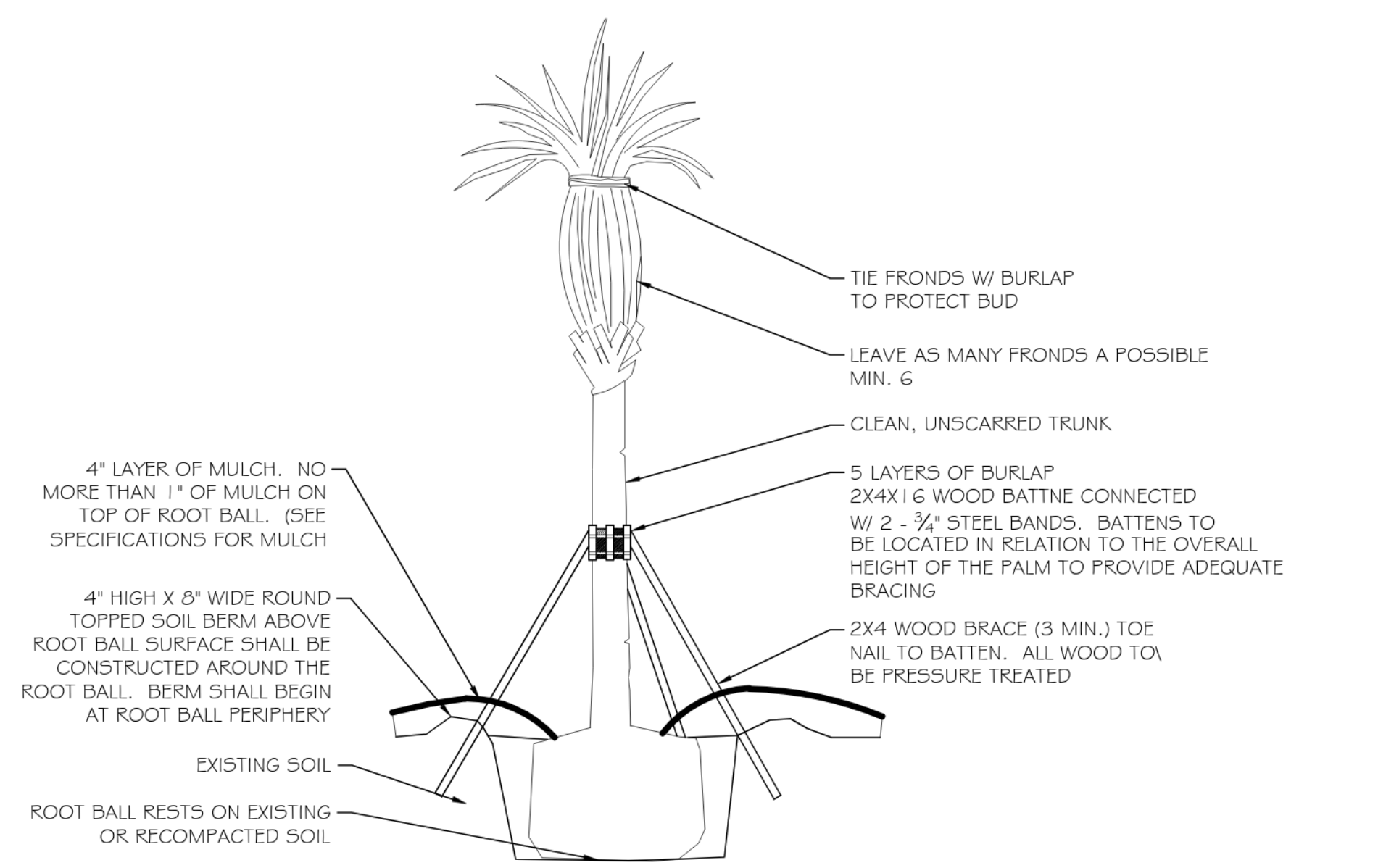


**5 TREE STAKING DETAIL** 1/2" = 1'-0"



**3 GROUND COVER** 3/4" = 1'-0"

NOTES:  
 1 - SEE PLANTING LEGEND FOR GROUND COVER SPECIES, SIZE, AND SPACING DIMENSION.  
 2 - SMALL ROOTS (1/4" OR LESS) THAT GROW AROUND, UP, OR DOWN THE ROOT BALL PERIPHERY ARE CONSIDERED A NORMAL CONDITION IN CONTAINER PRODUCTION AND ARE ACCEPTABLE HOWEVER THEY SHOULD BE ELIMINATED AT THE TIME OF PLANTING. ROOTS ON THE PERIPHERY CAN BE REMOVED AT THE TIME OF PLANTING.  
 3 - SETTLE SOIL AROUND ROOT BALL OF EACH GROUND COVER PRIOR TO MULCHING.



**6 PALM STAKING DETAIL** SCALE: 1/4" = 1'-0"

**LANDSCAPE NOTES:**

- ALL PLANTS TO BE FLORIDA #1 QUALITY OR BETTER AS DEFINED IN THE LATEST EDITION OF THE FLORIDA GRADES AND STANDARDS FOR NURSEY PLANTS, UNLESS OTHERWISE NOTED.
- ALL PLANTING AND SOD AREAS SHALL RECEIVE 100% IRRIGATION COVERAGE FROM AN AUTOMATIC IRRIGATION SYSTEM WITH A RAIN SENSOR.
- ALL PLANTING BEDS/ ISLANDS SHALL BE FREE OF SHELLROCK, CONSTRUCTION DEBRIS, OR OTHER MISCELLANEOUS DEBRIS, EXCAVATED TO A DEPTH OF 30" OR TO CLEAN NATIVE SOILS, AND BACKFILLED WITH THE SPECIFIED SOIL MIXTURE.
- ROOT BARRIERS ARE REQUIRED FOR ALL TREES LOCATED WITHIN 10' OF UNDERGROUND UTILITIES.
- CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL REQUIRED APPROVALS AND PERMITS FROM LOCAL MUNICIPALITY AND GOVERNING AGENCIES PRIOR TO REMOVAL OF ANY EXISTING VEGETATION OR BEGINNING INSTALLATION.
- IN THE EVENT OF A CONFLICT BETWEEN THE QUANTITIES SHOWN IN THE PLANT SCHEDULE AND GRAPHICALLY DEPICTED AND LABELED ON THE PLAN, THE PLAN WILL PREVAIL. IF SUCH CONFLICT IS DISCOVERED, CONTRACTOR SHALL CONSULT WITH LANDSCAPE ARCHITECT.
- ALL TREES PLANTED UNDER OR NEAR OVERHEAD POWER LINES SHALL COMPLY WITH FPL RIGHT TREE, RIGHT PLACE REQUIREMENTS.
- CONTRACTOR IS REQUIRED TO CALL SUNSHINE 811 TO HAVE ALL UNDERGROUND UTILITIES LOCATED PRIOR TO ANY DIGGING, EXCAVATION, OR UNDERGROUND WORK. IF PROPOSED DESIGN CONFLICTS WITH EXISTING OR PROPOSED UTILITY LOCATIONS, CONTRACTOR SHALL IMMEDIATELY CONTACT LANDSCAPE ARCHITECT TO DEVELOP A SOLUTION FOR THE CONFLICT.

TREES	QTY	BOTANICAL NAME	COMMON NAME	REMARKS
BB	2	Bauhinia x ibacana	Hong Kong Orchid Tree	12' HT X 3" SPK, 2.5' CAL
BP	3	Bougainvillea x 'Purple Queen' TM	Purple Queen Bougainvillea	5' HT, X 3" SPK, STAND/DM
B5	35	Bursera simaruba	Gumbo Limbo	12' HT, X 5" SPK, / 2.5' CAL MIN.
CD	29	Coccoloba diversifolia	Papoon Plum	12' HT, X 5" SPK, / 2.5' CAL MIN.
CE	35	Conocarpus erectus	Green Buttonwood	12' HT, X 5" SPK, / 2.5' CAL MIN.
CS	16	Cordia sebestena	Orange Geger Tree	12' HT, X 5" SPK, / 2.5' CAL MIN.
IC	20	Ilex cassine	Dahoon Holly	12' HT, X 5" SPK, 2.5' CAL MIN.
PK	1	Phoenix reclinata	Senegal Date Palm	16' CT, HT, FIVE TRUNKS MIN.
PS	9	Phoenix sylvestris	Sylvestor Date Palm	12' CT, MATCHED, CONTINUOUS TRUNK DARNER, FLORIDA FANCY
PE	8	Psychopoma elegans	Alexander Palm	16' OA HT, 10' CT MIN, DOUBLE TRUNK, MATCHED
QV	24	Quercus virginiana 'highrise'	'Highrise' Live Oak	12' HT, X 5" SPK, 2.5' CAL MIN.
SP-r	7	Relocated Sabal palmetto	Cabbage Palmetto	Relocated from on site
SP	10	Sabal palmetto	Cabbage Palmetto	10' - 22' OA, HT, SLICK TRUNK
TD	15	Taxodium distichum	Bald Cypress	12' HT, X 5" SPK, 2.5' CAL.
TG	1	Tibouchina granulosa	Purple Glory Tree	6' HT X 4" SPK
VM	4	Veitchia montgomeryana	Montgomery Palm	20-22' OA HT, 16' G.W. MIN, SINGLE TRUNK.
SHRUBS	QTY	BOTANICAL NAME	COMMON NAME	REMARKS
AG	12	Amorpha gubneri	Fond Apple	7' HT X 3" SPK
CAP	32	Capparis cynophallophora	Jamaica Capar	36" HT, 17 GAL. MIN.
CHR	533	Chrysothamnus scaco Red Top	Red Top Coccythm	24" HT, X 24" SPK, @ 30" O.C.
CLU	65	Closia guttata	Small Leaf Closia	6' HT, X 3.5" SPK, @ 42" O.C.
COC	256	Coccoloba uvifera	Sea Grape	36" HT, X 30" SPK, @ 36" O.C.
CON	108	Conocarpus erectus 'Senecus'	Silver Buttonwood	36" HT, X 30" SPK, @ 30" O.C.
COR	19	Cordyline frutescens 'Red Sister'	Red Sister Ti	36" HT, X 18" SPK, AS SHOWN
MYR	47	Mycarthenes fragrans	Simpson's Stopper	6' HT, X 3" SPK, @ 36" O.C.
POD	48	Podocarpus macrophyllus	Podocarpus	48" HT, @ 2.5' O.C.
SHRUB AREAS	QTY	BOTANICAL NAME	COMMON NAME	REMARKS
CAN	348	Canna fasciata	Yellow Canna	BARE ROOT @ 24" O.C.
CAR	90	Carosia macrocarpa 'Emerald Blanket'	Emerald Blanket Carosia	12' HT X 12" SPK, @ 18" O.C.
FIC	163	Ficus microcarpa 'Green Island'	Green Island Ficus	14" HT, X 14" SPK, @ 14" O.C.
HAM	128	Hamelia nodosa	Dwarf Firebush	24" HT, X 18" SPK, @ 30" O.C.
ILE	95	Ilex vomitoria 'Nana'	Dwarf Yaupon Holly	12" HT, X 10" SPK, @ 14" O.C.
IRI	83	Iris virginica	Blue Flag Iris	18" HT, X 14" SPK, @ 18" O.C.
ISO	116	Isoira coccinea 'Masi Sunset'	Masi Sunset Dwarf Isoira	12" HT, X 12" SPK, @ 18" O.C.
Jao	66	Jasminum volubile	Wax Jasmine	18" HT, X 18" SPK, @ 24" O.C.
JAS	21	Jasminum volubile	Wax Jasmine	18" HT, X 18" SPK, @ 24" O.C.
MUH	237	Muhlenbergia capillaris	Pink Muhly	18" HT, X 18" SPK, @ 30" O.C.
NUP	677	Nuphar lutea	Yellow Water Lily	BARE ROOT @ 24" O.C.
PNON	281	Fontostena cordata	Pickering Weed	BARE ROOT @ 24" O.C.
PSG	501	Psittacanthus lamifolia	Duck Potato	BARE ROOT @ 24" O.C.
TRI	107	Tripsacum dactyloides nana	Dwarf Falahatchee Grass	18" HT, X 18" SPK, @ 30" O.C.
GROUND COVERS	QTY	BOTANICAL NAME	COMMON NAME	REMARKS
ANN	49 sf	Annual	Annual Flowers	BY CONTRACTOR.
DIA	605	Dianella taenarioca	Flax Lily	12" HT, X 12" SPK, @ 14" O.C.
EVO	222	Evolvulus glomeratus 'Blue Daze'	'Blue Daze'	10" HT, X 10" SPK, @ 12" O.C.
LR	48	Liriope muscari 'Aster'	Aster Lilyturf	10" HT, X 10" SPK, @ 12" O.C.

Consultants:  
 Revisions:  
 7/29/22- Comments  
 10/12/22- Comments  
 03/13/23- Resubmittal

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Drawn By: AC  
 Drawing #: 1264  
 Date: 04/11/2022

LANDSCAPE DETAILS

SHEET # LP.5



GENERAL CONDITIONS

A. CONTRACT DOCUMENTS: Shall consist of specifications and its general conditions and the drawings. The intent of these documents is to include all labor, materials, and services necessary for the proper execution of the work. The documents are to be considered as one. Whatever is called for by any parts shall be as binding as if called for in all parts.

B. VERIFICATION: The Contractor shall verify measurements on the drawings before beginning work. In case of error or discrepancy in the drawings or specifications or in the work of others affecting his/her work, he/she shall notify the Owner's Representative immediately. The Contractor shall be held responsible for any damages or loss due to his/her failure to observe these instructions.

C. MATERIALS, MACHINERY, EMPLOYEES: Except as otherwise noted, the Contractor shall provide and pay for all materials, labor, tools, and other items necessary and incidental to the completion of his/her work.

D. SURVEYS, PERMITS, REGULATIONS: The Owner shall furnish an adequate survey of the property. The Contractor shall obtain and pay for all permits and comply with all laws and ordinances bearing on the operation or conduct of the work as drawn and specified. If the Contractor observes that a variance exists therewith he/she shall promptly notify the Owner's Representative in writing and any necessary changes shall be adjusted as provided in the contract for changes in the work.

E. PROTECTION OF WORK, PROPERTY AND PERSON: The Contractor shall adequately protect the work, adjacent property, and the public, and shall be responsible for any damages or injury due to his/her actions.

F. CHANGES IN THE WORK: The owner may order changes in the work, and the contract sum being adjusted accordingly. All such orders and adjustments plus claims by the Contractor for extras must be made in writing before the work is performed.

G. CORRECTION OF WORK: The Contractor shall re-execute any work that fails to conform to the requirements of the contract and shall remedy defects due to faulty materials or workmanship upon written notice from the Owner's Representative for a period of ninety (90) days from the date of completion of the contract.

H. Owner's Authorized Representative: The Owner's authorized representative acts as the authorized representative of the Owner in conjunction with the project manager, and has authority to accept or reject materials or workmanship and to make minor changes in the work not involving extra cost. He will also interpret the meaning of the contract documents and may stop the work if necessary to ensure its proper execution.

I. CLARIFICATION OF DRAWINGS BEFORE BIDDING: After reviewing the drawings thoroughly it is the Contractor's responsibility to clarify with the Owner's Representative any questions the Contractor may have regarding the method of construction, quantities, or quality of materials included or called out. If the Contractor cannot contact the Owner's Representative, the Contractor must qualify his/her bid or accept the interpretation of the Owner's Representative on the questionable areas as they develop during construction.

J. SAMPLES: The Owner's Representative reserves the right to take and analyze samples of materials for conformity to specifications at any time. The Contractor shall furnish samples upon request by the Owner's Representative. Rejected materials shall be immediately removed from the site and replaced at the Contractor's expense. The cost of testing materials not meeting specifications shall be paid by the Contractor.

K. PRE-CONSTRUCTION CONFERENCE: Schedule a pre-construction meeting with the Owner's Representative at least seven (7) days before beginning work. The purpose of this conference is to review any questions the Contractor may have regarding the work, administrative procedures during construction and project work schedule.

015639
Tree and Plant Protection

PART 1 GENERAL

1.1 SUMMARY
The scope of work includes all labor, materials, tools, equipment, facilities, transportation and services necessary for, and incidental to performing all operations in connection with protection of existing trees and other plants as shown on the drawings and as specified herein.

1.2 CONTRACT DOCUMENTS
A. Shall consist of specifications and general conditions and the drawings. The intent of these documents is to include all labor, materials, and services necessary for the proper execution of the work. The documents are to be considered as one. Whatever is called for by any parts shall be as binding as if called for in all parts.

1.3 RELATED DOCUMENTS AND REFERENCES
A. Related Documents:
1. Drawings and general provisions of contract including general and supplementary conditions and Division I specifications apply to work of this section.

All terms in this specification shall be as defined in the "Glossary of Arboricultural Terms" or as modified below.
Owner's Representative. The person appointed by the Owner to represent their interest in the review and approval of the work and to serve as the contracting authority with the Contractor. The Owner's Representative or Owner may appoint other persons to review and approve any aspects of the work, such as the landscape architect who prepared the plans.

1.10 SUBMITTALS
A. PRODUCT DATA: Submit manufacturer product data and literature describing all products required by this section to the Owner's Representative for approval. Provide submital four weeks before the start of any work at the site.

1.11 OBSERVATION OF THE WORK
A. The Owner's Representative may inspect the work at any time.
1.12 PRE-CONSTRUCTION CONFERENCE
A. Schedule a pre-construction meeting with the Owner's Representative at least seven (7) days before beginning work to review any questions the Contractor may have regarding the work, administrative procedures during construction and project work schedule.

1.13 QUALITY ASSURANCE
A. Contractor qualifications:
1. All pruning, branch tie-back, tree removal, root pruning, and fertilizing required by this section shall be performed by or under the direct supervision of ISA Certified Arbotist Submit aforementioned individual's qualifications for approval by the Owner's Representative.

PART 2 PRODUCTS

2.3 TREE PROTECTION FENCING
B. PLASTIC MESH FENCE: Heavy - duty orange plastic mesh fencing fabric 48 inches wide. Fencing shall be attached to metal "U" or "T" post or wooden post driven into the ground of sufficient depth to hold the fabric solidly in place without sagging. The fabric shall be attached to the post using attachment ties of sufficient number and strength to hold up the fabric without sagging. The Owner's Representative may request, at any time, additional post, deeper post depths and or additional fabric attachments if the fabric begins to sag, lean or otherwise not present a sufficient barrier to access.

2.5 TREE GROWTH REGULATOR (TGR)
A. Cambast 25C
B. Submit suppliers product data that product meets the requirements for approval.
2.6 MATTING
A. Matting for vehicle and work protection shall be heavy duty matting designed for vehicle loading over tree roots, aluminum mats as manufactured by Alumamats, Inc. Franklin, PA 16323 or approved equal.

3.1 SITE EXAMINATION
A. Examine the site, tree, plant and soil conditions. Notify the Owner's Representative in writing of any conditions that may impact the successful Tree and Plant Protections that is the intent of this section.

3.2 COORDINATION WITH PROJECT WORK
A. The Contractor shall coordinate with all other work that may impact the completion of the work.
B. Prior to the start of work, prepare a detailed schedule of the work for coordination with other trades.

3.3 TREE AND PLANT PROTECTION AREA: The Tree and Plant Protection Area is defined as all areas indicated on the tree protection plan. Where no limit of the Tree and Plant Protection Area is defined on the drawings, the limit shall be the drip line (outer edge of the branch crown) of each tree.

3.4 PREPARATION:
A. Prior to the preconstruction meeting, layout the limits of the Tree and Plant Protection Area and then alignments of required Tree and Plant Protection Fencing and root pruning. Obtain the Owner's Representative's approval of the limits of the protection area and the alignment of all fencing and root pruning.

inches of Wood Chips or Mulch.
4. Areas where heavy vehicle traffic is unavoidable provide a layer of Geogrids under 8 - 12 inches of Wood Chips or Mulch and a layer of matting over the Wood Chips or Mulch.
B. The Owner's Representative shall approve the appropriate level of protection.
C. In the above requirements, light weight is defined as a track sled steer with a ground pressure of 4 psi or lighter. A heavy vehicle is any vehicle with a tire or track pressure of greater than 4 psi. Lightweight materials are any packaged materials that can be physically moved by hand into the location. Bulk materials such as soil, or aggregate shall never be stored within the Tree and Plant Protection Area.

3.8 PROTECTION:
A. Protect the Tree and Plant Protection Area at all times from compaction of the soil; damage of any kind to trunk, bark, branches, leaves and roots of all plants; and contamination of the soil, bark or leaves with construction materials, debris, silt, fuels, oils, and any chemical substance. Notify the Owner's Representative of any spills, compaction or damage and take corrective action immediately using methods approved by the Owner's Representative.

3.9 GENERAL REQUIREMENTS AND LIMITATIONS FOR OPERATIONS WITHIN THE TREE AND PLANT PROTECTION AREA
A. The Contractor shall not engage in any construction activity within the Tree and Plant Protection Area without the approval of the Owner's Representative including operating, moving or storing equipment; storing supplies or materials; locating temporary facilities including trailers or portable toilets and shall not permit employees to traverse the area to access adjacent areas of the project or use the area for lunch or any other work breaks. Permitted activity, if any, within the Tree and Plant Protection Area may be indicated on the drawings along with any required remedial activity as listed below.

1. In general, excavation and excavation within the drip line of trees and shrubs shall proceed with extreme care either by the use of hand tools, directional boring and/or Air Knife excavation where indicated or with other low impact equipment that will not cause damage to the tree, roots or soil.
2. When encountered, exposed roots, 1 inches and larger in diameter shall be worked around in a manner that does not break the outer layer of the root surface (bark). These roots shall be covered in Wood Chips and shall be maintained above permanent wet soil at all times. Roots one inch and larger in diameter shall not be cut with out the approval of the owners representative. Excavation shall be tunnelled under these roots without cutting them. In the areas where roots are encountered, work shall be performed and scheduled to close excavations as quickly as possible over exposed roots.

1.2 CONTRACT DOCUMENTS
A. Shall consist of specifications and general conditions and the construction drawings. The intent of these documents is to include all labor, materials, and services necessary for the proper execution of the work. The documents are to be considered as one. Whatever is called for by any parts shall be as binding as if called for in all parts.

1.3 RELATED DOCUMENTS AND REFERENCES
A. Related Documents:
1. Drawings and general provisions of contract including general and supplementary conditions and Division I specifications apply to work of this section.

1.4 VERIFICATION
A. All scaled dimensions on the drawings are approximate. Before proceeding with any work, the Contractor shall carefully check and verify all dimensions and quantities, and shall immediately inform the Owner's Representative of any discrepancies between the information on the drawings and the actual conditions, refraining from doing any work in said areas until given approval to do so by the Owner's Representative.

1.5 PERMITS AND REGULATIONS
A. The Contractor shall obtain and pay for all permits related to this section of the work unless previously excluded under provision of the contract or general conditions. The Contractor shall comply with all laws and ordinances bearing on the operation or conduct of the work as drawn and specified. If the Contractor observes that a conflict exists between permit requirements and the work outlined in the contract documents, the Contractor shall promptly notify the Owner's Representative in writing including a description of any necessary changes and changes to the contract price resulting from changes in the work.

1.6 POTENTIAL WORK PROPERTY AND PERSON
A. The Contractor shall obtain and pay for all permits related to this section of the work unless previously excluded under provision of the contract or general conditions. The Contractor shall comply with all laws and ordinances bearing on the operation or conduct of the work as drawn and specified. If the Contractor observes that a conflict exists between permit requirements and the work outlined in the contract documents, the Contractor shall promptly notify the Owner's Representative in writing including a description of any necessary changes and changes to the contract price resulting from changes in the work.

3.17 Removal of fencing and other Tree and plant protection
A. At the end of the construction period or when requested by the Owner's Representative remove all fencing, Wood Chips or Mulch, Geogrids and Filter Fabric, trunk protection and or any other Tree and Plant Protection material.
3.18 DAMAGE OR LOSS TO EXISTING PLANTS TO REMAIN
B. Any trees or plants designated to remain and which are damaged by the Contractor shall be replaced in kind by the Contractor at their own expense. Trees shall be replaced with a tree of similar species and of equal size or 6 inch caliper which ever is less. Shrubs shall be replaced with a plant of similar species and equal size or the largest size plants reasonably available which ever is less.

3. GENERAL REQUIREMENTS AND LIMITATIONS FOR OPERATIONS WITHIN THE TREE AND PLANT PROTECTION AREA
A. The Contractor shall not engage in any construction activity within the Tree and Plant Protection Area without the approval of the Owner's Representative including operating, moving or storing equipment; storing supplies or materials; locating temporary facilities including trailers or portable toilets and shall not permit employees to traverse the area to access adjacent areas of the project or use the area for lunch or any other work breaks. Permitted activity, if any, within the Tree and Plant Protection Area may be indicated on the drawings along with any required remedial activity as listed below.

1.10 SUBMITTALS
A. See contract general conditions for policy and procedure related to submittals.
B. Submit all product submittals 4 weeks prior to installation of plantings.

1.11 OBSERVATION OF THE WORK
A. The Owner's Representative may observe the work at any time. They may remove samples of materials for conformity to specifications. Rejected materials shall be immediately removed from the site and replaced at the Contractor's expense. The cost of testing materials not meeting specifications shall be paid by the Contractor.

1.12 PRE-CONSTRUCTION CONFERENCE
A. Schedule a pre-construction meeting with the Owner's Representative at least seven (7) days before beginning work to review any questions the Contractor may have regarding the work, administrative procedures during construction and project work schedule.

1.13 QUALITY ASSURANCE
A. Contractor qualifications:
1. All pruning, branch tie-back, tree removal, root pruning, and fertilizing required by this section shall be performed by or under the direct supervision of ISA Certified Arbotist Submit aforementioned individual's qualifications for approval by the Owner's Representative.

1.2 CONTRACT DOCUMENTS
A. Shall consist of specifications and general conditions and the construction drawings. The intent of these documents is to include all labor, materials, and services necessary for the proper execution of the work. The documents are to be considered as one. Whatever is called for by any parts shall be as binding as if called for in all parts.

1.3 RELATED DOCUMENTS AND REFERENCES
A. Related Documents:
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When reasonable or reasonably is used in relation to other issues such as weeds, diseases, insects, it shall mean at levels low enough that no treatment would be required when applying recognized Integrated Plant Management practices.
This specification recognizes that some decisions cannot be totally based on measured findings and that professional judgment is required. In cases of differing opinion, the Owner's Representative's expert shall determine when conditions are judged as reasonable.

1.10 SUBMITTALS
A. See contract general conditions for policy and procedure related to submittals.
B. Submit all product submittals 4 weeks prior to installation of plantings.

1.11 OBSERVATION OF THE WORK
A. The Owner's Representative may observe the work at any time. They may remove samples of materials for conformity to specifications. Rejected materials shall be immediately removed from the site and replaced at the Contractor's expense. The cost of testing materials not meeting specifications shall be paid by the Contractor.

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1.2 CONTRACT DOCUMENTS
A. Shall consist of specifications and general conditions and the drawings. The intent of these documents is to include all labor, materials, and services necessary for the proper execution of the work. The documents are to be considered as one. Whatever is called for by any parts shall be as binding as if called for in all parts.

1.3 RELATED DOCUMENTS AND REFERENCES
A. Related Documents:
1. Drawings and general provisions of contract including general and supplementary conditions and Division I specifications apply to work of this section.

1.4 VERIFICATION
A. All scaled dimensions on the drawings are approximate. Before proceeding with any work, the Contractor shall carefully check and verify all dimensions and quantities, and shall immediately inform the Owner's Representative of any discrepancies between the information on the drawings and the actual conditions, refraining from doing any work in said areas until given approval to do so by the Owner's Representative.

1.5 PERMITS AND REGULATIONS
A. The Contractor shall obtain and pay for all permits related to this section of the work unless previously excluded under provision of the contract or general conditions. The Contractor shall comply with all laws and ordinances bearing on the operation or conduct of the work as drawn and specified. If the Contractor observes that a conflict exists between permit requirements and the work outlined in the contract documents, the Contractor shall promptly notify the Owner's Representative in writing including a description of any necessary changes and changes to the contract price resulting from changes in the work.



Consultants:

Submit all product submittals 4 weeks prior to installation of plantings.
Product data: Submit manufacturer product data and literature describing all products required by this section to the Owner's Representative for approval.

Revisions:
7/29/22- Comments
10/12/22- Comments
03/13/23- Resubmittal

Table with 2 columns and 10 rows for project details.

SIDENCES AT LAKE WORTH
Lake Worth, Florida
hman Group Development



SEAL:

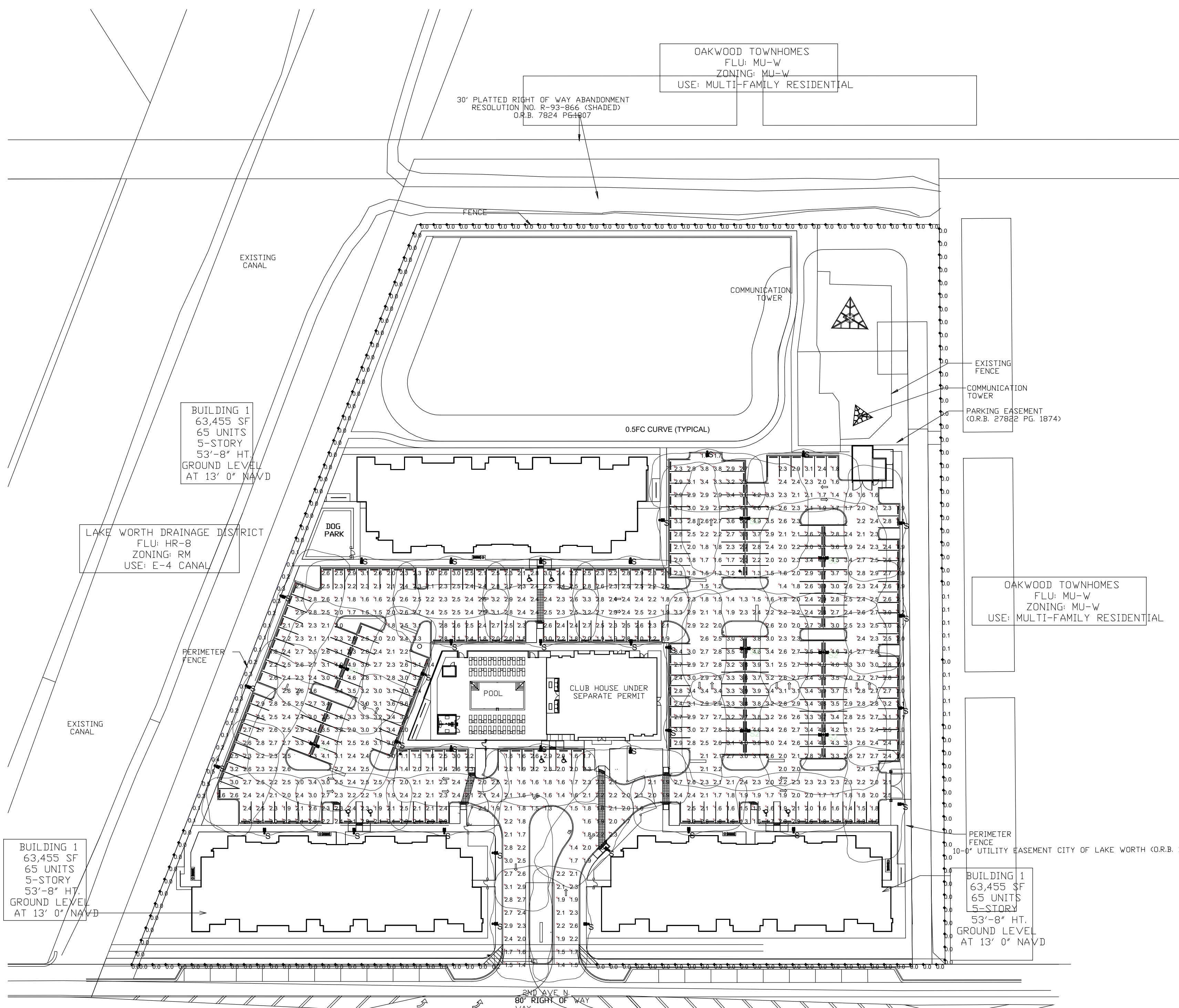
Javier Font AR No. 12547

PROPOSED RESIDENTIAL DEVELOPMENT

**RESIDENCES AT LAKE WORTH**  
 2ND AVENUE NORTH  
 LAKE WORTH, FLORIDA

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DATE:  
 10-12-2022  
 PROJECT NO:  
 21-092  
 DRAWING NAME:  
 SITE LIGHTING  
 PHOTOMETRIC PLAN  
 SHEET NO:  
**A-0.1**



Plan View  
 Scale 1" = 50'

LUMINAIRE SCHEDULE									
Symbol	Label	Qty	Catalog Number	Description	Lamp	File	Lumens	LLF	Watts
	S	33	NLS LIGHTING NV-1-T4-48L-7-30K-UNV-HSS ON RTA DIRECT BURIAL POLE 20' AFG	SINGLE LED LUMINAIRE WITH HOUSE-SIDE SHIELD ON 20' AFG RTA POLE	WHT LED ARRAY, 30K, 80 CRI	NV-1-T4-48L-7-30K-HSS-IES	Absolute	0.85	104
	S2	8	NLS LIGHTING NV-1-T4-32L-7-30K-UNV ON RTA DIRECT BURIAL POLE 20' AFG	DOUBLE LED LUMINAIRE ON 20' AFG RTA POLE	WHT LED ARRAY, 30K, 80 CRI	NV-1-T4-32L-7-30K-IES	Absolute	0.85	142

STATISTICS					
Description	Symbol	Avg	Max	Min	Max/Min
PARKING AREA (Z=0')	+	2.5 fc	5.2 fc	1.1 fc	4.7:1
PROPERTY LINE (Z=0')	+	0.0 fc	0.5 fc	0.0 fc	N/A

LUMINAIRE LOCATIONS							
No.	Label	X	Y	Z	MH	Orientation	Tilt
1	S	366.2	134.2	20.0	20.0	180.0	0.0
2	S	434.7	134.2	20.0	20.0	180.0	0.0
3	S	503.2	134.2	20.0	20.0	180.0	0.0
4	S	572.0	134.2	20.0	20.0	180.0	0.0
5	S	572.4	68.4	20.0	20.0	0.0	0.0
6	S	503.2	68.5	20.0	20.0	0.0	0.0
7	S	434.7	68.6	20.0	20.0	0.0	0.0
8	S	781.3	161.4	20.0	20.0	-90.0	0.0
9	S	781.3	90.4	20.0	20.0	-90.0	0.0
10	S	780.8	19.9	20.0	20.0	-90.0	0.0
11	S	780.5	-53.7	20.0	20.0	-90.0	0.0
12	S	594.2	163.7	20.0	20.0	90.0	0.0
13	S	599.3	66.2	20.0	20.0	90.0	0.0
14	S	429.5	-76.0	20.0	20.0	0.0	0.0
15	S	360.3	-76.0	20.0	20.0	0.0	0.0
16	S	291.8	-76.0	20.0	20.0	0.0	0.0
17	S	696.9	-75.4	20.0	20.0	0.0	0.0
18	S	616.6	-75.4	20.0	20.0	0.0	0.0
19	S	466.5	-91.1	20.0	20.0	90.0	0.0
20	S	466.5	-145.3	20.0	20.0	90.0	0.0
21	S	540.0	-145.5	20.0	20.0	-90.0	0.0
22	S	555.5	-89.3	20.0	20.0	-53.6	0.0
23	S	253.8	-24.3	20.0	20.0	111.0	0.0
24	S	277.5	36.8	20.0	20.0	111.0	0.0
25	S	304.1	105.9	20.0	20.0	111.0	0.0
26	S	415.2	45.3	20.0	20.0	-72.4	0.0
27	S	395.3	-6.6	20.0	20.0	-72.4	0.0
28	S	599.3	2.8	20.0	20.0	90.0	0.0
29	S	704.4	216.1	20.0	20.0	180.0	0.0
30	S2	719.6	134.8	20.0	20.0	90.0	0.0
31	S2	352.7	50.7	20.0	20.0	-67.7	0.0
32	S2	330.0	-8.3	20.0	20.0	-67.7	0.0
33	S2	659.6	165.1	20.0	20.0	90.0	0.0
34	S2	719.6	-0.6	20.0	20.0	90.0	0.0
35	S2	719.9	82.4	20.0	20.0	90.0	0.0
36	S2	659.8	65.4	20.0	20.0	90.0	0.0
37	S2	659.8	2.4	20.0	20.0	90.0	0.0
38	S	434.7	-9.5	20.0	20.0	180.0	0.0
39	S	503.2	-9.5	20.0	20.0	180.0	0.0
40	S	572.0	-11.0	20.0	20.0	180.0	0.0
41	S	630.8	216.1	20.0	20.0	180.0	0.0

**NOTES**

- CALCULATIONS HAVE BEEN PERFORMED ACCORDING TO IES STANDARDS AND PRACTICE. SOME DIFFERENCES BETWEEN MEASURED VALUES AND CALCULATED RESULTS MAY OCCUR DUE TO TOLERANCES IN CALCULATION METHODS, TESTING PROCEDURES, COMPONENT PERFORMANCES, MEASURED CONDITIONS SUCH AS TECHNICAL AND FIELD VOLTAGES AND TEMPERATURE VARIATIONS. INPUT DATA SUCH AS ROOM DIMENSIONS, REFLECTANCES, FURNITURE, LIGHT LOSS FACTOR, FURNITURE, ARCHITECTURAL ELEMENTS AND FOLIAGE SIGNIFICANTLY AFFECT THE LIGHTING CALCULATIONS. IF THE REAL ENVIRONMENT DO NOT MATCH INPUT DATA DIFFERENCES WILL OCCUR BETWEEN MEASURED AND CALCULATED VALUES.
- ALL POLES ARE TO BE 20' AFG WITHOUT TENON. LUMINAIRE ARE TO BE BOLTED TO SIDE OF POLES. ALL POLES TO BE (RTA) ROUND TAPERED ALUMINUM, DIRECT BURIAL AS MANUFACTURED BY HAPCO # RTA20D6BE.\*\*
- WIND LOAD CALCULATIONS, TO MEET SITE LOCATION LOAD REQUIREMENTS, MUST BE PREPARED AND SUBMITTED AS PART OF THE SUBMITTAL PROCESS. SAID CALCULATIONS MUST BE SIGNED AND SEALED BY FLORIDA REGISTERED ENGINEER.

# TRAFFIC IMPACT STATEMENT

## RESIDENCES AT LAKE WORTH PALM BEACH COUNTY, FLORIDA

### Prepared for:

The Richman Group of FL, Inc.  
477 S. Rosemary Avenue  
Suite 301  
West Palm Beach, Florida 33401

Job No. 21-173B

Date: February 11, 2022

Digitally signed by Anna Lai  
Date: 2022.02.11 11:42:08  
-05'00'

Anna Lai, P.E., PTOE  
FL Reg. No. 78138

**Anna Lai, P.E., State of Florida, Professional  
Engineer, License No. 56934**

**This item has been electronically signed  
and sealed by Anna Lai, P.E., on 02/11/2022**

**Printed copies of this document are not considered signed  
and sealed and the signature must be verified on  
any electronic copies.**

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# TABLE OF CONTENTS

1.0	SITE DATA .....	2
2.0	PURPOSE OF STUDY .....	2
3.0	TRAFFIC GENERATION.....	3
4.0	RADIUS OF DEVELOPMENT INFLUENCE .....	3
5.0	EXISTING TRAFFIC .....	3
6.0	TRIP DISTRIBUTION .....	4
7.0	TRAFFIC ASSIGNMENT/DISTRIBUTION TEST 1 – PART 2.....	4
8.0	INTERSECTION ANALYSIS TEST 1 – PART 1 .....	4
9.0	TEST 2 BUILD-OUT ANALYSIS .....	5
10.0	SITE RELATED IMPROVEMENTS .....	5
11.0	CONCLUSION .....	6

# APPENDICES

TEST 1 PART 2: LINK ANALYSIS .....	APPENDIX A
PBC TPS DATABASE 2026 VOLUME SHEETS.....	APPENDIX B
TEST 1 PART 1: INTERSECTION ANALYSIS .....	APPENDIX C
TEST 2 ANALYSIS: LINK ANALYSIS .....	APPENDIX D

## 1.0 SITE DATA

The subject parcel is located on the north side of 2<sup>nd</sup> Avenue North, east of Lake Worth Drainage District E-4 Canal in the City of Lake Worth Beach, Florida and contains approximately 6.65 acres. The Property Control Numbers (PCNs) for the subject parcel are 38-43-44-20-01-096-0020, 38-43-44-20-01-097-0010, and 38-43-44-20-01-097-0020. Proposed site development on the currently unimproved parcel consists of 195 multifamily dwelling units with a project build-out of 2026. Site access is proposed via an easterly ingress only driveway and a westerly egress only driveway to 2<sup>nd</sup> Avenue North.

## 2.0 PURPOSE OF STUDY

This study will analyze the proposed development's impact on the surrounding major thoroughfares within the project's radius of development influence in accordance with the Palm Beach County Unified Land Development Code Article 12 – Traffic Performance Standards. The Traffic Performance Standards state that a Site Specific Development Order for a proposed project shall meet the standards and guidelines outlined in two separate "Tests" with regard to traffic performance.

Test 1, or the Build-Out Test, relates to the build-out period of the project and requires that a project not add traffic within the radius of development influence which would have total traffic exceeding the adopted LOS at the end of the build-out period. This Test 1 analysis consists of two parts and no project shall be approved for a Site Specific Development Order unless it can be shown to satisfy the requirements of Parts One and Two of Test 1.

Part One – Intersections, requires the analysis of major intersections, within or beyond a project's radius of development influence, where a project's traffic is significant on a link within the radius of development influence. The intersections analyzed shall operate within the applicable threshold associated with the level of analysis addressed.

Part Two – Links, compares the total traffic in the peak hour, peak direction on each link within a project's radius of development influence with the applicable LOS "D" link service volumes. The links analyzed shall operate within the applicable thresholds associated with the level of analysis addressed.

Test 2, or the Five Year Analysis, relates to the evaluation of project traffic five years in the future and requires that a project not add traffic within the radius of development influence which would result in total traffic exceeding the adopted LOS at the end of the Five Year Analysis period.

This test requires analysis of links and major intersections as necessary within or beyond the radius of development influence, where a project's traffic is significant on a link within the radius of development influence.

## 2.0 PURPOSE OF STUDY (CONTINUED)

This analysis shall address the total traffic anticipated to be in place at the end of the build out year. This study will verify that the proposed development's traffic impact will meet the above Traffic Performance Standards.

## 3.0 TRAFFIC GENERATION

Trip generation has been calculated in accordance with the ITE Trip Generation Manual, 10<sup>th</sup> Edition and the Palm Beach County Trip Generation Rates. Table 1 shows the daily traffic generation associated with the proposed development in trips per day (TPD). Tables 2 and 3 show the AM and PM peak hour traffic generation, respectively, in peak hour trips (pht). The net traffic to be generated by 195 multifamily dwelling units may be summarized by as follows:

### Proposed Development

Daily Traffic Generation	=	1,061 tpd
AM Peak Hour Traffic Generation (In/Out)	=	70 pht (18 In/52 Out)
PM Peak Hour Traffic Generation (In/Out)	=	86 pht (52 In/34 Out)

## 4.0 RADIUS OF DEVELOPMENT INFLUENCE

Based on Table 12.B.2.D-7 3A of the Palm Beach County Unified Land Development Code Article 12 – Traffic Performance Standards, for a net trip generation of 86 peak hour trips, the development of influence shall be a one (1) mile radius.

For Test 1, a project must address those links within the radius of development influence on which its net trips are greater than 1% of the LOS “D” of the link affected on a peak hour, peak direction basis AND those links outside of the Radius of development influence on which its net trips are greater than five percent of the LOS “D” of the link affected on a peak hour, peak direction basis up to the limits set forth in Table 12.B.2.C-1 1A: LOS “D” Link Service Volumes.

For Test 2, a project must address those links within the radius of development influence on which its net trips are greater than 3% of the LOS “E” of the link affected on a peak hour, peak direction basis AND those links outside of the radius of development influence on which its net trips are greater than five percent of the LOS “E” of the link affected on a peak hour, peak direction basis up to the limits set forth in Table 12.B.2.C-4 2A: LOS “E” Link Service Volumes.

## 5.0 EXISTING TRAFFIC

Existing AM and PM peak hour traffic volumes for the links within the project's radius of development influence were available from the Palm Beach County Engineering Traffic Division. Background traffic data from the Palm Beach County Engineering Traffic Division consisting of historical growth rates, major project traffic, and anticipated development in the area was also considered. Table 4 presents the area wide growth rate calculations.

## 6.0 TRIP DISTRIBUTION

The project trips were distributed and assigned on the links within the radius of development influence based on the existing and anticipated traffic patterns. Figure 1 presents the trip distribution percentages.

## 7.0 TRAFFIC ASSIGNMENT/DISTRIBUTION TEST 1 – PART 2

Tables 5 and 6 (in Appendix A) show the project's AM and PM peak hour trip assignment, respectively, as well as the applicable Level of Service Standard for each of the links within the project's radius of development influence. Links with a project assignment greater than 1% of the applicable Level of Service "D" have been outlined as links with significant project assignment.

Tables 7 and 8 (in Appendix A) shows the projected total AM peak hour traffic volumes and threshold volumes for the links with significant project assignment within the project's radius of development influence. For the links, the 2026 total traffic has been calculated using the higher value between the link historical growth rate and the combination of a 1.0% background growth rate and the approved committed development trips.

A review of Tables 5-8 indicates this project meets Test 1 – Part 2 of the Palm Beach County Traffic Performance Standards on all links within the project's radius of development influence.

## 8.0 INTERSECTION ANALYSIS TEST 1 – PART 1

As a requirement of Part 1 of Test 1 of the Palm Beach County Traffic Performance Standards, all major intersections in each direction nearest to the point at which the project's traffic enters each project accessed link, and where the project traffic entering or exiting the intersection from/to the project accessed link is significant, must be analyzed. Therefore, the following intersections must be analyzed for the 2026 projected AM and PM peak hours:

2<sup>nd</sup> Avenue North at Congress Avenue

For each intersection, the 2026 total traffic has been calculated using the higher value between the background growth rate and the combination of a 1.0% background growth rate and the approved committed development trips. The 2026 build-out volume reports from the Palm Beach County Engineering Traffic Division TPS Database are included in Appendix B.

Each intersection has been analyzed using the adjusted turning movement volumes in accordance with the methodology set forth in the Transportation Research Board Special Report 209, Planning Analysis. The intersection analyses are included in Appendix C. The analysis results show that the sum of the critical movements during the peak season, peak hours at project build-out is less than the adopted Level of Service volume of 1,400 vehicles per hours (vph) for the subject intersections.



## 8.0 INTERSECTION ANALYSIS TEST 1 – PART 1 (CONTINUED)

<u>INTERSECTION</u>	<u>CRITICAL SUM</u>	
	<u>AM</u>	<u>PM</u>
2 <sup>nd</sup> Avenue North at Congress Avenue	1,236	1,385

## 9.0 TEST 2 BUILD-OUT ANALYSIS

Test 2, or the Five Year Analysis, relates to the evaluation of project traffic five years in the future and requires that a project not add traffic within the radius of Development influence which would result in total traffic exceeding the adopted LOS at the end of the Five Year Analysis Period.

Tables 9 and 10 (in Appendix D) show the project's AM and PM peak hour trip assignment, respectively, as well as the applicable Level of Service Standard for each of the links within the project's radius of development influence. Links with a project assignment greater than 3% of the applicable Level of Service "E" have been outlined as links with significant project assignment.

Tables 11 and 12 (in Appendix D) shows the projected total AM and PM peak hour traffic volumes and threshold volumes for the links with significant project assignment within the project's radius of development influence.

A review of Tables 9-12 indicates this project meets Test 2 of the Palm Beach County Traffic Performance Standards on all links within the project's radius of development influence.

## 10.0 SITE RELATED IMPROVEMENTS

The AM and PM peak hour volumes at the project entrances for the overall development with no reduction for pass by credits are shown in Tables 2 and 3 and may be summarized as follows:

**DIRECTIONAL  
DISTRIBUTION  
(TRIPS IN/OUT)**

AM = 18 / 52  
PM = 52 / 34

Figure 2 presents the AM and PM peak turning movement volume assignments at the project driveway based on the directional distributions. As previously mentioned, site access is proposed via an easterly ingress only driveway and a westerly egress only driveway to 2<sup>nd</sup> Avenue North. Based on the Palm Beach County Engineering Guidelines used in determining the need for turn lanes of 75 right turns or 30 left turns in the peak hour, and on the low traffic volumes on 2<sup>nd</sup> Avenue North, additional turn lanes are not warranted or recommended.

## **11.0 CONCLUSION**

The proposed development has been estimated to generate 1,061 trips per day, 70 AM peak hour trips, and 86 PM peak hour trips at project build-out in 2026. Based on an analysis of existing and project traffic characteristics and distribution, as well as the existing and future roadway network geometry and traffic volumes, this overall project meets the Link/Build-Out Test and Five Year Analysis test as required by the Palm Beach County Traffic Performance Standards.

**RESIDENCES AT LAKE WORTH**

02/09/22

**PROPOSED DEVELOPMENT**

**TABLE 1 - Daily Traffic Generation**

Landuse	ITE Code	Intensity	Rate/Equation	Dir Split		Gross Trips	Internalization			External Trips	Pass-by		Net Trips
				In	Out		%	Total			%	Trips	
Multifamily Mid-Rise Housing 3-10 story (Apartment/Condo/TH)	221	195	Dwelling Units	5.44			1,061		0	1,061	0%	0	1,061
<b>Grand Totals:</b>							<b>1,061</b>	<b>0.0%</b>	<b>0</b>	<b>1,061</b>	<b>0%</b>	<b>0</b>	<b>1,061</b>

**TABLE 2 - AM Peak Hour Traffic Generation**

Landuse	ITE Code	Intensity	Rate/Equation	Dir Split		Gross Trips			Internalization				External Trips			Pass-by		Net Trips			
				In	Out	In	Out	Total	%	In	Out	Total	In	Out	Total	%	Trips	In	Out	Total	
Multifamily Mid-Rise Housing 3-10 story (Apartment/Condo/TH)	221	195	Dwelling Units	0.36	0.26	0.74	18	52	70	0.0%	0	0	0	18	52	70	0%	0	18	52	70
<b>Grand Totals:</b>							<b>18</b>	<b>52</b>	<b>70</b>	<b>0.0%</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>18</b>	<b>52</b>	<b>70</b>	<b>0%</b>	<b>0</b>	<b>18</b>	<b>52</b>	<b>70</b>

**TABLE 3 - PM Peak Hour Traffic Generation**

Landuse	ITE Code	Intensity	Rate/Equation	Dir Split		Gross Trips			Internalization				External Trips			Pass-by		Net Trips			
				In	Out	In	Out	Total	%	In	Out	Total	In	Out	Total	%	Trips	In	Out	Total	
Multifamily Mid-Rise Housing 3-10 story (Apartment/Condo/TH)	221	195	Dwelling Units	0.44	0.61	0.39	52	34	86	0.0%	0	0	0	52	34	86	0%	0	52	34	86
<b>Grand Totals:</b>							<b>52</b>	<b>34</b>	<b>86</b>	<b>0.0%</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>52</b>	<b>34</b>	<b>86</b>	<b>0%</b>	<b>0</b>	<b>52</b>	<b>34</b>	<b>86</b>



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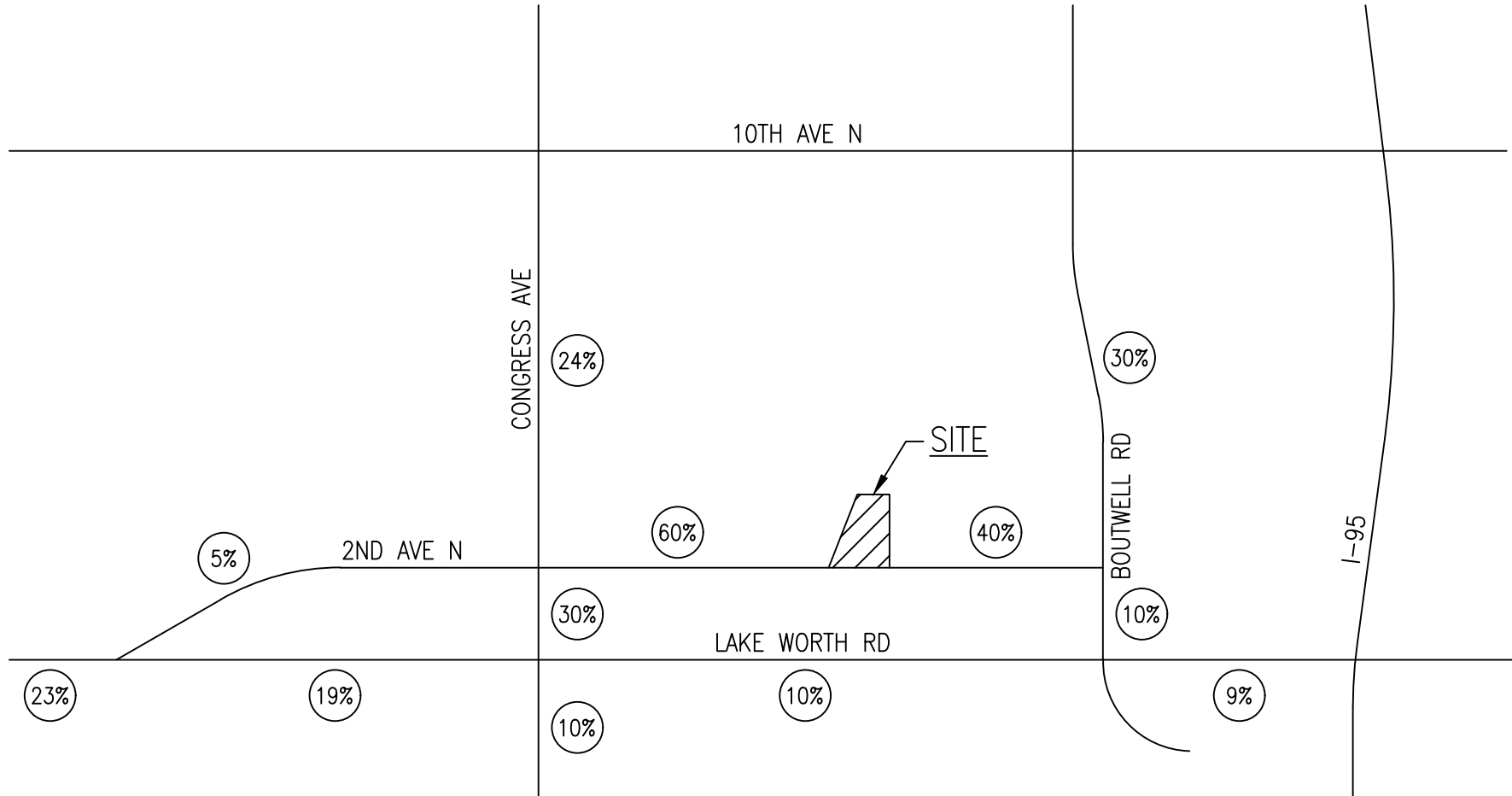


FIGURE 1  
PROJECT DISTRIBUTION

LEGEND

(15%) PROJECT DISTRIBUTION

RESIDENCES AT LAKE WORTH

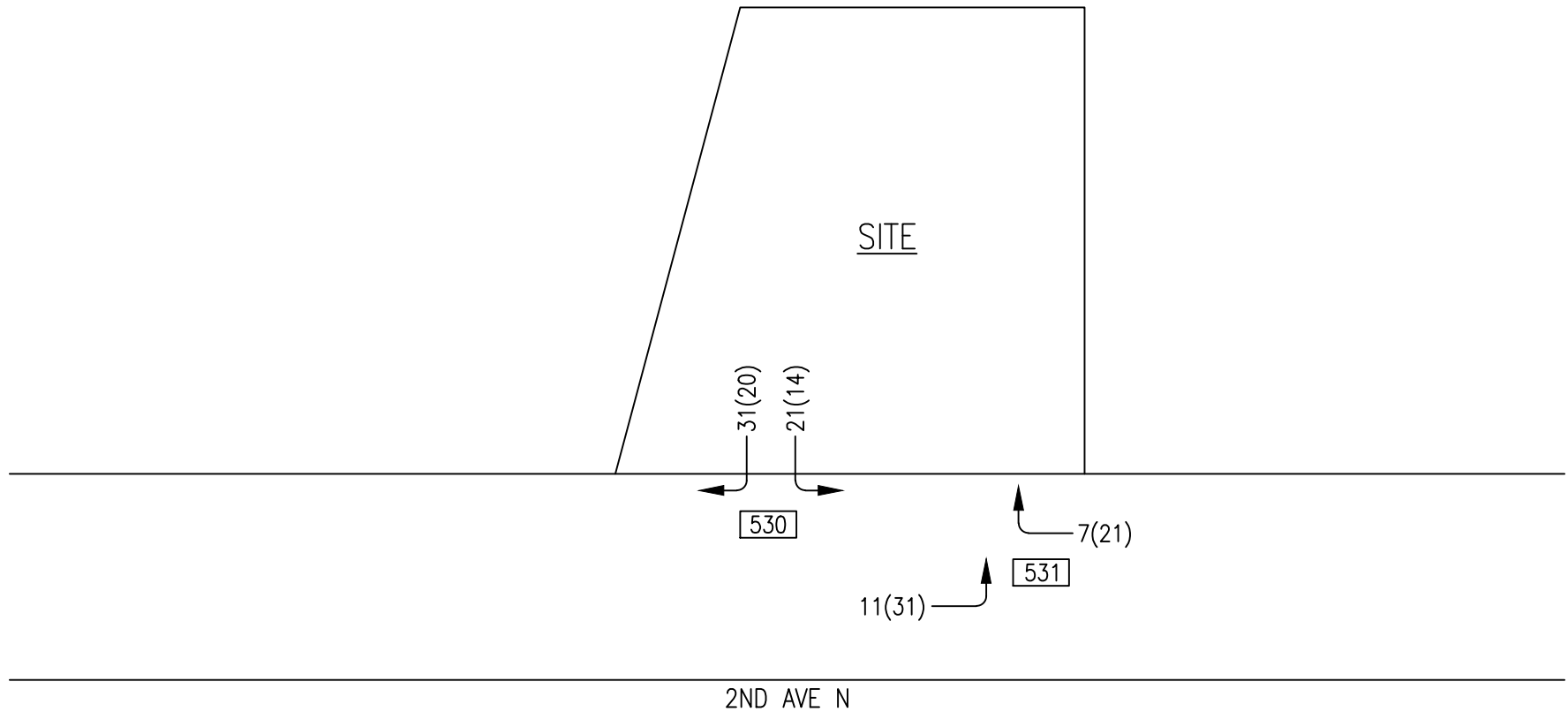
21-173B AL 02-10-22



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LEGEND

- 11 A.M. PEAK HOUR TURNING MOVEMENT
- (31) P.M. PEAK HOUR TURNING MOVEMENT
- [531] A.A.D.T.

FIGURE 2  
PROJECT TURNING MOVEMENTS

RESIDENCES AT LAKE WORTH

21-173B AL 02-10-22

**RESIDENCES AT LAKE WORTH**

02/09/22

**TABLE 4  
AREA WIDE GROWTH RATE CALCULATION**

STATION	ROADWAY	FROM	TO	2017 PEAK SEASON DAILY TRAFFIC	2020 PEAK SEASON DAILY TRAFFIC	IND. (%)
4677	2ND AVENUE	LAKE WORTH ROAD	CONGRESS AVENUE	5,967	6,404	2.38%
4679	2ND AVENUE	CONGRESS AVENUE	BOUTWELL ROAD	5,266	6,900	9.43%
4647**	LAKE WORTH ROAD	KIRK ROAD	CONGRESS AVENUE	38,415	40,684	1.93%
4651**	LAKE WORTH ROAD	CONGRESS AVENUE	BOUTWELL ROAD	23,415	26,619	4.37%
4604*	CONGRESS AVENUE	10TH AVENUE N	FRENCH AVENUE	39,628	46,689	5.62%
4620**	CONGRESS AVENUE	FRENCH AVENUE	LAKE WORTH AVENUE	35,400	37,189	1.66%
4622**	CONGRESS AVENUE	LAKE WORTH AVENUE	6TH AVENUE S	35,712	39,282	3.23%
4676**	BOUTWELL ROAD	10TH AVENUE N	2ND AVENUE NORTH	10,337	11,365	3.21%
<b>Σ =</b>				<b>194,140</b>	<b>215,132</b>	<b>3.48%</b>
<b>AREA WIDE GROWTH RATE =</b>				<b>3.5%</b>		

\* 2016 and 2019 peak season daily traffic volumes were used for links where 2017 or 2020 volumes were unavailable.

\*\* 2015 and 2018 peak season daily traffic volumes were used for links where 2016, 2017, 2019 or 2020 volumes were unavailable.

# **APPENDIX A**

## **TEST 1 PART 2: LINK ANALYSIS**

**RESIDENCES AT LAKE WORTH**

02/09/22

**TABLE 5  
TEST 1 - PROJECT SIGNIFICANCE CALCULATION  
AM PEAK HOUR**

2026 BUILD OUT

1 MILE RADIUS OF DEVELOPMENT INFLUENCE

TOTAL AM PEAK HOUR PROJECT TRIPS (ENTERING) = 18

TOTAL AM PEAK HOUR PROJECT TRIPS (EXITING) = 52

STATION	ROADWAY	FROM	TO	AM PEAK HOUR DIRECTIONAL				LOS D STANDARD	TOTAL PROJECT IMPACT	PROJECT SIGNIFICANT
				PROJECT DISTRIBUTION	PROJECT TRIPS	EXISTING LANES	CLASS			
4677	2ND AVENUE	LAKE WORTH ROAD	CONGRESS AVENUE	5%	3	2	I	880	0.34%	NO
<b>4679</b>	<b>2ND AVENUE</b>	<b>CONGRESS AVENUE</b>	<b>SITE</b>	<b>60%</b>	<b>31</b>	<b>2</b>	<b>I</b>	<b>880</b>	<b>3.52%</b>	<b>YES</b>
<b>4679</b>	<b>2ND AVENUE</b>	<b>SITE</b>	<b>BOUTWELL ROAD</b>	<b>40%</b>	<b>21</b>	<b>2</b>	<b>I</b>	<b>880</b>	<b>2.39%</b>	<b>YES</b>
4647	LAKE WORTH ROAD	KIRK ROAD	2ND AVENUE	23%	12	6D	II	2680	0.45%	NO
4647	LAKE WORTH ROAD	2ND AVENUE	CONGRESS AVENUE	19%	10	6D	II	2680	0.37%	NO
4651	LAKE WORTH ROAD	CONGRESS AVENUE	BOUTWELL ROAD	10%	5	4D	II	1770	0.28%	NO
N/A	LAKE WORTH ROAD	BOUTWELL ROAD	A STREET	9%	5	4D	II	1770	0.28%	NO
4604	CONGRESS AVENUE	10TH AVENUE N	FRENCH AVENUE	24%	12	6D	II	2680	0.45%	NO
4620	CONGRESS AVENUE	FRENCH AVENUE	2ND AVENUE	24%	12	6D	II	2680	0.45%	NO
4620	CONGRESS AVENUE	2ND AVENUE	LAKE WORTH AVENUE	30%	16	6D	II	2680	0.60%	NO
4622	CONGRESS AVENUE	LAKE WORTH AVENUE	6TH AVENUE S	10%	5	6D	II	2680	0.19%	NO
<b>4676</b>	<b>BOUTWELL ROAD</b>	<b>10TH AVENUE N</b>	<b>2ND AVENUE NORTH</b>	<b>30%</b>	<b>16</b>	<b>2</b>	<b>I</b>	<b>880</b>	<b>1.82%</b>	<b>YES</b>
N/A	BOUTWELL ROAD	2ND AVENUE NORTH	LAKE WORTH ROAD	10%	5	2	I	880	0.57%	NO



**RESIDENCES AT LAKE WORTH**

02/09/22

**TABLE 6  
TEST 1 - PROJECT SIGNIFICANCE CALCULATION  
PM PEAK HOUR**

2026 BUILD OUT

1 MILE RADIUS OF DEVELOPMENT INFLUENCE

TOTAL PM PEAK HOUR PROJECT TRIPS (ENTERING) = 52

TOTAL PM PEAK HOUR PROJECT TRIPS (EXITING) = 34

STATION	ROADWAY	FROM	TO	PM PEAK HOUR DIRECTIONAL				LOS D STANDARD	TOTAL PROJECT IMPACT	PROJECT SIGNIFICANT
				PROJECT DISTRIBUTION	PROJECT TRIPS	EXISTING LANES	CLASS			
4677	2ND AVENUE	LAKE WORTH ROAD	CONGRESS AVENUE	5%	3	2	I	880	0.34%	NO
<b>4679</b>	<b>2ND AVENUE</b>	<b>CONGRESS AVENUE</b>	<b>SITE</b>	<b>60%</b>	<b>31</b>	<b>2</b>	<b>I</b>	<b>880</b>	<b>3.52%</b>	<b>YES</b>
<b>4679</b>	<b>2ND AVENUE</b>	<b>SITE</b>	<b>BOUTWELL ROAD</b>	<b>40%</b>	<b>21</b>	<b>2</b>	<b>I</b>	<b>880</b>	<b>2.39%</b>	<b>YES</b>
4647	LAKE WORTH ROAD	KIRK ROAD	2ND AVENUE	23%	12	6D	II	2680	0.45%	NO
4647	LAKE WORTH ROAD	2ND AVENUE	CONGRESS AVENUE	19%	10	6D	II	2680	0.37%	NO
4651	LAKE WORTH ROAD	CONGRESS AVENUE	BOUTWELL ROAD	10%	5	4D	II	1770	0.28%	NO
N/A	LAKE WORTH ROAD	BOUTWELL ROAD	A STREET	9%	5	4D	II	1770	0.28%	NO
4604	CONGRESS AVENUE	10TH AVENUE N	FRENCH AVENUE	24%	12	6D	II	2680	0.45%	NO
4620	CONGRESS AVENUE	FRENCH AVENUE	2ND AVENUE	24%	12	6D	II	2680	0.45%	NO
4620	CONGRESS AVENUE	2ND AVENUE	LAKE WORTH AVENUE	30%	16	6D	II	2680	0.60%	NO
4622	CONGRESS AVENUE	LAKE WORTH AVENUE	6TH AVENUE S	10%	5	6D	II	2680	0.19%	NO
<b>4676</b>	<b>BOUTWELL ROAD</b>	<b>10TH AVENUE N</b>	<b>2ND AVENUE NORTH</b>	<b>30%</b>	<b>16</b>	<b>2</b>	<b>I</b>	<b>880</b>	<b>1.82%</b>	<b>YES</b>
N/A	BOUTWELL ROAD	2ND AVENUE NORTH	LAKE WORTH ROAD	10%	5	2	I	880	0.57%	NO

**RESIDENCES AT LAKE WORTH**

02/09/22

**TABLE 7  
AM PEAK HOUR - TEST 1**

2026 BUILD OUT  
1 MILE RADIUS OF DEVELOPMENT INFLUENCE  
AREA WIDE GROWTH RATE = 3.48%  
TOTAL AM PEAK HOUR PROJECT TRIPS (ENTERING) = 18  
TOTAL AM PEAK HOUR PROJECT TRIPS (EXITING) = 52

ROADWAY	FROM	TO	DIRECTION	TRAFFIC COUNT YEAR	AM PEAK HOUR TRAFFIC	PROJECT DISTRIBUTION	AM PEAK HOUR PROJECT TRIPS	LINK GROWTH	MAJOR PROJECT	1.0% GROWTH	TOTAL		CLASS	LOS D	MEETS LOS STD.	
											BACKGROUND TRAFFIC USED	2026 TOTAL TRAFFIC LANES				
2ND AVENUE	CONGRESS AVENUE	SITE	EB	2020	326	60%	11	74	12	20	74	411	2	I	880	YES
			WB	2020	197	60%	31	45	24	12	45	273	2	I	880	YES
2ND AVENUE	SITE	BOUTWELL ROAD	EB	2020	326	40%	21	74	12	20	74	421	2	I	880	YES
			WB	2020	197	40%	7	45	24	12	45	249	2	I	880	YES
BOUTWELL ROAD	10TH AVENUE N	2ND AVENUE NORTH	NB	2020	553	30%	16	126	60	34	126	695	2	I	880	YES
			SB	2020	316	30%	5	72	64	19	83	404	2	I	880	YES

**RESIDENCES AT LAKE WORTH**

02/09/22

**TABLE 8**  
**PM PEAK HOUR - TEST 1**

2026 BUILD OUT  
1 MILE RADIUS OF DEVELOPMENT INFLUENCE  
AREA WIDE GROWTH RATE = 3.48%  
TOTAL PM PEAK HOUR PROJECT TRIPS (ENTERING) = 52  
TOTAL PM PEAK HOUR PROJECT TRIPS (EXITING) = 34

ROADWAY	FROM	TO	DIRECTION	TRAFFIC COUNT YEAR	PM PEAK HOUR TRAFFIC	PROJECT DISTRIBUTION	PM PEAK HOUR PROJECT TRIPS	LINK GROWTH	MAJOR PROJECT	1.0% GROWTH	TOTAL		ASSURED LANES	CLASS	LOS D	MEETS LOS STD.
											BACKGROUND TRAFFIC USED	2026 TOTAL TRAFFIC				
2ND AVENUE	CONGRESS AVENUE	SITE	EB	2020	320	60%	31	73	33	20	73	424	2	I	880	YES
			WB	2020	391	60%	20	89	25	24	89	500	2	I	880	YES
2ND AVENUE	SITE	BOUTWELL ROAD	EB	2020	320	40%	14	73	33	20	73	407	2	I	880	YES
			WB	2020	391	40%	21	89	25	24	89	501	2	I	880	YES
BOUTWELL ROAD	10TH AVENUE N	2ND AVENUE NORTH	NB	2020	397	30%	10	90	74	24	98	505	2	I	880	YES
			SB	2020	549	30%	16	125	67	34	125	690	2	I	880	YES

# **APPENDIX B**

**PBC TPS DATABASE**  
**2026 BUILD-OUT**  
**LINK & INTERSECTION VOLUME SHEETS**  
**(WITH APPROVED COMMITTED TRIPS)**

Input Data

ROAD NAME: 2nd Ave N      STATION: 4679  
 CURRENT YEAR: 2020      FROM: Congress Ave  
 ANALYSIS YEAR: 2026      TO: MIDPOINT  
 GROWTH RATE: 9.43%      COUNT DATE: 02/12/2020  
 PSF: 1

Report Created  
 02/10/2022

Link Analysis

Time Period	AM			PM		
	2-way	NB/EB	SB/WB	2-way	NB/EB	SB/WB
Existing Volume	522	326	197	675	320	391
Peak Volume	522	326	197	675	320	391
Diversion(%)	0	0	0	0	0	0
Volume after Diversion	522	326	197	675	320	391

Committed Developments

							Type	% Complete
ADOPT A FAMILY	0	0	0	0	0	0	NR	100%
Lake Worth Corners	15	3	12	32	18	13	Res	0%
Palm Springs Park of Commerce	3	1	3	10	6	4	NR	75%
Lake Worth Middle School	6	3	3	2	1	1	NR	77.20%
Mavericks High School	0	0	0	0	0	0	NR	100%
Race-Trac	0	0	0	0	0	0	NR	100%
The Village at Lake Worth	0	0	0	0	0	0	Res	100%
McDonalds Congress Ave	0	0	0	0	0	0	NR	81%
APEC Petroleum	1	1	1	1	1	1	NR	66%
Value Place Hotel	0	0	0	0	0	0	NR	100%
The Villages II at Lake Osborne	0	0	0	0	0	0	Res	100%
Kingswood Academy of Palm Springs	0	0	0	0	0	0	NR	100%
WAWA-Lakeworth & Congress	0	0	0	0	0	0	NR	100%
Boutwell Road Apartments	8	3	5	9	6	4	Res	0%
Golden Roads Apartments	1	0	1	1	1	1	Res	0%
Waterside Plaza	1	1	0	3	1	2	NR	75%
Fontana Townhomes	0	0	0	0	0	0	Res	0%
2209 7th Ave N	2	2	0	2	1	1	NR	0%
Total Committed Developments	37	14	25	60	35	27		
Total Committed Residential	24	6	18	42	25	18		
Total Committed Non-Residential	13	8	7	18	10	9		
Double Count Reduction	3	2	1	4	2	2		
Total Discounted Committed Developments	34	12	24	56	33	25		
Historical Growth	374	234	141	484	229	280		
Comm Dev+1% Growth	66	32	36	98	53	49		
Growth Volume Used	374	234	141	484	229	280		
Total Volume	896	560	338	1159	549	671		

Lanes

	2L					
LOS D Capacity	1480	880	880	1480	880	880
Link Meets Test 1?	YES	YES	YES	YES	YES	YES
LOS E Capacity	1570	880	880	1570	880	880
Link Meets Test 2?	YES	YES	YES	YES	YES	YES

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
	Input Data							
	ROAD NAME: 2nd Ave N			STATION: 4679			Report Created	
	CURRENT YEAR: 2020			FROM: MIDPOINT			02/10/2022	
	ANALYSIS YEAR: 2026			TO: Boutwell Rd				
	GROWTH RATE: 9.43%			COUNT DATE: 02/12/2020				
				PSF: 1				

Link Analysis

Time Period Direction	AM			PM		
	2-way	NB/EB	SB/WB	2-way	NB/EB	SB/WB
Existing Volume	522	326	197	675	320	391
Peak Volume	522	326	197	675	320	391
Diversion(%)	0	0	0	0	0	0
Volume after Diversion	522	326	197	675	320	391

Committed Developments	Type	% Complete
ADOPT A FAMILY	NR	100%
Lake Worth Corners	Res	0%
Palm Springs Park of Commerce	NR	75%
Lake Worth Middle School	NR	77.20%
Mavericks High School	NR	100%
Race-Trac	NR	100%
The Village at Lake Worth	Res	100%
McDonalds Congress Ave	NR	81%
APEC Petroleum	NR	66%
Value Place Hotel	NR	100%
The Villages II at Lake Osborne	Res	100%
Kingswood Academy of Palm Springs	NR	100%
WAWA-Lakeworth & Congress	NR	100%
Boutwell Road Apartments	Res	0%
Golden Roads Apartments	Res	0%
Waterside Plaza	NR	75%
Fontana Townhomes	Res	0%
2209 7th Ave N	NR	0%
<b>Total Committed Developments</b>		
<b>Total Committed Residential</b>		
<b>Total Committed Non-Residential</b>		
<b>Double Count Reduction</b>		
<b>Total Discounted Committed Developments</b>		
Historical Growth		
Comm Dev+1% Growth		
Growth Volume Used		
Total Volume		

Lanes	2L					
LOS D Capacity	1480	880	880	1480	880	880
Link Meets Test 1?	YES	YES	YES	YES	YES	YES
LOS E Capacity	1570	880	880	1570	880	880
Link Meets Test 2?	YES	YES	YES	YES	YES	YES

Input Data

ROAD NAME: Boutwell Rd      STATION: 4676  
 CURRENT YEAR: 2020      FROM: Midpoint  
 ANALYSIS YEAR: 2026      TO: 10th Ave N  
 GROWTH RATE: 0%      COUNT DATE: 02/24/2020  
 PSF: 1

Report Created  
 02/10/2022

Link Analysis

Time Period	AM			PM		
	2-way	NB/EB	SB/WB	2-way	NB/EB	SB/WB
Existing Volume	869	553	316	925	397	549
Peak Volume	869	553	316	925	397	549
Diversion(%)	0	0	0	0	0	0
Volume after Diversion	869	553	316	925	397	549

Committed Developments

	2-way	NB/EB	SB/WB	2-way	NB/EB	SB/WB	Type	% Complete
Lake Worth Corners	29	6	23	63	36	27	Res	0%
Palm Springs Park of Commerce	0	0	0	1	1	0	NR	75%
Lake Worth Middle School	29	16	13	8	4	4	NR	77.20%
Mid-County Center	1	0	1	1	1	0	NR	49%
Race-Trac	0	0	0	0	0	0	NR	100%
The Village at Lake Worth	0	0	0	0	0	0	Res	100%
APEC Petroleum	2	1	1	2	1	1	NR	66%
Value Place Hotel	0	0	0	0	0	0	NR	100%
The Villages II at Lake Osborne	0	0	0	0	0	0	Res	100%
Waterville	0	0	0	0	0	0	Res	100%
WAWA-Lakeworth & Congress	0	0	0	0	0	0	NR	100%
Boutwell Road Apartments	15	10	5	18	7	11	Res	0%
Golden Roads Apartments	6	1	5	7	5	3	Res	0%
Banyan Court	0	0	0	0	0	0	Res	100%
Waterside Plaza	2	1	1	7	4	4	NR	75%
7-Eleven - 1900 10th Ave	17	9	8	15	8	8	NR	10%
3322 Boutwell Road	8	6	2	7	2	4	Res	0%
2209 7th Ave N	20	16	4	15	5	10	NR	0%
<b>Total Committed Developments</b>	<b>129</b>	<b>66</b>	<b>63</b>	<b>144</b>	<b>74</b>	<b>72</b>		
<b>Total Committed Residential</b>	<b>58</b>	<b>23</b>	<b>35</b>	<b>95</b>	<b>50</b>	<b>45</b>		
<b>Total Committed Non-Residential</b>	<b>71</b>	<b>43</b>	<b>28</b>	<b>49</b>	<b>24</b>	<b>27</b>		
<b>Double Count Reduction</b>	<b>14</b>	<b>6</b>	<b>6</b>	<b>10</b>	<b>5</b>	<b>5</b>		
<b>Total Discounted Committed Developments</b>	<b>115</b>	<b>60</b>	<b>57</b>	<b>134</b>	<b>69</b>	<b>67</b>		
Historical Growth	0	0	0	0	0	0		
Comm Dev+1% Growth	168	94	76	191	93	101		
Growth Volume Used	168	94	76	191	93	101		
Total Volume	1037	647	392	1116	490	650		

Lanes

	2L					
LOS D Capacity	1480	880	880	1480	880	880
Link Meets Test 1?	YES	YES	YES	YES	YES	YES
LOS E Capacity	1570	880	880	1570	880	880
Link Meets Test 2?	YES	YES	YES	YES	YES	YES

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
	Input Data							
	ROAD NAME: Boutwell Rd			STATION: 4676			Report Created	
	CURRENT YEAR: 2020			FROM: 2nd Ave N			02/10/2022	
	ANALYSIS YEAR: 2026			TO: Midpoint				
	GROWTH RATE: 0%			COUNT DATE: 02/24/2020				
				PSF: 1				

Link Analysis

Time Period Direction	AM			PM		
	2-way	NB/EB	SB/WB	2-way	NB/EB	SB/WB
Existing Volume	869	553	316	925	397	549
Peak Volume	869	553	316	925	397	549
Diversion(%)	0	0	0	0	0	0
Volume after Diversion	869	553	316	925	397	549

Committed Developments	Type	% Complete
Lake Worth Corners	Res	0%
Palm Springs Park of Commerce	NR	75%
Lake Worth Middle School	NR	77.20%
Mid-County Center	NR	49%
Race-Trac	NR	100%
The Village at Lake Worth	Res	100%
APEC Petroleum	NR	66%
Value Place Hotel	NR	100%
The Villages II at Lake Osborne	Res	100%
Waterville	Res	100%
WAWA-Lakeworth & Congress	NR	100%
Boutwell Road Apartments	Res	0%
Golden Roads Apartments	Res	0%
Banyan Court	Res	100%
Waterside Plaza	NR	75%
7-Eleven - 1900 10th Ave	NR	10%
3322 Boutwell Road	Res	0%
2209 7th Ave N	NR	0%
<b>Total Committed Developments</b>		
<b>Total Committed Residential</b>		
<b>Total Committed Non-Residential</b>		
<b>Double Count Reduction</b>		
<b>Total Discounted Committed Developments</b>		
Historical Growth		
Comm Dev+1% Growth		
Growth Volume Used		
<b>Total Volume</b>		
Lanes	2L	
LOS D Capacity	1480	880
Link Meets Test 1?	YES	YES
LOS E Capacity	1570	880
Link Meets Test 2?	YES	YES



A B C D E F G H I J K L M N O

Input Data  
 E-W Street: 2nd Ave N COUNT DATE: 05/01/2019 Report Created  
 N-S STREET: Congress Ave CURRENT YEAR: 2019 02/10/2022  
 TIME PERIOD: AM ANALYSIS YEAR: 2026  
 GROWTH RATE: 5.09% PSF: 1.02  
 SIGNAL ID: 36800

Intersection Volume Development

	Eastbound			Westbound			Northbound			Southbound			Type	% Complete
	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right		
Existing Volume	99	101	110	44	53	153	40	1206	29	221	1332	90		
Diversions	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%		
Peak Season Volume	101	103	112	45	54	156	41	1230	30	225	1359	92		
Committed Developments														
WAWA - SEC 10th and Military Trail	0	0	0	0	0	0	0	0	0	0	0	0	NR	20%
McDonalds Congress Ave	0	0	0	0	0	0	0	6	0	0	6	0	NR	81%
The Villages II at Lake Osborne	0	0	0	0	0	0	0	0	0	0	0	0	Res	70%
Lake Worth Middle School	3	3	0	3	3	0	0	8	3	0	7	3	NR	77.20%
Boutwell Road Apartments	0	0	0	0	0	0	0	0	0	0	0	0	Res	0%
APEC Petroleum	0	0	0	0	0	0	0	0	0	0	0	0	NR	66%
Lantana Airport SDA1	0	0	0	0	0	0	0	18	0	0	69	0	NR	0%
Lake Worth Corners	0	0	0	12	0	0	0	2	3	0	9	0	Res	0%
Waterside Plaza	0	0	0	0	0	0	0	0	0	0	0	0	NR	75%
Mid-County Center	0	0	0	0	0	0	0	0	0	0	0	0	NR	49%
Lantana Airport SDA2	0	0	0	0	0	0	0	0	0	0	0	0	NR	0%
Walmart-Palm Springs	0	0	0	0	0	0	0	0	0	0	0	0	NR	75%
Palm Springs Park of Commerce	0	0	0	0	0	0	0	0	0	0	0	0	NR	75%
Golden Roads Apartments	0	0	0	0	0	0	0	0	0	0	0	0	Res	0%
Total Committed Developments	3	3	0	15	3	0	0	34	6	0	91	3		
Total Committed Residential	0	0	0	12	0	0	0	2	3	0	9	0		
Total Committed Non-Residential	3	3	0	3	3	0	0	32	3	0	82	3		
Double Count Reduction	0	0	0	1	0	0	0	1	1	0	2	0		
Total Discounted Committed	3	3	0	14	3	0	0	33	5	0	89	3		
Historical Growth	42	43	47	19	22	65	17	511	12	94	565	38		
Comm Dev+1% Growth	10	10	8	17	7	11	3	122	7	16	187	10		
Growth Volume Used	42	43	47	19	22	65	17	511	12	94	565	38		
Total Volume	143	146	159	64	76	221	58	1741	42	319	1924	130		

Input Data  
 E-W Street: 2nd Ave N COUNT DATE: 05/01/2019 Report Created  
 N-S STREET: Congress Ave CURRENT YEAR: 2019 02/10/2022  
 TIME PERIOD: PM ANALYSIS YEAR: 2026  
 GROWTH RATE: 5.09% PSF: 1.02  
 SIGNAL ID: 36800

Intersection Volume Development

	Eastbound			Westbound			Northbound			Southbound			Type	% Complete
	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right		
Existing Volume	85	59	80	53	113	199	90	1514	57	178	1537	165		
Diversions	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%		
Peak Season Volume	87	60	82	54	115	203	92	1544	58	182	1568	168		
Committed Developments														
WAWA - SEC 10th and Military Trail	0	0	0	0	0	0	0	0	0	0	0	0	NR	20%
McDonalds Congress Ave	0	0	0	0	0	0	0	0	0	0	0	0	NR	81%
The Villages II at Lake Osborne	0	0	0	0	0	0	0	0	0	0	0	0	Res	70%
Lake Worth Middle School	0	0	0	0	0	0	0	0	0	0	0	0	NR	77.20%
Boutwell Road Apartments	0	0	0	0	0	0	0	0	0	0	0	0	Res	0%
APEC Petroleum	0	0	0	0	0	0	0	0	0	0	0	0	NR	66%
Lantana Airport SDA1	0	0	0	0	0	0	0	67	0	0	25	0	NR	0%
Lake Worth Corners	0	0	0	13	0	0	0	15	18	0	11	0	Res	0%
Waterside Plaza	0	0	0	2	0	0	0	11	2	0	11	0	NR	75%
Mid-County Center	0	0	0	0	0	0	0	0	0	0	0	0	NR	49%
Lantana Airport SDA2	0	0	0	0	0	0	0	0	0	0	0	0	NR	0%
Walmart-Palm Springs	0	0	0	0	0	0	0	15	0	0	16	0	NR	75%
Palm Springs Park of Commerce	0	0	0	0	0	0	0	0	0	0	0	0	NR	75%
Golden Roads Apartments	0	0	0	0	0	0	0	0	0	0	0	0	Res	0%
Total Committed Developments	0	0	0	15	0	0	0	108	20	0	63	0		
Total Committed Residential	0	0	0	13	0	0	0	15	18	0	11	0		
Total Committed Non-Residential	0	0	0	2	0	0	0	93	2	0	52	0		
Double Count Reduction	0	0	0	0	0	0	0	4	0	0	3	0		
Total Discounted Committed	0	0	0	15	0	0	0	104	20	0	60	0		
Historical Growth	36	25	34	22	48	84	38	642	24	76	652	70		
Comm Dev+1% Growth	6	4	6	19	8	15	7	215	24	13	173	12		
Growth Volume Used	36	25	34	22	48	84	38	642	24	76	652	70		
Total Volume	123	85	116	76	163	287	130	2186	82	258	2220	238		

Note: Removed insignificant trips.

A B C D E F G H I J K L M N O

E-W Street: 2nd Ave N  
 N-S STREET: Congress Ave  
 TIME PERIOD: AM  
 GROWTH RATE: 5.09%  
 SIGNAL ID: 36800

Input Data  
 COUNT DATE: 05/01/2019  
 CURRENT YEAR: 2019  
 ANALYSIS YEAR: 2026  
 PSF: 1.02

Report Created  
 02/10/2022

Intersection Volume Development

	Eastbound			Westbound			Northbound			Southbound			Type	% Complete
	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right		
Existing Volume	99	101	110	44	53	153	40	1206	29	221	1332	90		
Diversions	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%		
Peak Season Volume	101	103	112	45	54	156	41	1230	30	225	1359	92		
Committed Developments														
WAWA - SEC 10th and Military Trail	0	0	0	0	0	0	0	7	0	0	6	0	NR	20%
McDonalds Congress Ave	0	0	0	0	0	0	0	6	0	0	6	0	NR	81%
The Villages II at Lake Osborne	0	0	0	0	0	2	0	2	0	0	0	0	Res	70%
Lake Worth Middle School	3	3	0	3	3	0	0	8	3	0	7	3	NR	77.20%
Boutwell Road Apartments	3	3	0	5	5	0	0	5	3	0	10	5	Res	0%
APEC Petroleum	1	0	0	0	0	1	0	5	0	1	5	1	NR	66%
Lantana Airport SDA1	0	0	0	0	0	0	0	18	0	0	69	0	NR	0%
Lake Worth Corners	0	0	0	12	0	0	0	2	3	0	9	0	Res	0%
Waterside Plaza	0	0	0	1	0	0	0	4	1	0	3	0	NR	75%
Mid-County Center	0	0	0	0	0	0	0	4	0	0	7	1	NR	49%
Lantana Airport SDA2	0	0	0	0	0	0	0	3	0	0	13	0	NR	0%
Walmart-Palm Springs	0	0	0	0	0	0	0	4	0	0	3	0	NR	75%
Palm Springs Park of Commerce	0	0	0	1	1	0	0	0	0	0	1	1	NR	75%
Golden Roads Apartments	0	0	0	1	1	0	0	2	0	0	9	1	Res	0%
Total Committed Developments	7	6	0	23	10	3	0	70	10	1	148	12		
Total Committed Residential	3	3	0	18	6	2	0	11	6	0	28	6		
Total Committed Non-Residential	4	3	0	5	4	1	0	59	4	1	120	6		
Double Count Reduction	1	1	0	1	1	0	0	3	1	0	7	1		
Total Discounted Committed	6	5	0	22	9	3	0	67	9	1	141	11		
Historical Growth	42	43	47	19	22	65	17	511	12	94	565	38		
Comm Dev+1% Growth	13	12	8	25	13	14	3	156	11	17	239	18		
Growth Volume Used	42	43	47	25	22	65	17	511	12	94	565	38		
Total Volume	143	146	159	70	76	221	58	1741	42	319	1924	130		

E-W Street: 2nd Ave N  
 N-S STREET: Congress Ave  
 TIME PERIOD: PM  
 GROWTH RATE: 5.09%  
 SIGNAL ID: 36800

Input Data  
 COUNT DATE: 05/01/2019  
 CURRENT YEAR: 2019  
 ANALYSIS YEAR: 2026  
 PSF: 1.02

Report Created  
 02/10/2022

Intersection Volume Development

	Eastbound			Westbound			Northbound			Southbound			Type	% Complete
	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right		
Existing Volume	85	59	80	53	113	199	90	1514	57	178	1537	165		
Diversions	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%		
Peak Season Volume	87	60	82	54	115	203	92	1544	58	182	1568	168		
Committed Developments														
WAWA - SEC 10th and Military Trail	0	0	0	0	0	0	0	6	0	0	6	0	NR	20%
McDonalds Congress Ave	0	0	0	0	0	0	0	4	0	0	4	0	NR	81%
The Villages II at Lake Osborne	0	0	0	0	0	1	0	1	0	2	2	0	Res	70%
Lake Worth Middle School	1	1	0	1	1	0	0	2	1	0	2	1	NR	77.20%
Boutwell Road Apartments	6	6	0	4	4	0	0	11	6	0	7	4	Res	0%
APEC Petroleum	1	0	0	0	0	1	0	5	0	1	5	1	NR	66%
Lantana Airport SDA1	0	0	0	0	0	0	0	67	0	0	25	0	NR	0%
Lake Worth Corners	0	0	0	13	0	0	0	15	18	0	11	0	Res	0%
Waterside Plaza	0	0	0	2	0	0	0	11	2	0	11	0	NR	75%
Mid-County Center	1	0	0	0	0	0	0	7	0	0	4	0	NR	49%
Lantana Airport SDA2	0	0	0	0	0	0	0	16	0	0	5	0	NR	0%
Walmart-Palm Springs	0	0	0	0	0	0	0	15	0	0	16	0	NR	75%
Palm Springs Park of Commerce	2	2	0	1	1	0	0	2	2	0	1	1	NR	75%
Golden Roads Apartments	1	1	0	1	1	0	0	9	1	0	5	1	Res	0%
Total Committed Developments	12	10	0	22	7	2	0	171	30	3	104	8		
Total Committed Residential	7	7	0	18	5	1	0	36	25	2	25	5		
Total Committed Non-Residential	5	3	0	4	2	1	0	135	5	1	79	3		
Double Count Reduction	1	1	0	1	0	0	0	9	1	0	6	1		
Total Discounted Committed	11	9	0	21	7	2	0	162	29	3	98	7		
Historical Growth	36	25	34	22	48	84	38	642	24	76	652	70		
Comm Dev+1% Growth	17	13	6	25	15	17	7	273	33	16	211	19		
Growth Volume Used	36	25	34	25	48	84	38	642	33	76	652	70		
Total Volume	123	85	116	79	163	287	130	2186	91	258	2220	238		

# **APPENDIX C**

## **TEST 1 PART 1: INTERSECTION ANALYSIS**

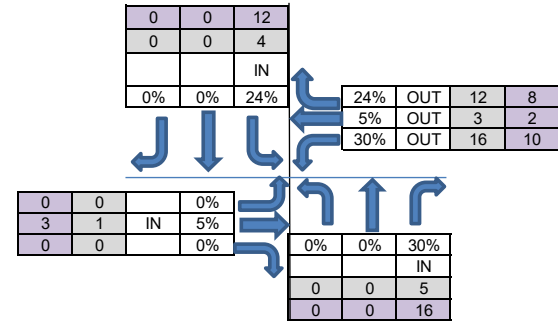
**CMA INTERSECTION ANALYSIS  
RESIDENCES AT LAKE WORTH  
2ND AVENUE N AT CONGRESS AVENUE**

02/09/22

INPUT DATA			
<b>Comments:</b>			
Area Wide Growth Rate = 3.48%	Peak Season = 1.02	Current Year = 2019	Buildout Year = 2026

AM Peak Hour												
	INTERSECTION VOLUME DEVELOPMENT											
	Northbound			Southbound			Eastbound			Westbound		
	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right
Existing Volume (2019)	40	1206	29	221	1332	90	99	101	110	44	53	153
Peak Season Adjustment	1	24	1	4	27	2	2	2	2	1	1	3
Background Traffic Growth	11	333	8	61	368	25	27	28	30	12	15	42
1.0% Background Growth	3	89	2	16	98	7	7	7	8	3	4	11
Major Projects Traffic	0	33	5	0	89	3	3	3	0	14	3	0
1% BGR + Major Projects	3	122	7	16	187	10	10	10	8	17	7	11
Project Traffic	0	0	5	4	0	0	0	1	0	16	3	12
<b>Total</b>	<b>44</b>	<b>1352</b>	<b>42</b>	<b>246</b>	<b>1546</b>	<b>101</b>	<b>111</b>	<b>114</b>	<b>120</b>	<b>78</b>	<b>64</b>	<b>179</b>
<b>Approach Total</b>	<b>1,437</b>			<b>1,893</b>			<b>346</b>			<b>321</b>		
CRITICAL VOLUME ANALYSIS												
No. of Lanes	1	3	<	1	3	<	1	1	<	>	1	<
Per Lane Volume	44	465		246	549		111	235		321		
Right on Red			10			10			10			
Overlaps Left			321			111			44			
Adj. Per Lane Volume	44	455		246	539		111	225		311		
Through/Right Volume			455			539			225	0		
Opposing Left Turns			246			44			311	111		
Critical Volume for Approach			700			583			536	111		
Critical Volume for Direction	700			583			536			111		
<b>Intersection Critical Volume</b>							<b>1,236</b>					
<b>STATUS?</b>							<b>NEAR</b>					

TRIPS		
	IN	OUT
AM	18	52
PM	52	34



PM Peak Hour												
	INTERSECTION VOLUME DEVELOPMENT											
	Northbound			Southbound			Eastbound			Westbound		
	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right
Existing Volume (2019)	90	1514	57	178	1537	165	85	59	80	53	113	199
Peak Season Adjustment	2	30	1	4	31	3	2	1	2	1	2	4
Background Traffic Growth	25	418	16	49	424	46	23	16	22	15	31	55
1.0% Background Growth	7	111	4	13	113	12	6	4	6	4	8	15
Major Projects Traffic	0	104	20	0	60	0	0	0	0	15	0	0
1% BGR + Major Projects	7	215	24	13	173	12	6	4	6	19	8	15
Project Traffic	0	0	16	12	0	0	0	3	0	10	2	8
<b>Total</b>	<b>98</b>	<b>1760</b>	<b>98</b>	<b>207</b>	<b>1741</b>	<b>180</b>	<b>93</b>	<b>68</b>	<b>87</b>	<b>83</b>	<b>126</b>	<b>226</b>
<b>Approach Total</b>	<b>1,956</b>			<b>2,128</b>			<b>248</b>			<b>434</b>		
CRITICAL VOLUME ANALYSIS												
No. of Lanes	1	3	<	1	3	<	1	1	<	>	1	<
Per Lane Volume	98	619		207	640		93	155		434		
Right on Red			10			10			10			
Overlaps Left			434			93			98			
Adj. Per Lane Volume	98	609		207	630		93	145		424		
Through/Right Volume			609			630			145	0		
Opposing Left Turns			207			98			424	93		
Critical Volume for Approach			816			729			569	93		
Critical Volume for Direction	816			729			569			93		
<b>Intersection Critical Volume</b>							<b>1,385</b>					
<b>STATUS?</b>							<b>NEAR</b>					

SIGNAL ID	E-W STREET	N-S STREET	DATE	TIME	NBU	NBL	NBT	NBR	SBU	SBL	SBT	SBR	EBU	EBL	EBT	EBR	WBU	WBL	WBT	WBR	TOTAL
25500	15th St/LA Kirksey	Tamarind Ave	12/20/2017	7:30 AM	0	31	261	53	0	31	259	91	0	52	133	36	0	31	58	95	1131
25500	15th St/LA Kirksey	Tamarind Ave	12/20/2017	4:45 PM	0	25	274	30	0	19	243	83	0	58	64	36	0	27	133	28	1020
20500	20th St	US-1/Broadway	5/20/2020	7:45 AM	0	13	516	2	3	5	673	10	0	8	0	6	0	0	0	3	1239
20500	20th St	US-1/Broadway	5/20/2020	4:45 PM	1	19	793	4	2	2	670	15	0	17	0	13	0	3	0	6	1545
24600	25th St	Australian Ave	1/31/2019	7:30 AM	1	0	952	253	0	163	885	0	0	0	0	0	0	246	0	114	2614
24600	25th St	Australian Ave	1/31/2019	12:45 PM	0	0	454	151	2	91	363	0	0	0	0	0	0	168	0	91	1320
24600	25th St	Australian Ave	1/31/2019	4:45 PM	0	0	880	240	5	171	776	0	0	0	0	0	0	320	0	144	2536
24600	25th St	Australian Ave	9/7/2016	7:30 AM	3	0	786	297	4	169	786	0	0	0	0	0	0	230	0	148	2423
24600	25th St	Australian Ave	9/7/2016	12:45 PM	0	0	489	216	6	104	490	0	0	1	0	0	0	216	0	137	1659
24600	25th St	Australian Ave	9/7/2016	4:45 PM	0	0	754	253	6	155	886	0	0	0	0	1	0	281	0	181	2517
24670	25th St	US-1/Broadway	2/21/2019	7:30 AM	0	6	138	9	0	286	405	177	0	79	74	24	0	2	28	173	1401
24670	25th St	US-1/Broadway	2/21/2019	12:00 PM	0	10	148	6	0	180	312	108	0	74	44	19	0	12	64	185	1162
24670	25th St	US-1/Broadway	2/21/2019	4:30 PM	0	21	372	11	0	232	352	213	0	81	39	12	0	10	70	313	1726
24670	25th St	US-1/Broadway	9/8/2016	7:30 AM	0	14	132	3	0	373	470	166	0	75	66	18	0	3	38	203	1561
24670	25th St	US-1/Broadway	9/8/2016	11:30 AM	0	11	143	7	1	170	263	88	0	66	60	22	0	10	36	219	1096
24670	25th St	US-1/Broadway	9/8/2016	4:30 PM	0	13	305	6	0	178	282	186	0	66	28	17	0	6	44	373	1504
36800	2nd Ave N	Congress Ave	5/1/2019	7:00 AM	8	32	1206	29	18	203	1332	90	0	99	101	110	0	44	53	153	3478
36800	2nd Ave N	Congress Ave	5/1/2019	12:00 PM	27	34	1139	34	37	111	1165	91	0	73	39	60	0	42	26	135	3013
36800	2nd Ave N	Congress Ave	5/1/2019	4:45 PM	21	69	1514	57	25	153	1537	165	0	85	59	80	0	53	113	199	4130
36925	2nd Ave N	US-1 DIXIE HWY	4/1/2021	7:45 AM	3	2	365	41	0	43	533	17	0	23	19	8	0	20	4	16	1094
36925	2nd Ave N	US-1 DIXIE HWY	4/1/2021	11:30 AM	7	21	610	91	0	65	709	28	0	27	32	19	0	45	11	22	1687
36925	2nd Ave N	US-1 DIXIE HWY	4/1/2021	4:45 PM	1	20	698	132	0	80	849	34	0	32	26	25	0	53	6	30	1986
36925	2nd Ave N	US-1 DIXIE HWY	9/19/2018	7:30 AM	2	2	449	38	0	38	625	27	0	28	21	7	0	28	1	6	1272
36925	2nd Ave N	US-1 DIXIE HWY	9/19/2018	1:00 PM	0	3	625	41	0	81	670	22	0	20	27	8	0	49	1	31	1578
36925	2nd Ave N	US-1 DIXIE HWY	9/19/2018	4:45 PM	0	0	802	126	0	57	836	28	0	24	35	14	0	52	1	21	1996
36950	2nd Ave N	US-1 FEDERREAL HWY	5/3/2018	7:30 AM	0	0	356	7	0	31	341	0	0	47	16	25	0	0	0	0	823
36950	2nd Ave N	US-1 FEDERREAL HWY	5/3/2018	4:30 PM	0	0	425	10	0	31	352	0	0	38	29	73	0	0	0	0	958
23800	36th St	Australian Ave	10/18/2017	7:15 AM	1	0	869	46	4	144	880	0	0	0	0	0	0	170	0	228	2342
23800	36th St	Australian Ave	10/18/2017	12:00 PM	1	0	526	63	1	147	583	0	0	0	0	0	0	64	0	139	1524
23800	36th St	Australian Ave	10/18/2017	4:45 PM	0	0	968	121	1	235	1187	0	0	0	0	0	0	147	0	198	2857
23815	36th St	US-1/Broadway	5/20/2019	7:30 AM	0	14	539	39	0	113	980	16	0	23	12	19	0	26	35	156	1972
23815	36th St	US-1/Broadway	5/20/2019	12:15 PM	0	12	500	9	0	46	566	16	0	24	6	9	0	17	6	87	1298
23815	36th St	US-1/Broadway	5/20/2019	4:45 PM	0	24	826	10	0	72	900	37	0	38	10	13	0	24	18	143	2115
26915	3rd St	N Quadrille Bl	10/23/2019	7:05 AM	0	34	394	33	0	5	172	116	0	109	84	12	0	10	39	2	1010
26915	3rd St	N Quadrille Bl	10/23/2019	11:45 AM	0	32	345	47	0	3	289	195	0	47	30	21	0	15	54	2	1080
26915	3rd St	N Quadrille Bl	10/23/2019	4:30 PM	0	25	408	10	0	3	414	486	0	75	25	24	0	18	78	7	1573

2019 PEAK SEASON FACTOR CATEGORY REPORT - REPORT TYPE: ALL  
 CATEGORY: 9301 CEN.-W OF US1 TO SR7

WEEK	DATES	SF	MOCF: 0.97 PSCF
1	01/01/2019 - 01/05/2019	1.00	1.03
2	01/06/2019 - 01/12/2019	1.00	1.03
3	01/13/2019 - 01/19/2019	1.00	1.03
4	01/20/2019 - 01/26/2019	0.99	1.02
* 5	01/27/2019 - 02/02/2019	0.98	1.01
* 6	02/03/2019 - 02/09/2019	0.97	1.00
* 7	02/10/2019 - 02/16/2019	0.96	0.99
* 8	02/17/2019 - 02/23/2019	0.96	0.99
* 9	02/24/2019 - 03/02/2019	0.96	0.99
*10	03/03/2019 - 03/09/2019	0.96	0.99
*11	03/10/2019 - 03/16/2019	0.96	0.99
*12	03/17/2019 - 03/23/2019	0.96	0.99
*13	03/24/2019 - 03/30/2019	0.96	0.99
*14	03/31/2019 - 04/06/2019	0.97	1.00
*15	04/07/2019 - 04/13/2019	0.97	1.00
*16	04/14/2019 - 04/20/2019	0.97	1.00
*17	04/21/2019 - 04/27/2019	0.98	1.01
18	04/28/2019 - 05/04/2019	0.99	1.02
19	05/05/2019 - 05/11/2019	0.99	1.02
20	05/12/2019 - 05/18/2019	1.00	1.03
21	05/19/2019 - 05/25/2019	1.01	1.04
22	05/26/2019 - 06/01/2019	1.02	1.05
23	06/02/2019 - 06/08/2019	1.02	1.05
24	06/09/2019 - 06/15/2019	1.03	1.06
25	06/16/2019 - 06/22/2019	1.04	1.07
26	06/23/2019 - 06/29/2019	1.04	1.07
27	06/30/2019 - 07/06/2019	1.05	1.08
28	07/07/2019 - 07/13/2019	1.05	1.08
29	07/14/2019 - 07/20/2019	1.06	1.09
30	07/21/2019 - 07/27/2019	1.05	1.08
31	07/28/2019 - 08/03/2019	1.04	1.07
32	08/04/2019 - 08/10/2019	1.03	1.06
33	08/11/2019 - 08/17/2019	1.03	1.06
34	08/18/2019 - 08/24/2019	1.03	1.06
35	08/25/2019 - 08/31/2019	1.04	1.07
36	09/01/2019 - 09/07/2019	1.05	1.08
37	09/08/2019 - 09/14/2019	1.05	1.08
38	09/15/2019 - 09/21/2019	1.06	1.09
39	09/22/2019 - 09/28/2019	1.05	1.08
40	09/29/2019 - 10/05/2019	1.03	1.06
41	10/06/2019 - 10/12/2019	1.02	1.05
42	10/13/2019 - 10/19/2019	1.00	1.03
43	10/20/2019 - 10/26/2019	1.00	1.03
44	10/27/2019 - 11/02/2019	1.00	1.03
45	11/03/2019 - 11/09/2019	1.00	1.03
46	11/10/2019 - 11/16/2019	1.00	1.03
47	11/17/2019 - 11/23/2019	1.00	1.03
48	11/24/2019 - 11/30/2019	1.00	1.03
49	12/01/2019 - 12/07/2019	1.00	1.03
50	12/08/2019 - 12/14/2019	1.00	1.03
51	12/15/2019 - 12/21/2019	1.00	1.03
52	12/22/2019 - 12/28/2019	1.00	1.03
53	12/29/2019 - 12/31/2019	1.00	1.03

\* PEAK SEASON

14-FEB-2020 15:39:27

830UPD

4\_9301\_PKSEASON.TXT

# **APPENDIX D**

## **TEST 2 ANALYSIS: LINK ANALYSIS**

**RESIDENCES AT LAKE WORTH**

02/09/22

**TABLE 9  
TEST 2 - PROJECT SIGNIFICANCE CALCULATION  
AM PEAK HOUR**

**TEST 2 - FIVE YEAR ANALYSIS**

**1 MILE RADIUS OF DEVELOPMENT INFLUENCE**

**TOTAL AM PEAK HOUR PROJECT TRIPS (ENTERING) = 18**

**TOTAL AM PEAK HOUR PROJECT TRIPS (EXITING) = 52**

STATION	ROADWAY	FROM	TO	AM PEAK HOUR DIRECTIONAL				LOS E STANDARD	TOTAL PROJECT IMPACT	PROJECT SIGNIFICANT
				PROJECT DISTRIBUTION	PROJECT TRIPS	EXISTING LANES	CLASS			
4677	2ND AVENUE	LAKE WORTH ROAD	CONGRESS AVENUE	5%	3	2	I	880	0.34%	NO
<b>4679</b>	<b>2ND AVENUE</b>	<b>CONGRESS AVENUE</b>	<b>SITE</b>	<b>60%</b>	<b>31</b>	<b>2</b>	<b>I</b>	<b>880</b>	<b>3.52%</b>	<b>YES</b>
4679	2ND AVENUE	SITE	BOUTWELL ROAD	40%	21	2	I	880	2.39%	NO
4647	LAKE WORTH ROAD	KIRK ROAD	2ND AVENUE	23%	12	6D	II	2830	0.42%	NO
4647	LAKE WORTH ROAD	2ND AVENUE	CONGRESS AVENUE	19%	10	6D	II	2830	0.35%	NO
4651	LAKE WORTH ROAD	CONGRESS AVENUE	BOUTWELL ROAD	10%	5	4D	II	1870	0.27%	NO
N/A	LAKE WORTH ROAD	BOUTWELL ROAD	A STREET	9%	5	4D	II	1870	0.27%	NO
4604	CONGRESS AVENUE	10TH AVENUE N	FRENCH AVENUE	24%	12	6D	II	2830	0.42%	NO
4620	CONGRESS AVENUE	FRENCH AVENUE	2ND AVENUE	24%	12	6D	II	2830	0.42%	NO
4620	CONGRESS AVENUE	2ND AVENUE	LAKE WORTH AVENUE	30%	16	6D	II	2830	0.57%	NO
4622	CONGRESS AVENUE	LAKE WORTH AVENUE	6TH AVENUE S	10%	5	6D	II	2830	0.18%	NO
4676	BOUTWELL ROAD	10TH AVENUE N	2ND AVENUE NORTH	30%	16	2	I	880	1.82%	NO
N/A	BOUTWELL ROAD	2ND AVENUE NORTH	LAKE WORTH ROAD	10%	5	2	I	880	0.57%	NO



**RESIDENCES AT LAKE WORTH**

02/09/22

**TABLE 10  
TEST 2 - PROJECT SIGNIFICANCE CALCULATION  
PM PEAK HOUR**

TEST 2 - FIVE YEAR ANALYSIS

1 MILE RADIUS OF DEVELOPMENT INFLUENCE

TOTAL PM PEAK HOUR PROJECT TRIPS (ENTERING) = 52

TOTAL PM PEAK HOUR PROJECT TRIPS (EXITING) = 34

STATION	ROADWAY	FROM	TO	PM PEAK HOUR DIRECTIONAL				LOS E STANDARD	TOTAL PROJECT IMPACT	PROJECT SIGNIFICANT
				PROJECT DISTRIBUTION	PROJECT TRIPS	EXISTING LANES	CLASS			
4677	2ND AVENUE	LAKE WORTH ROAD	CONGRESS AVENUE	5%	3	2	I	880	0.34%	NO
<b>4679</b>	<b>2ND AVENUE</b>	<b>CONGRESS AVENUE</b>	<b>SITE</b>	<b>60%</b>	<b>31</b>	<b>2</b>	<b>I</b>	<b>880</b>	<b>3.52%</b>	<b>YES</b>
4679	2ND AVENUE	SITE	BOUTWELL ROAD	40%	21	2	I	880	2.39%	NO
4647	LAKE WORTH ROAD	KIRK ROAD	2ND AVENUE	23%	12	6D	II	2830	0.42%	NO
4647	LAKE WORTH ROAD	2ND AVENUE	CONGRESS AVENUE	19%	10	6D	II	2830	0.35%	NO
4651	LAKE WORTH ROAD	CONGRESS AVENUE	BOUTWELL ROAD	10%	5	4D	II	1870	0.27%	NO
N/A	LAKE WORTH ROAD	BOUTWELL ROAD	A STREET	9%	5	4D	II	1870	0.27%	NO
4604	CONGRESS AVENUE	10TH AVENUE N	FRENCH AVENUE	24%	12	6D	II	2830	0.42%	NO
4620	CONGRESS AVENUE	FRENCH AVENUE	2ND AVENUE	24%	12	6D	II	2830	0.42%	NO
4620	CONGRESS AVENUE	2ND AVENUE	LAKE WORTH AVENUE	30%	16	6D	II	2830	0.57%	NO
4622	CONGRESS AVENUE	LAKE WORTH AVENUE	6TH AVENUE S	10%	5	6D	II	2830	0.18%	NO
4676	BOUTWELL ROAD	10TH AVENUE N	2ND AVENUE NORTH	30%	16	2	I	880	1.82%	NO
N/A	BOUTWELL ROAD	2ND AVENUE NORTH	LAKE WORTH ROAD	10%	5	2	I	880	0.57%	NO

**TABLE 11**  
**AM PEAK HOUR - TEST 2**

TEST 2 - FIVE YEAR ANALYSIS  
 1 MILE RADIUS OF DEVELOPMENT INFLUENCE  
 AREA WIDE GROWTH RATE = 3.48%  
 TOTAL AM PEAK HOUR PROJECT TRIPS (ENTERING) = 18  
 TOTAL AM PEAK HOUR PROJECT TRIPS (EXITING) = 52

ROADWAY	FROM	TO	DIRECTION	TRAFFIC COUNT YEAR	AM PEAK HOUR TRAFFIC	PROJECT DISTRIBUTION	AM PEAK HOUR PROJECT TRIPS	LINK GROWTH	MAJOR PROJECT	1.0% GROWTH	TOTAL BACKGROUND TRAFFIC USED	2026 TOTAL TRAFFIC	ASSURED LANES	CLASS	LOS E	MEETS LOS STD.
2ND AVENUE	CONGRESS AVENUE	SITE	EB	2020	326	60%	11	74	12	20	74	411	2	I	880	YES
			WB	2020	197	60%	31	45	24	12	45	273	2	I	880	YES

**TABLE 12**  
PM PEAK HOUR - TEST 2

TEST 2 - FIVE YEAR ANALYSIS  
1 MILE RADIUS OF DEVELOPMENT INFLUENCE  
AREA WIDE GROWTH RATE = 3.48%  
TOTAL PM PEAK HOUR PROJECT TRIPS (ENTERING) = 52  
TOTAL PM PEAK HOUR PROJECT TRIPS (EXITING) = 34

ROADWAY	FROM	TO	DIRECTION	TRAFFIC COUNT YEAR	PM PEAK HOUR TRAFFIC	PROJECT DISTRIBUTION	PM PEAK HOUR PROJECT TRIPS	LINK GROWTH	MAJOR PROJECT	1.0% GROWTH	TOTAL BACKGROUND TRAFFIC USED	2026 TOTAL TRAFFIC	ASSURED LANES	CLASS	LOS E	MEETS LOS STD.
2ND AVENUE	CONGRESS AVENUE	SITE	EB	2020	320	60%	31	73	33	20	73	424	2	I	880	YES
			WB	2020	391	60%	20	89	25	24	89	500	2	I	880	YES



May 13, 2022

Anna Lai, P.E., PTOE  
Simmons & White, Inc.  
2581 Metrocentre Blvd, Suite 3  
West Palm Beach, FL 33407

**Department of Engineering  
and Public Works**

P.O. Box 21229  
West Palm Beach, FL 33416-1229  
(561) 684-4000  
FAX: (561) 684-4050  
www.pbcgov.com

**RE: Residences at Lake Worth  
Project #: 220317  
Traffic Performance Standards (TPS) Review**

Dear Ms. Lai:

The Palm Beach County Traffic Division has reviewed the above referenced project Traffic Impact Statement, revised April 15, 2022, pursuant to the Traffic Performance Standards in Article 12 of the Palm Beach County (PBC) Unified Land Development Code (ULDC). The project is summarized as follows:

**Palm Beach County  
Board of County  
Commissioners**

- Robert S. Weinroth, Mayor
- Gregg K. Weiss, Vice Mayor
- Maria G. Marino
- Dave Kerner
- Maria Sachs
- Melissa McKinlay
- Mack Bernard

**Municipality:** Lake Worth Beach  
**Location:** North side of 2<sup>nd</sup> Avenue N, about ½ miles east of Congress Avenue  
**PCN:** 38-43-44-20-01-096-0020, 38-43-44-20-01-097-0010 and 38-43-44-20-01-097-0020  
**Access:** Full access driveway connection onto 2<sup>nd</sup> Avenue  
(As used in the study and is NOT necessarily an approval by the County through this TPS letter)  
**Existing Uses:** Vacant  
**Proposed Uses:** Mid-rise Multi-Family Residential = 195 DUs  
**New Daily Trips:** 1,061  
**New Peak Hour Trips:** 70 (18/52) AM; 86 (52/34) PM  
**Build-out:** December 31, 2026

**County Administrator**

Verdenia C. Baker

Based on the review, the Traffic Division has determined that the proposed development meets the TPS of Palm Beach County.

The County is strongly encouraging the City to require the Property Owner:

1. To align proposed driveway with the driveway to the south to eliminate conflict between left turning vehicles.
2. To construct eastbound left turn lane at the approach to the driveway.
3. To remove proposed on street parking on 2<sup>nd</sup> Avenue N.

Please note the receipt of a TPS approval letter does not constitute the review and issuance of a Palm Beach County Right-of-Way (R/W) Construction Permit nor does it eliminate any requirements that may be deemed as site related. For work within Palm Beach County R/W, a detailed review of the project will be provided upon submittal for a R/W permit application. The project is required to comply with all Palm Beach County standards and may include R/W dedication.

"An Equal Opportunity  
Affirmative Action Employer"



Anna Lai, P.E., PTOE

May 13, 2022

Page 2

No building permits are to be issued by the City after the build-out date specified above. The County traffic concurrency approval is subject to the Project Aggregation Rules set forth in the Traffic Performance Standards Ordinance.

The approval letter shall be valid no longer than one year from date of issuance, unless an application for a Site Specific Development Order has been approved, an application for a Site Specific Development Order has been submitted, or the approval letter has been superseded by another approval letter for the same property.

If you have any questions regarding this determination, please contact me at 561-684-4030 or email [HAkif@pbcgov.org](mailto:HAkif@pbcgov.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "Hanane Akif".

Hanane Akif, P.E.  
Professional Engineer  
Traffic Division

QB:HA:cw

ec:

Erin Fitzhugh Sita, AICP, Assistant Director-Planning, Zoning, & Preservation Community Sustainability Department, City of Lake Worth Beach

Quazi Bari, P.E., PTOE, Manager – Growth Management, Traffic Division

Alberto Lopez, Technical Assistant III, Traffic Division

File: General - TPS - Mun - Traffic Study Review  
F:\TRAFFIC\HA\MUNICIPALITIES\APPROVALS\2022\220317 - RESIDENCES AT LAKE WORTH.DOCX;



THE SCHOOL DISTRICT OF  
PALM BEACH COUNTY, FL

KRISTIN K. GARRISON  
DIRECTOR

JOSEPH M. SANCHES, MBA  
CHIEF OPERATING OFFICER

PLANNING AND INTERGOVERNMENTAL RELATIONS  
3661 INTERSTATE PARK RD. N., STE 200  
RIVIERA BEACH, FL. 33404

PHONE: 561-434-8020 / FAX: 561-357-1193  
[WWW.PALMBEACHSCHOOLS.ORG/PLANNING](http://WWW.PALMBEACHSCHOOLS.ORG/PLANNING)

## SCHOOL CAPACITY AVAILABILITY DETERMINATION (SCAD)

<b>Application</b>	<b>Submittal Date</b>	10/03/2022		
	<b>SCAD Case No.</b>	22082901D – D. O.		
	<b>FLU /Rezoning/D.O. No.</b>	22-140004 – City of Lake Worth Beach		
	<b>PCN No. / Address</b>	38-43-44-20-01-097-0020; 0010; 096-0020 2559 2 <sup>nd</sup> Avenue North		
	<b>Development Name</b>	Residences at Lake Worth		
	<b>Owner / Agent Name</b>	Richman Lake Worth Apartments LLC /Brian Terry		
	<b>SAC No.</b>	202		
	<b>Proposed Unit No. &amp; Type</b>	195 High-Rise Apartment Units		
<b>Impact Review</b>		<b>Highland Elementary School</b>	<b>Lake Worth Middle School</b>	<b>Lake Worth High School</b>
	<b># of New Students Generated</b>	3	2	2
	<b>Capacity Available</b>	48	106	55
	<b>Utilization Percentage</b>	96%	93%	98%
<b>School District Staff's Recommendation</b>	Based on the findings and evaluation of the proposed development, there will be no negative impact on the School District of Palm Beach County public school system. Therefore, the School District has no comment on this SCAD application.			
<b>Validation Period</b>	<p>1) This determination is valid from <b>10/11/2022</b> to <b>10/10/2023</b> or the expiration date of the site-specific development order approved during the validation period.</p> <p>2) A copy of the approved D.O. must be submitted to the School District Planning Department prior to <b>10/10/2023</b> or this determination will expire automatically on <b>10/10/2023</b>.</p>			
<b>Notice</b>	School age children may not necessarily be assigned to the public school closest to their residences. Students in Palm Beach County are assigned annually to schools under the authority of the School Board and by direction of the Superintendent, public school attendance zones are subject to change.			

*Joyce Cai*

School District Representative Signature

October 11, 2022

Date

Joyce C. Cai, Senior Planner

joyce.cai@palmbeachschools.org

Print Name & Title of School District Representative

Email Address

CC: Erin Sita, Assistant Director, City of Lake Worth Beach  
Joyell Shaw, PIR Manager, School District of Palm Beach County



March 25, 2022  
Job No. 21-173

## DRAINAGE STATEMENT

Residences at Lake Worth  
City of Lake Worth Beach, Florida

### SITE DATA

The subject parcel is located at the City of Lake Worth Beach, Florida and contains approximately 7.40 acres. The site is currently undeveloped with an existing utility tower in the northeast corner of the property. Proposed site development will consist of 195 apartment units, 4100 SF of clubhouse and associated parking. For additional information regarding site location and layout, please refer to the site plan prepared by Insite Studios.

### PROPOSED DRAINAGE

The site is located within the boundaries of the South Florida Water Management District C-51 Basin (Sub-Basin 33), the Lake Worth Drainage District and City of Lake Worth Beach. It is proposed that runoff be directed to the on-site water management areas including a lake and storm chambers by means of paved or on-site grass swales and/or inlets and storm sewer. Legal positive outfall is available through a control structure and into the Lake Worth Drainage District's E-4 Canal.

Drainage design is to address the following:

1. Due consideration for water quality.
2. No runoff to leave the site except through an approved control structure up to the level produced by the 25 year - 3 day rainfall event.
3. Building floor elevations to be set at or above the level produced by the 100 year - 3 day (zero discharge) rainfall event.
4. Allowable discharge to be in accordance with South Florida Water Management District and Lake Worth Drainage District Criteria.

PROPOSED DRAINAGE (CONTINUED)

5. Roads to be protected from flooding during the 3 year - 24 hour event.
6. Compliance with the South Florida Water Management District C-51 Drainage Basin Criteria with regard to compensating storage via water management areas and storm chambers. Based on preliminary water management calculations, the site plan as presented will meet the South Florida Water Management District C-51 Basin requirements.

Required Permits/Approvals:

1. Lake Worth Drainage District Drainage Permit
2. South Florida Water Management District Environmental Resource Permit
3. City of Lake Worth Beach Engineering

---

Erik R. Cooper, P.E.  
FL Reg. No. 56934

**Erik R. Cooper, P.E., State of Florida, Professional Engineer, License No. 56934**

**This item has been electronically signed and sealed by Erik R. Cooper, P.E., on 04/05/2022.**

**Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.**



Return to:

**Nelson Mullins**  
**1905 NW Corporate Boulevard, Suite 310**  
**Boca Raton, FL 33431**  
**(561) 483-7000**  
File Number:

Parcel Identification No.  
**38-43-44-20-01-096-0020;**  
**38-43-44-20-01-097-0010;** and  
**38-43-44-20-01-097-0020**

[Space Above This Line For Recording Data]

## Warranty Deed

**This Indenture** made this **7th day of December, 2021** between **Village of Valor LTD, a Florida Limited Partnership** whose post office address is **3175 S. Congress Ave., Suite 310 – Palm Springs, FL 33461** of the County of **Palm Beach**, State of **Florida**, grantor\*, and **Richman Lake Worth Apartments, LLC, a Delaware Limited Liability Company** whose post office address is **777 West Putnam Ave., Greenwich, CT 06830** of the County of **Fairfield**, State of **Connecticut**, grantee\*,

**Witnesseth** that said grantor, for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Palm Beach County, Florida**, to-wit:

**Parcel 1:**

The West Two acres of Tract 96 of MODEL LAND CO. SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, according to the Plat thereof, recorded in Plat Book 5, Page 79 of the Public Records of Palm Beach County, Florida.

Less and Except the South 25.00 feet by Deed to Palm Beach County, recorded in Official Records Book 6431, Page 1748.

**Parcel 2:**

The East 117.68 feet of Lot 97 of MODEL LAND CO. SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, according to the Plat thereof, recorded in Plat Book 5, Page 79 of the Public Records of Palm Beach County, Florida. fronting 117.68 feet on North 2nd Avenue and 625 feet deep thereof.

Less and Except the South 25.00 feet of the East 117.00 feet by Deed to Palm Beach County, recorded in Miscellaneous Record Book 29, Page 193.

**Parcel 3:**

A portion of Lot 97 of MODEL LAND CO. SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, according to the Plat thereof, recorded in Plat Book 5, Page 79 of the Public Records of Palm Beach County, Florida, being more particularly described as follows:

BEGINNING at a point where the North line of Lake Worth Road intersects with the East line of the right of way of the First Lateral Canal West of the Town of Lake Worth, running East a distance of 394.32 feet;  
Thence North parallel with the East line of Lot 97 of the Subdivision of MODEL LAND CO. SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, a distance of 625 feet to the North line of Lot 97;

Thence West to a point where said North line intersects the East line of the right of way of said First Lateral Canal;

Thence Southwesterly following the right of way of said First Lateral Canal to the POINT OF BEGINNING.

Less and Except the South 25 feet, shown as Parcel No. 3 in the Order of Taking by Palm Beach County, and an additional 10 feet, shown as Parcel 12, recorded in Official Record Book 12863, Page 1606 of the Public Records of Palm Beach County, Florida.

Also known as 2431, 2441 and 2559 2nd Ave N, Lake Worth, FL 33461

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

\* "Grantor" and "Grantee" are used for singular or plural, as context requires.

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

Signed, sealed and delivered in our presence:

**Village of Valor LTD**, a Florida Limited Partnership

Marcia S. Goodwin  
Witness  
Printed Name: MARCIA S. Goodwin

By: Roy J. Foster  
Roy J. Foster, Managing Partner  
Village of Valor LLC, its General Partner

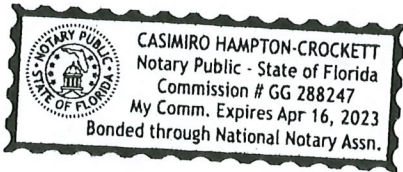
Nick Gughino  
Witness  
Printed Name: Nick Gughino

State of Florida  
County of Palm Beach

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 7th day of December, 2021 by Roy J. Foster, Managing Partner of Village of Valor, LLC; general partner of Village of Valor LTD, a Florida Limited Partnership who  is personally known or  has produced a driver's license as identification.

[Seal]

Casimiro Hampton-Crockett  
Notary Public  
Print Name: Casimiro Hampton-Crockett  
My Commission Expires: Apr 16, 2023



### Transmittal Letter

 To: PBC Dept. of Environmental Resources Management

 Date: 04/08/2022

 Project Name: Residences at Lake Worth

 Attention: PBC ERM

If enclosures are not as noted, please notify our office.

 Subject: Residences at Lake Worth – Lake Worth Beach Jurisdiction Project

 We Transmit:  herewith  under separate cover via

 as requested

 For Your :  approval  distribution to parties  information

 review & comment  record  use  \_\_\_\_\_

 The Following:  drawings  specifications  change order

 shop drawings  product literature  samples

 correspondence \_\_\_\_\_

Copies	Date	Description
1	4/08/2022	Wellfield Affidavit of Notification
1	4/08/2022	Owner/Agent Consent Form

# AFFIDAVIT OF NOTIFICATION

Pursuant to the Palm Beach County Unified Land Development Code, Article 14 Chapter B, Wellfield Protection, you shall provide notification to the Palm Beach County Department of Environmental Resources Management for the following activities should you store, handle, use, or produce Regulated Substances that exceed the threshold of 5 gallons, if liquid, or 25 pounds, if solid, within a wellfield zone:

- a. Application for nonresidential building permits.
- b. Application for residential building permits of 25 units or more.
- c. Applications for development subject to review by advisory planning bodies and approval by local governing authority or zoning board of appeals.

**A. Project Information:**

1. Name of Project Residences at Lake Worth

2. Property Control # N/A

3. Address of Project 2559 2nd Ave N Lake Worth FL 33461  
(Street) (City) (State) (ZIP)

**B. Owner of Property, Developer or Agent Signing Affidavit (If agent, a letter of authorization to sign for the owner must be attached.)**

1. If individual, provide full legal name Brian Terry - Insite Studio, Inc.

Address 8144 Okeechobee Blvd, Suite A West Palm Beach FL 33411  
(Street) (City) (State) (ZIP)

Telephone 561.249.0940

Owner of Property (if signed by agent) Richman Lake Worth Apartments LLC

2. If corporation or partnership, provide full name of corporation or partnership and relationship to corporation or partnership.

Name of Corporation or Partnership \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_

Relationship to corporation or partnership \_\_\_\_\_

3. List any Regulated Substances (chemicals, fuels, oils, paints, etc.) that you intend to store, handle, use or produce at this site:

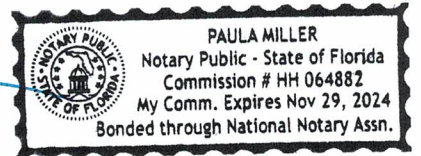
<u>Type of Substance</u>	<u>Approximate Quantity</u>
<u>No regulated substances will be stored, handled, used or produced</u>	_____ gallons _____ pounds
<u>on the subject residential property.</u>	_____ gallons _____ pounds
_____	_____ gallons _____ pounds

I have received a copy of "Palm Beach County Unified Land Development Code, Article 14 Chapter B, Wellfield Protection Prohibitions, Restrictions, and Best Management Practices." I understand that there are restrictions and prohibitions concerning the use, handling and storage of regulated substances pursuant to the Wellfield Protection Ordinance. I also understand that certain facilities are prohibited or subject to restrictions in the various wellfield zones:

*Brian Terry*  
 Affiant

Sworn to and subscribed before me this 24 day of March, 2022

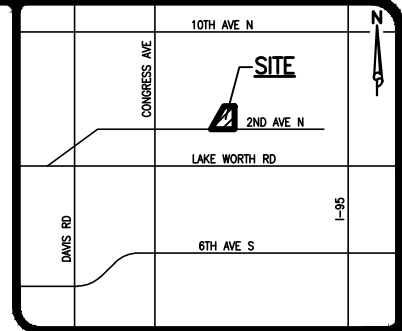
\_\_\_\_\_  
 Notary Public, State of Florida



**Return Completed Original to Department of Environmental Resources Management**

2300 N. Jog Road West Palm Beach, Florida 33411-2743 telephone (561) 233-2400

Copy to Applicant/ Copy to Local Government



**LOCATION MAP**  
NOT TO SCALE

**LEGEND**



PROJECT LOCATION



WELLFIELD PROTECTION ZONE 4  
AS SHOWN ON THE WELLFIELD  
PROTECTION ZONES OF  
INFLUENCE IN PALM BEACH  
COUNTY, FLORIDA



2581 Metrocentre Blvd • Suite 3 • West Palm Beach, Florida 33407 • (561) 478-7848

**RESIDENCES AT LAKE WORTH**  
SECTION 20, TOWNSHIP 44S., RANGE 43E.  
CITY OF LAKE WORTH, FLORIDA  
**WELLFIELD EXHIBIT**

DESIGN	DRAWN	CHECKED	APPROVED	DATE
E.V.	B.L.			

JOB NO.	DRAWING NO.
21-173	21173Z01

SHEET	OF
1	1

## PLANNING AND ZONING BOARD REPORT

**PZB Project Number 22-01400004 (Ordinance 2022-17):** A request for a Residential Planned Development, Development of Significant Impact, Major Site Plan, Conditional Use, and Sustainable Bonus for the project commonly referred to as “Residences at Lake Worth,” to construct three (3) mid-rise residential structures that are 5-stories in height with a total of 195 dwelling units. The sustainable bonus request is for an additional 3-stories in height.

**PZB Meeting Date:** November 16, 2022

**Property Owner:** Richman Lake Worth Apartments LLC

**Applicant:** Brian Terry – Insite Studio, Inc

**Address:** 2559, 2441, and 2431 2<sup>nd</sup> Ave N

**PCNs:** 38-43-44-20-01-097-0020  
 38-43-44-20-01-097-0010  
 38-43-44-20-01-096-0020

**Size:** 7.40 acres

**General Location:** North of 2<sup>nd</sup> Ave N, and east of the LWDD E-4 Canal.

**Existing Land Use:** Vacant

**Current Future Land Use Designation:** Mixed Use-West (MU-W)

**Zoning District:** Mixed Use-West (MU-W)

**Location Map**



Note: Report updated on 1/23/2023 to reflect additional information and clarifications regarding workforce housing.

## RECOMMENDATION

The documentation and materials provided with the application request were reviewed for compliance with the applicable guidelines and standards found in the City of Lake Worth Beach Land Development Regulations (LDRs), and for consistency with the Comprehensive Plan and Strategic Plan. The proposed Residential Planned Development, Development of Significant Impact, Major Site Plan, Conditional Use, and Sustainable Bonus request is consistent with the Comprehensive Plan, Strategic Plan, and LDRs, as conditioned, and, therefore, a **recommendation of approval with conditions** is provided to the Planning and Zoning Board. The conditions are located on pages 8 to 10 of this report.

## PROJECT DESCRIPTION

The applicant, Brian Terry of Insite Studio, Inc, is requesting approval of the following for the project commonly referred to as “Residences at Lake Worth:”

- A **planned development, development of significant impact and major site plan** request to construct a 195-unit multi-family development with three (3) mid-rise residential multi-family buildings and one (1) amenity building/clubhouse. Each of the multi-family buildings will have 65 residential units.
- A **conditional use permit** request to develop a multi-family residential development with a total of 195 multi-family units, of which 14 one-bedroom units and 16 two-bedroom units will be restricted as workforce housing. The proposed multi-family buildings will be divided between a total of 105 one-bedroom units and 90 two-bedroom units.
- A **Sustainable Bonus** request for an additional 3-stories of bonus height.

The Applicant is proposing a multi-family development on a 7.40 -acre vacant lot with the purpose to provide attainable apartments, including income restricted units, and amenities, including a pedestrian path around the lake. Per the applicant’s justification statement, “residents will have access to multiple amenities on the property including a +/- 4,980 square foot clubhouse with a management office, club room, fitness facility, yoga room and mail center. These amenities are located in the center of the property and will be the focal point entering into the community. Exterior to the clubhouse is a covered terrace and expansive pool deck with a central bar and grill area covered by an architectural pergola structure. Other site amenities include a fully connected sidewalk system that extends completely around the retention pond on the north and provides for access to a fenced dog park on the west side of the property.”

## COMMUNITY OUTREACH

Staff has not received any letters of support or opposition for this application. Per LDR Section 23.2-20, Public Neighborhood Meeting, *a public neighborhood meeting shall be required for all Planned Developments, Developments of Significant Impact, and Lake Worth Beach Community Redevelopment Agency sponsored new construction projects along the City’s major thoroughfares as well as those utilizing the City’s Sustainable Bonus Incentive Program, Transfer of Development Rights Program and/or Economic Investment Incentives.*

On November 1, 2022, the applicant held a meeting with neighborhood residents at Mathews Brewing Company. Notices were mailed to all property owners within 400 ft of the project on October 15, 2022, and signs were placed on the property on October 17, 2022. There were two attendees at the meeting and no concerns were identified per the meeting minutes. The applicant also has a project webpage: <https://www.insitestudio.com/residencesatlakeworth>

## BACKGROUND

Below is a summary of the property based on Palm Beach Property Appraiser’s records and City records:

**Use/Construction:** Currently, the property is vacant with no existing structures on the site. A mixed-use development was previously approved on the property in 2014 with 3, four-story buildings and 104 dwelling units. There is also an existing cell tower in the NE corner of the property.

**Code Compliance:** There are no active code cases on the subject site.

## ANALYSIS

### *Consistency with the Comprehensive Plan and Strategic Plan*

The subject site has a Future Land Use (FLU) designation of Mixed Use - West (MU-W). Per Policy 1.1.1.6, the MU-W FLU is intended to provide for a mixture of residential, office, service, and commercial retail uses within specific areas west of I-95. The distinguishing characteristic of the Mixed-Use West land use area is that it allows higher-intensity uses as well as higher height limits along the City's western thoroughfares. The preferred mix of uses area-wide is 75% residential and 25% non-residential. While mixed-use projects are allowed on a single site, it is not a requirement that each site within the category incorporate multiple uses. Zoning regulations implementing the Mixed-Use West category shall permit the establishment and expansion of residential (including single family, two-family and multi-family), office, service and commercial retail uses either as uses permitted by right or through conditional use permit provisions. All buildings are required to provide transitional buffering and design features to mitigate the impact of the MU-W sites adjacent to residential zoning districts.

The City's Strategic Plan focuses on fostering safer neighborhoods, encouraging community pride, building a vibrant and diverse economy, planning for the future, and enhancing the natural, historic, and cultural environment of the City. Pillar II and Pillar IV of the Strategic Plan state that the City shall strengthen Lake Worth Beach as a community of neighborhoods and navigate towards a sustainable community. Pillars II.A, II.B, IV.A, and IV.E of the Strategic Plan state that the City shall diversify housing options, continue crime reduction and prevention in achieving a safe, livable and friendly community, achieve economic and financial sustainability through a versatile and stable tax base, and ensure facility placement, construction and development that anticipates and embraces the future. The proposed multifamily building and associated site improvements will contribute towards the City's Pillars II.A, II.B, IV.A, and IV.E of the Strategic Plan.

The proposed development request is consistent with the goals, objectives, and policies of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan as it provides both market rate and income restricted workforce units in a multi-family project with substantial amenities, including an outdoor recreation path and dog park.

### *Consistency with the Land Development Regulations*

The proposed application was reviewed for consistency with all applicable requirements in the City's Land Development Regulations (LDR), including the district and planned development requirements. Per Section 23.3-25, planned developments are intended to encourage innovative land planning and development techniques through incentives to create more desirable and attractive development within the City. The Department of Community Sustainability is tasked to review planned development applications in accordance with the City's LDRs, to assess compliance with the findings for granting planned developments (analyzed in the following sections) and to provide a recommendation for whether the application should be approved, approved with conditions, or denied. The subject planned development is not requesting to waive or relax base zoning district requirements. However, the applicant is opting into the workforce housing program to utilize the parking reduction incentive allowed for income restricted workforce housing units.

**Mixed Use – West (MU-W):** Per LDR Section 23.3-18(a), the MU-W zoning district is intended to provide for the establishment and expansion of a broad range of office and commercial uses, including moderate intensity and higher intensity commercial, hotel/motel and medium-density multiple-family residential development along the city's western thoroughfares. The establishment of certain uses is subject to conditional use review to ensure they will not create excessive problems for through traffic, or have a negative impact on nearby residential areas or the commercial viability of their neighbors. The district implements in part the mixed-use land use category of the Lake Worth Comprehensive Plan.

The table and topic area analysis below evaluate the proposed site features and the project's compliance with the Code, and factoring in the Sustainable Bonus incentives, Planned Development incentives, and the Comprehensive Plan maximums:



Development Standard		Base Zoning District Mixed Used – West (MU-W)	Residential Planned Development in MU-W with SBIP	Provided
Lot Size (min) In square feet (sf)		13,000 sf	0.5 acres	7.3985 acres (322,278.64 sf)
Lot Width (min)		100'	100'	401.62'
Setbacks	Front (min build-to line)	20'	20'	20'
	Rear (min)	10'	10'	178'
	Street Side (min)	20'	20'	N/A
	Side (min)	20'	20'	20' – west side 41' – east side
Impermeable Surface Coverage (maximum)		65%	65%	49% (157,900 SF)
Structure Coverage (max)		50%	50%	13.4% (43,293 SF) – Buildings 1.15% (3,722 SF) – Communication Tower
Density (max)		30 du/acre (221 units)	37.5 du/acre (277 units)	26.36 du/acre (195 units)
Building Height (max)		30' (max. 2 stories)	65' (Max. 6 stories)	59'-4" – top of parapet (5 stories)
Maximum Wall Height at Side Setback		30'	65'	+/- 59'
Floor Area Ratio (FAR) (max)		1.3	3.75	.6
Living Area (minimum)	Studio	400 sf	400 sf	N/A
	One- bedroom units	600 sf	600 sf	+/- 716 sf- 729 sf
	Two- bedroom units	750 sf	750 s	+/- 1013 sf
	Three- bedroom units	900 sf	900 sf	N/A
Parking See page 5 for detailed analysis.		Parking Calculated per unit, room, and non- residential square footage.	237 spaces* w/ 30 workforce housing units  Max alternate spaces = 59 spaces	279 spaces w/ 12 alternate (compact) spaces  Additional parking that exceeds parking requirements: 42 compact parking spaces & 39 bicycle spaces = 9 parking spaces

Workforce/Affordable Housing	15% of Total Project	30 Income Restricted Units	30 Income Restricted Units (14 one-bedroom units and 16 two-bedroom units)
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**\*Applicant is choosing to opt-in to the recently adopted workforce housing program ordinance (Ordinance 2022-12), which allows for a 25% parking requirement reduction for income restricted units.**

**Affordable/Workforce Housing Program Ordinance 2022-12:** The proposed project was submitted to the City prior to Ordinance 2022-12 becoming effective. The applicant has elected to opt into the program to utilize the parking reduction incentive. Tier Two requires that 15% of the total number of units for projects utilizing any City incentives or bonus programs be income restricted in accordance with the provisions in this ordinance.

**Analysis:** The applicant is proposing 195 dwelling units of which 30 units (15%) are required to be income restricted as consistent with the requirements in Ordinance 2022-12. The applicant is proposing to income restrict 30 units as required to utilize the parking reduction incentive. This is being implemented through the PBC Workforce Housing Program.

**Section 23.4-10. - Off-street parking:** This section provides general provisions for off-street parking. The standards “*apply to all parking spaces required for new buildings, new uses, additions, enlargements, or changes.*”

**Analysis:** The parking for the dwelling units was calculated as follows: 1.5 spaces per 1-bedroom unit (1.5 X 105 units = 158 spaces) and 1.75 spaces for each 2-bedroom unit (1.75 X 90 units = 158 spaces). The applicant is choosing to opt into the City’s recently adopted Workforce Housing program (Ordinance 2022-12). This program provides a 25% reduction in required parking. Therefore, a total of two-hundred thirty-seven (237) spaces are required (316 spaces minus 25% reduction). Two-hundred and seventy-nine (279) parking spaces are proposed, which exceed the required parking by forty-two (42) spaces.

The applicant is proposing to utilize alternate spaces to fulfill their minimum parking requirement as permitted by LDR Section 23.4-10.1), which states that “alternate parking spaces including compact spaces shall count towards no more than twenty-five (25) percent of the overall site parking requirement.” The maximum alternate spaces that can be applied to meet required parking for this development is 59 alternate spaces. The applicant is proposing 225 standard spaces, and 12 compact spaces as alternate spaces to meet the required parking of 237 total spaces. In addition to the required parking, the applicant is also proposing 42 more compact spaces (total 54 compact spaces), and 39 bicycle spaces (four bicycle spaces count as one parking space).

**Section 23.6-1. - Landscape regulations:** The objective of this section is to provide minimum standards for the installation and maintenance of landscaping within the city. Per Section 23.6-1(c)(2), “*on the site of a building or open-lot use providing an off-street parking, storage or other vehicular use area, where such an area will not be screened visually by an intervening building or structure from an abutting right-of-way or dedicated alley, shall require landscaping*”.

**Analysis:** The development proposal provides perimeter landscaping and shade trees. The proposed landscaping is consistent with the City’s landscape regulations. Tree species include a mix of Gumbo Limbo, Pigeon Plum, Silver and Green Buttonwood, and Live Oak for the perimeter and interior plantings along with multiple native and non-native shrubs, grasses, and groundcovers. The proposed landscape complies with the City’s requirement that 75% of all required plants be Florida native.

As required by the tree removal provisions in the landscape regulations, the applicant submitted a tree survey and disposition plan that was reviewed by staff. The diameter at breast height (DBH) for the existing trees with a condition rating of fifty (50) percent or greater on the property is used to calculate the replacement tree requirement. The development proposes to retain all existing trees on site, therefore replacement trees and/or mitigation is not required.

**Section 23.5-1- Signage:** Signage is required to comply with the size and design requirements of LDR Section 23.5-1, *Signs*. Ground or monument signage are required to be depicted on both the site and landscape plans, and are reviewed for consistency with the sign code requirements and planned development at building permit.

**Analysis:** The proposed entrance sign has a maximum sign area of 200 sf and a maximum height of 12'. A planned development can exceed the sign code maximums in size and total area, provided the signage is requested as part of the planned development. The proposed sign is consistent with the City's sign code except for the maximum height. The increased height is an appropriate request as signage massing is tied in the code to linear frontage. The additional 4' feet in height allows for landscaping to be maintained with a taller height and the massing of the sign is appropriate along the large road frontage (+/- 635 linear feet).

**Section 12-7, Dumpster Requirements:** *The location of all dumpsters shall be approved by the public services director or his designee and/or the building official or his designee. All dumpsters shall meet the requirements set forth in this section and all other ordinances, rules, regulations and policies adopted by the city.*

**Analysis:** The proposed dumpster location in the NE corner of the project was reviewed by Public Works, who determined that the dumpster was consistent with the size and screening requirements. The dumpster is located in the NE corner of the property adjacent to the communication/cell tower and is fully screened with fencing and landscaping. The dumpster enclosure material shall be reviewed in a subsequent minor site plan amendment for architectural consistency with the project.

**Section 23.4-3, Exterior Lighting:** *All outdoor lighting shall be installed in conformance with the provisions of this chapter, applicable electrical and energy codes, and applicable sections of the building code.*

**Analysis:** A photometric plan was provided depicting compliance with the exterior lighting requirements in Section 23.4-3 and does not allow light trespass upon neighboring residential properties or districts in excess of 12.57 lumens. However, lighting fixtures were not included as part of the applicant's submittal. A recommended condition of approval has been provided requiring that the lighting fixture be reviewed at building permit to comply with Dark Skies lighting recommendations and for consistency with the architecture of the buildings. Further, proposed fixtures shall be required to have a warm tone setting of 3000 K or less.

#### **Section 23.2-31 - Site Design Qualitative Standards (Attachment A)**

Site Design Qualitative Standards are intended to *"promote safety and minimize negative impacts of development on its neighbors by establishing qualitative requirements for the arrangements of buildings, structures, parking areas, landscaping and other site improvements. The qualitative standards are designed to ensure that site improvements are arranged in ways which cannot be otherwise accomplished with quantitative standards."* These qualitative standards are applicable to site plan applications as well as all conditional uses. Compliance determination with the applicable standards in Section 23.2-31 are provided in Attachment A. **The following analysis of the site, building, vehicular use area and appearance support the compliance findings for the applicable standards listed in Attachment A.**

#### **Site Design Qualitative Standards Analysis (including vehicular use areas):**

The proposed improvements to the site circulations, landscaping and architecture are consistent with the Site Design Qualitative Standards. The architecture for the project is generally appropriate and compatible to the surrounding area. The pedestrian and vehicular site circulation safely connects to the existing public right-of-way. Further, the site pedestrian circulation system is appropriately insulated from vehicular circulation. A new dumpster enclosure is proposed in the rear of the property; this improvement is properly screened as required, and the location is deemed appropriate for pick-up services by Public Works. Improvements to the existing landscaping are also proposed and discussed in the landscape section of this report.

The proposed configuration and landscape buffering of the parking lot and vehicular use areas will be effectively screened from the public view with shade trees, palm trees and shrubs within the landscape areas. The proposed curb cuts and parking lot layout does not create an unsafe situation and are typical for the form of the development. The proposed architectural modifications are harmonious as a whole, will improve the aesthetics of the site, and will be an asset to the neighborhood.

The existing uses in the surrounding area are as follows:

Direction	Future Land Use	Zoning District	Existing Use
North	Mixed Use - West (MU-W)	Mixed Use - West (MU-W)	Multi-family Residential (Oakwood Townhomes)
South	Mixed Use - West (MU-W)	Mixed Use - West (MU-W)	Multi-family Residential (Village at Lake Osbourne & Riverview House)
East	Mixed Use - West (MU-W)	Mixed Use - West (MU-W)	Multi-family Residential (Oakwood Townhomes)
West	N/A	N/A	LWDD E-4 Canal ROW

The proposed uses and site improvements will not negatively affect the existing surrounding properties and uses. They are harmonious and compatible with the existing mixed-use and residential area.

#### **Community Appearance Criteria:**

The proposed building and associated site improvements represent a substantial improvement in the general appearance of the property by providing new landscape around the perimeter of the property, and new architecturally compatible buildings. The proposed architecture of the building is appropriate and in harmony with the surrounding residential and nonresidential area. Overall, the development proposal represents a substantial improvement in the visual appearance of the vacant property.

#### **Development of Significant Impact (DSI)**

A development of significant impact (DSI) is a commercial, office, or industrial development of 100,000 or more gross square feet of enclosed building area, including renovations of existing structures when a change to a more intensive use is anticipated, or a residential development of 100 or more dwelling units, including renovations of existing structures when a change to a more intensive use is anticipated. The project proposed qualifies as a DSI because it exceeds 100 dwelling units.

Per LDR Section 23.2-35, a proposed DSI and any amendments to an approved DSI shall be reviewed and approved in accordance with the procedures and requirements for a Conditional Use Permit except that the City Commission shall be the decision maker and not the Planning and Zoning Board or the Historic Resources Preservation Board. The Conditional Use Permit criteria is outlined in the conditional use analysis in the subsequent section.

#### **Conditional Use Findings (Attachment B)**

Conditional uses are those uses that are generally compatible with the other uses permitted in a district, but that require individual review of their location, design, structure, configuration, density and intensity of use, and may require the imposition of conditions pertinent thereto in order to ensure the appropriateness and compatibility of the use at a particular location and to prevent or minimize potential adverse impacts to the surrounding area. The project proposal includes a conditional use request to establish a residential development greater than 7,500 square feet.

The proposed conditional use is not anticipated to impact the surrounding area greater than uses permitted by right or greater than the previously approved mixed use on the property. The site is currently vacant. The applicant is proposing

multifamily buildings that do not utilize the maximum development potential. The buildings will be served by existing municipal services, including water, sewer, refuse, fire and police. The proposed associated site improvements would provide new landscaping and an improved condition over the current vacant parcel while providing new attainable housing options.

### **Section 23.2-33(c) - Sustainable Bonus Incentive Program (SBIP)**

The City of Lake Worth Beach Sustainable Bonus Incentive Program (SBIP) is intended to implement Objective 1.2.3 of the City's Comprehensive Plan which states the City shall establish incentives to help support the creation of a compact, sustainable, community-oriented development by implementing a Sustainable Bonus Incentive Program. The Program offers the opportunity to attain an option for increased height and/or FAR in exchange for the incorporation of sustainable design features, community-based improvements and overall design excellence as part of a development proposal.

Per Policy 1.2.3.4 of the City's Comprehensive Plan, a residential planned development may obtain a 25% bonus on density, intensity (FAR), and height over the base line as outlined in Table 1 of the Comprehensive Plan. The Applicant is asking for bonus height that is less than the maximum allowance permitted via the SBIP in a planned development in the MU-W zoning district. The square footage of the bonus area above the second floor (3rd, 4th, and 5th floors) is +/- 12,691 square feet per floor for all three buildings. The SBIP incentive value for all three buildings (Tier One - LDR) is \$856,642.50 (12,691 sf X 3 Floors X 3 Buildings X \$7.50 per sf). Fifty percent (50%) of the incentive award value is \$428,321.25, which the applicant is required to pay to the City. For the remaining 50% of the incentive award value (\$428,321.25), the applicant is proposing qualified improvements per Resolution 23-2021 & LDR Section 23.2-33, which include a Florida Green Building certification (\$214,160.63) and six (6) EV charging stations and conduits (\$50,000). The total value of the qualifying improvements is \$264,160.63. The total payment by the applicant to the City for the additional height includes the 50% required to be paid to the City (\$428,321.25), plus the remaining value not mitigated by qualifying improvements (\$164,160.62). Conditions of approval have been proposed to address the required schedule to pay the SBIP fees. The applicant may propose qualified on-site improvements or provide additional payment to the City.

## **CONCLUSION AND CONDITIONS**

The MU-W district is intended to provide for the establishment and expansion of a broad range of office and commercial uses, including moderate intensity and higher intensity commercial, hotel/motel and medium-density multiple-family residential development along the city's western thoroughfares. The establishment of certain uses is subject to conditional use review to ensure they will not create excessive problems for through traffic, or have a negative impact on nearby residential areas or the commercial viability of their neighbors. Based on the data and analysis in this report and the supporting materials by the applicant, the use is not anticipated to negatively impact adjacent residential property or have a negative impact on the commercial viability of neighboring commercial businesses. Further, the proposed site improvements are consistent with the City's LDR requirements. Therefore, a recommendation of approval is provided to the PZB with the following conditions:

### **Planning & Zoning**

1. Fifty percent of the sustainable bonus fee (\$428,321.25) shall be paid to the City within two years of approval, or prior to the issuance of the building permit, whichever comes first.
2. The applicant shall provide qualifying sustainable bonus features equal to \$428,321.25, or shall be required to pay the remaining portion of the 50% of the incentive value (\$428,321.25) prior to the issuance of a certificate of occupancy.
3. Thirty (30) units shall be restricted for workforce housing in accordance with the City's Affordable/Workforce Housing Program prior to the issuance of a Certificate of Occupancy for the buildings

4. A unity of title shall be required to applied for and shall be recorded prior to the issuance of a building permit.
5. An address application shall be required to be submitted prior to application for building permit.
6. A video security system shall be required for the property.
7. Exterior lighting shall be required to comply dark sky lighting guidelines, including using fully shielded fixtures and led lighting that has a color temperature of no more than 3000 Kelvins. [www.darksky.org](http://www.darksky.org) Specifically, the lighting fixtures shall be reviewed at building permit for consistency with the dark sky guidelines and the architecture of the buildings.
8. A designated delivery and/or ride share space shall be provided.
9. Dumpster enclosure material shall be reviewed for architectural consistency and for compliance with all applicable City requirements at building permit.
10. Prior to the issuance of a building permit, a minor site plan amendment or modification shall be approved to update the site plan data table to remove errors.

#### **Utilities (Water, Sewer & Stormwater)**

1. There are several locations where proposed storm chamber overlaps with the water/storm utility easements. The easement shall be free of obstructions.
2. Provide inlet protection on the storm collection structures in 2nd Avenue North and show the erosion control and sedimentation plan.
3. Capacity fees are due prior to building permit issuance.
4. The title block of all plans shall be updated to say Lake Worth Beach instead of Lake Worth.

#### **Public Works**

1. The issuance of any permits shall comply with all provisions of the Lake Worth Municipal Code and all other applicable standards including but not limited to the Florida Department of Transportation (FDOT), Manual on Uniform Traffic Control Devices (MUTCD), and City of Lake Worth Public Services Construction Standards and Policy and Procedure Manual. No Certificate of Occupancy shall be granted until all conditions of approval have been satisfied under jurisdiction of the Department of Public Services.
2. Prior to the issuance of a building permit, the applicant shall contact the Lake Worth Drainage (LWDD) District's Engineering Department and obtain any required permit(s), if necessary, and furnish to the City. Prior to the issuance of a building permit, the applicant shall contact the South Florida Water Management District's (SFWMD) Engineering Department and obtain any required permit(s), if necessary.
3. Prior to the issuance of a building permit, the Applicant shall contact and meet with a representative from the Public Works Solid Waste and Recycling Division to confirm dumpster enclosure location, accessibility and demand on property and that it is compatible with the requirements of the Department of Public Works. Solid Waste Division contact number is 561-533-7344.
4. Prior to the issuance of a certificate of occupancy, the Applicant shall ensure the entire surrounding offsite infrastructure inclusive of the roadway, sidewalk, curbing, stormwater system piping and structures, valve boxes, manholes, landscaping, striping, signage, and other improvements are in the same condition as prior to construction.
5. Prior to the issuance of a building permit, the applicant shall submit an Erosion Control plan and indicate the BMP's and NPDES compliance practices.
6. Prior to the issuance of a Certificate of Occupancy, the applicant shall fine grade and sod all disturbed areas with bahia sod.
7. Prior to the issuance of a Certificate of Occupancy, the applicant shall broom sweep all areas of the affected right of way and remove of all silt and debris collected as a result of construction activity.
8. Prior to performing work in the right of way, the applicant shall apply for and receive issuance of a "Right of Way/Utility Permit" application.

#### **Electric Utility**

1. Before or at the time of application for a Building Permit, Developer must provide the Load Calculation, Voltage requirements and Riser diagram. We will need to know the location of the Pad-Mount Transformers for the building. The Transformer locations must be accessible to our vehicles, and must have 8-ft minimum clearance in front of them and 3-ft clearance to the side or rear, including landscaping (None trees, plants, shrubs or vegetations are allowed within the clearance). The Transformers also must not be under or inside any structure.
2. Before the issuance of a Building permit, we will need a 10-ft wide utility easement for the underground electric, transformers and other equipment that will need to be installed to provide power to this project.
3. The customer will be responsible for installing All Schedule 40 PVC Conduit that will be needed by Lake Worth Beach for this project for the primary cable. This conduit must be installed at a 24” minimum depth. Pad specs will be given to the customer to show the proper orientation of conduit at the pad mount transformers.
4. Before the issuance of a Building permit, we will need to know if any other services will be needed for the project such as irrigation, lift station, lighting, gates, etc., and where these services will be.
5. Developer to show the location of the meter center on the site plan.
6. Developer will be responsible for installing their own lightning for the parking areas.
7. Developer will be responsible for the cost of Lake Worth Beach’s materials and labor for this project.
8. Before the issuance of a Certificate of Occupancy, the utility easement must be recorded.
9. Before the issuance of a Certificate of Occupancy (CO) a final electrical inspection must be done.

**Building Division**

1. Pedestrian connections to the club house will require enhanced striping.

**BOARD POTENTIAL MOTION:**

I move to **approve with conditions** of Ordinance 2022-17 for a Residential Planned Development, Major Site Plan, Conditional Use, and Sustainable Bonus Incentive Program to construct a 195-unit multifamily residential development at the subject site based on upon the competent and substantial evidence provided in the staff report and in the testimony at the public hearing.

I move to **disapprove** Ordinance 2022-17 for a Residential Planned Development, Major Site Plan, Conditional Use, and Sustainable Bonus Incentive Program to construct a 195-unit multifamily residential development at the subject site. The project does not meet the conditional use criteria for the following reasons [Board member please state reasons.].

**Consequent Action:** *The Planning & Zoning Board’s decision will be final decision for the Conditional Use Permit and Major Site Plan. The Applicant may appeal the Board’s decision to the City Commission.*

**ATTACHMENTS**

- A. Qualitative Development Standards
- B. Conditional Use Findings
- C. Application Package (survey, site plan, architectural plans & supporting documents)

**ATTACHMENT A – Qualitative Development Standards**

Section 23.2-31(c) –Qualitative Development Standards	Analysis
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**1. Harmonious and efficient organization.** *All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as to not impede the* **In Compliance**

normal and orderly development or improvement of surrounding property for uses permitted in these LDRs.

- 2. Preservation of natural conditions.** *The natural (refer to landscape code, Article 6 of these LDRs) landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by such other site planning approaches as are appropriate. Terrain and vegetation shall not be disturbed in a manner likely to significantly increase either wind or water erosion within or adjacent to a development site. Natural detention areas and other means of natural vegetative filtration of stormwater runoff shall be used to minimize ground and surface water pollution, particularly adjacent to major waterbodies. Fertilizer/pesticide conditions may be attached to development adjacent to waterbodies. Marinas shall be permitted only in water with a mean low tide depth of four feet or more.* **Not Applicable**
- 3. Screening and buffering.** *Fences, walls or vegetative screening shall be provided where needed and practical to protect residents and users from undesirable views, lighting, noise, odors or other adverse off-site effects, and to protect residents and users of off-site development from on-site adverse effects. This section may be interpreted to require screening and buffering in addition to that specifically required by other sections of these LDRs, but not less.* **In compliance**
- 4. Enhancement of residential privacy.** *The site plan shall provide reasonable, visual and acoustical privacy for all dwelling units located therein and adjacent thereto. Fences, walls, barriers and vegetation shall be arranged for the protection and enhancement of property and to enhance the privacy of the occupants.* **In compliance**
- 5. Emergency access.** *Structures and other site features shall be so arranged as to permit emergency vehicle access by some practical means to all sides of all buildings.* **In compliance**
- 6. Access to public ways.** *All buildings, dwelling units and other facilities shall have safe and convenient access to a public street, walkway or other area dedicated to common use; curb cuts close to railroad crossings shall be avoided.* **In compliance**
- 7. Pedestrian circulation.** *There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.* **In compliance**
- 8. Design of ingress and egress drives.** *The location, size and numbers of ingress and egress drives to the site will be arranged to minimize the negative impacts on public and private ways and on adjacent private property. Merging and turnout lanes traffic dividers shall be provided where they would significantly improve safety for vehicles and pedestrians.* **In compliance**
- 9. Coordination of on-site circulation with off-site circulation.** *The arrangement of public or common ways for vehicular and pedestrian circulation shall be coordinated with the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Minor streets shall not be connected to major streets in such a way as to facilitate improper utilization.* **In compliance**
- 10. Design of on-site public right-of-way (ROW).** *On-site public street and rights-of-way shall be designed to for maximum efficiency. They shall occupy no more land than is required to provide access, nor shall they unnecessarily fragment development into small blocks. Large developments containing extensive public rights-of-way shall have said rights-of-way arranged in a hierarchy with local streets providing direct access to parcels and other streets providing no or limited access to parcels.* **Not applicable**



- 11. Off-street parking, loading and vehicular circulation areas.** *Off-street parking, loading and vehicular circulation areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.* **In compliance**
- 12. Refuse and service areas.** *Refuse and service areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.* **In compliance**
- 13. Protection of property values.** *The elements of the site plan shall be arranged so as to have minimum negative impact on the property values of adjoining property.* **In compliance**
- 14. Transitional development.** *Where the property being developed is located on the edge of the zoning district, the site plan shall be designed to provide for a harmonious transition between districts. Building exteriors shall complement other buildings in the vicinity in size, scale, mass, bulk, rhythm of openings and character. Consideration shall be given to a harmonious transition in height and design style so that the change in zoning districts is not accentuated. Additional consideration shall be given to complementary setbacks between the existing and proposed development.* **In compliance**
- 15. Consideration of future development.** *In finding whether or not the above standards are met, the review authority shall consider likely future development as well as existing development.* **In compliance**

<b>Section 23.2-31(d) - Qualitative Buildings, generally</b>	<b>Analysis</b>
<p><i>1. Buildings or structures which are part of a present or future group or complex shall have a unity of character and design. The relationship of forms of the use, texture and color of material shall be such as to create one (1) harmonious whole. When the area involved forms an integral part of, is immediately adjacent to, or otherwise clearly affects the future of any established section of the city, the design, scale and location of the site shall enhance rather than detract from the character, value and attractiveness of the surroundings. Harmonious does not mean or require that the buildings be the same.</i></p>	<b>In compliance</b>
<p><i>2. Buildings or structures located along strips of land or on a single site, and not a part of a unified multi-building complex shall achieve as much visual harmony with the surroundings as is possible under the circumstances. If a building is built in an undeveloped area, three (3) primary requirements shall be met, including honest design construction, proper design concepts, and appropriateness to the city.</i></p>	<b>In compliance</b>
<p><i>3. All façades visible to public or adjacent property shall be designed to create a harmonious whole. Materials shall express their function clearly and not appear foreign to the rest of the building.</i></p>	<b>In compliance</b>
<p><i>4. The concept of harmony shall not infer that buildings must look alike or be of the same style. Harmony can be achieved through the proper consideration of scale, mass, bulk, proportion, height, orientation, site planning, landscaping, materials, rhythm of solids to voids and architectural components including but not limited to porches, roof types, fenestration, orientation and stylistic expression.</i></p>	<b>In compliance</b>
<p><i>5. Look-alike buildings shall not be allowed unless, in the opinion of the board, there is sufficient separation to preserve the aesthetic character of the present or evolving neighborhood. This is not to be construed to prohibit the duplication of floor plans and exterior treatment in a planned</i></p>	<b>In compliance</b>

development where, in the opinion of the board, the aesthetics or the development depend upon, or are enhanced by the look-alike buildings and their relationship to each other.

6. Buildings, which are of symbolic design for reasons of advertising, unless otherwise compatible with the criteria herein, will not be approved by the board. Symbols attached to the buildings will not be allowed unless they are secondary in appearance to the building and landscape and are an aesthetic asset to the building, project and neighborhood. **In compliance**

7. Exterior lighting may be used to illuminate a building and its grounds for safety purposes, but in an aesthetic manner. Lighting is not to be used as a form of advertising in a manner that is not compatible to the neighborhood or in a manner that draws considerably more attention to the building or grounds at night than in the day. Lighting following the form of the building or part of the building will not be allowed if, in the opinion of the board, the overall effect will be detrimental to the environment. All fixtures used in exterior lighting are to be selected for functional as well as aesthetic value. **In compliance**

8. Building surfaces, walls and roofs shall be compatible and in harmony with the neighborhood. **In compliance**

9. "Take-out" or "pick-up" windows of retail or wholesale establishments shall not be located on a building façade that faces a public right-of-way, unless they are designed in such a manner as to constitute an aesthetic asset to the building and neighborhood. **Not applicable**

10. All exterior forms, attached to buildings, shall be in conformity to and secondary to the building. They shall be an asset to the aesthetics of the site and to the neighborhood. **In compliance**

11. All telephones, vending machines, or any facility dispensing merchandise, or a service on private property, shall be confined to a space built into the building or buildings or enclosed in a separate structure compatible with the main building, and where appropriate and feasible, should not be readily visible from off-premises. **Not applicable**

12. Buildings of a style or style-type foreign to south Florida or its climate will not be allowed. It is also to be understood that buildings which do not conform to the existing or to the evolving atmosphere of the city, even though possessing historical significance to south Florida, may not be approved. **In compliance**

13. No advertising will be allowed on any exposed amenity or facility such as benches and trash containers. **In compliance**

14. Light spillage restriction. The applicant shall make adequate provision to ensure that light spillage onto adjacent residential properties is minimized. **In compliance**

<b>Section 23.2-31(h) – Criteria for parking lots and vehicular use areas</b>	<b>Analysis</b>
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1. Parking lots and other vehicular use areas are to be designed as an aesthetic asset to a neighborhood and to the building, group of buildings, or facility they serve. A parking lot is to be considered an outside space; a transitional space that is located between access areas (such as roads) and the building, group of buildings or other outside spaces which it serves. The parking lot, because it is viewed from above as well as at eye level, should be designed accordingly. **In compliance**

2. *Parking lots, vehicular use areas, and vehicles parked therein are to be effectively screened from the public view and from adjacent property in a manner that is attractive and compatible with safety, the neighborhood and the facility served.* **In compliance**

3. *The responsibility for beautification and design of a parking lot is the same as that which a homeowner has to his residential lot. The atmosphere within a parking lot or vehicular use area is to be as pleasant and park-like as possible, rather than a harsh stand of paving. Trees are of primary importance to the landscape and are not to be minimized in either height or quantity. Trees impart a sense of three-dimensional space in a relatively flat area. Trees cast shadows that help to reduce the monotony of an expanse of paving and create a refuge from the tropical sun. Signs designating entrances, exits and regulations are to be of a tasteful design and shall be subject to review by the board. Consideration may be given to use of pavement which is varied in texture or color to designate lanes for automobile traffic, pedestrian walks and parking spaces. Brightly colored pavement is to be used with restraint. In order to create a pleasant atmosphere, it is recommended that consideration be given to sculpture, fountains, gardens, pools and benches. Design emphasis is to be given to the entrance and exit areas of the lot. Trash, refuse and unaesthetic storage and mechanical equipment shall be screened from the parking lot.* **In compliance**

4. *Lighting is to be designed for visual effects as well as safety and resistance to vandalism. Care should be taken not to create a nuisance to the neighborhood from brightness or glare. Low lights in modest scale can be used along with feature lighting emphasizing plants, trees, barriers, entrances and exits. The fixtures are to be selected for functional value and aesthetic quality. Fixtures should be regarded as "furniture of the parking lot" which are visible both day and night.* **In compliance**

<b>Section 23.2-31(l) – Community Appearance Criteria</b>	<b>Analysis</b>
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1. *The plan for the proposed structure or project is in conformity with good taste, good design, and in general contributes to the image of the city as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas and high quality.* **In compliance**

2. *The proposed structure or project is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.* **In compliance**

3. *The proposed structure or project is in harmony with the proposed developments in the general area, with code requirements pertaining to site plan, signage and landscaping, and the comprehensive plan for the city, and with the criteria set forth herein.* **In compliance**

4. *The proposed structure or project complies with this section and 23.2-29, Conditional Use Permits (CUP), as applicable.* **In compliance**

**ATTACHMENT B - Findings for Granting Conditional Uses**

*Prior to approving any conditional use permit, the decision-making authority shall find based on competent and substantial evidence that the following criteria related to conditional uses are met:*

<b>Section 23.2-29(d) General findings relating to harmony with LDRs and protection of public interest.</b>	<b>Analysis</b>
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|--|----------------------|
| 1. <i>The conditional use exactly as proposed at the location where proposed will be in harmony with the uses which, under these LDRs and the future land use element, are most likely to occur in the immediate area where located.</i>           | <b>In compliance</b> |
| 2. <i>The conditional use exactly as proposed at the location where proposed will be in harmony with existing uses in the immediate area where located.</i>  | <b>In compliance</b> |
| 3. <i>The conditional use exactly as proposed will not result in substantially less public benefit or greater harm than would result from use of the site for some use permitted by right or some other conditional use permitted on the site.</i> | <b>In compliance</b> |
| 4. <i>The conditional use exactly as proposed will not result in more intensive development in advance of when such development is approved by the future land use element of the comprehensive plan.</i>  | <b>In compliance</b> |

Section 23.2-29(e) Specific findings for all conditional uses.	Analysis
1. <i>The proposed conditional use will not generate traffic volumes or movements which will result in a significant adverse impact or reduce the level of service provided on any street to a level lower than would result from a development permitted by right.</i>	<b>In compliance</b>
2. <i>The proposed conditional use will not result in a significantly greater amount of through traffic on local streets than would result from a development permitted by right and is appropriately located with respect to collector and arterial streets</i>	<b>In compliance</b>
3. <i>The proposed conditional use will not produce significant air pollution emissions, or will appropriately mitigate anticipated emissions to a level compatible with that which would result from a development permitted by right.</i>	<b>In compliance</b>
4. <i>The proposed conditional use will be so located in relation to the thoroughfare system that neither extension nor enlargement nor any other alteration of that system in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.</i>	<b>In compliance</b>
5. <i>The proposed conditional use will be so located in relation to water lines, sanitary sewers, storm sewers, surface drainage systems and other utility systems that neither extension nor enlargement nor any other alteration of such systems in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.</i>	<b>In compliance</b>
6. <i>The proposed conditional use will not place a demand on municipal police or fire protection service beyond the capacity of those services, except that the proposed facility may place a demand on municipal police or fire protection services which does not exceed that likely to result from a development permitted by right.</i>	<b>In compliance</b>
7. <i>The proposed conditional use will not generate significant noise, or will appropriately mitigate anticipated noise to a level compatible with that which would result from a development permitted by right. Any proposed use must meet all the requirements and stipulations set forth in section 15.24, Noise control.</i>	<b>In compliance</b>

8. *The proposed conditional use will not generate light or glare which encroaches onto any residential property in excess of that allowed in section 23.4-10, Exterior lighting.* **In compliance**

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** Community Sustainability

**TITLE:**

Ordinance 2023-02 - Second Reading - Amending Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Division 3 “Permits,” Section 23.2-39 “Affordable/Workforce Housing Program” to provide clarification on the combination of incentives, qualifications for affordability, participation in other entity programs, and providing additional affordability buy down provisions

**SUMMARY:**

The subject ordinance would create additional affordability through buy down options in the City’s Affordable/Workforce Housing Program, and modify the text of LDR Section 23.2-39 for clarity.

**BACKGROUND AND JUSTIFICATION:**

The recently adopted (10/6/2022) Ordinance 2022-12 created the City’s Affordable/Workforce Housing Program to encourage the development of affordable and/or workforce housing units within the City. The program allows several incentives, including a 15% density bonus and additionally flexibility in unit size, parking requirements and financial incentives provided that no less than 15% of the total dwelling units are deed restricted as affordable. The City Commission subsequently directed staff to develop additional affordability buy down options. Further, in the recent implementation of the ordinance, staff has identified some minor housekeeping changes that would provide additional clarity on the program’s implementation. The subject ordinance would both create the buy down options and modify the text of LDR Section 23.2-39 for clarity.

The Planning Zoning Board voted to recommend approval of the proposed LDR amendments at their February 1, 2023 meeting. The HRPB also voted to recommend approval of the amendments at their February 8, 2023 meeting.

The City Commission voted to approve the proposed LDR amendments unanimously at their March 21, 2023 meeting, and to schedule the second reading and public hearing for April 4, 2023.

**MOTION:**

Move to approve/disapprove Ordinance 2023-02 amending Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Division 3 “Permits,” Section 23.2-39 “Affordable/Workforce Housing Program” to provide clarification on the combination of incentives, qualifications for affordability, participation in other entity programs, and providing additional affordability buy downs provisions.

**ATTACHMENT(S):**

Ordinance 2023-02  
PZHP Staff Report

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**ORDINANCE 2023-02 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 SECTION 23.2-39 “AFFORDABLE/WORKFORCE HOUSING PROGRAM,” PROVIDING FOR CLARIFICATION ON COMBINATION OF INCENTIVES, QUALIFICATIONS FOR AFFORDABILITY AND PARTICIPATION IN OTHER ENTITY PROGRAMS AND PROVIDING FOR ADDITIONAL AFFORDABILITY BUY DOWN PROVISIONS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE**

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

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

**WHEREAS**, the City wishes to amend Chapter 23, Article 2 “Administration,” to amend, Section 23.2-39 – Affordable/Workforce Housing Program to provide for additional buy down options for the affordable/workforce housing program within the City of Lake Worth Beach; and

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

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

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

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

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

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

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

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

- a) *Intent.* The Affordable/Workforce Housing Program is intended to implement Objective 3.1.2 of the city comprehensive plan future land use element and provisions therein regarding affordable and workforce housing. The Affordable/Workforce Housing Program provides for a density bonus and a reduction in overall housing unit areas for developments that incorporate residential units with restrictive covenants that meet the requirements of the program.
  
- b) *Purpose.* The purpose of the Affordable/Workforce Housing Program is to encourage the inclusion of affordable and workforce housing units within both residential and mixed-use projects as well as planned developments of all types to provide for broader and more accessible housing options within the City. The Affordable/Workforce Housing Program offers the following as “Program Incentives”.
  - 1. Tier One: may apply to all development projects consistent with the provisions of this section
    - (a) Up to a fifteen percent (15%) increase in overall project density;
    - (b) Up to a fifteen percent (15%) reduction in the gross area requirements based on unit type;
    - (c) Up to a twenty five percent (25%) reduction in required parking, provided that each residential dwelling unit is provided at least one (1) parking space. This reduction may not be combined with other parking reduction provisions of these LDRs;
    - (d) Any additional density and/or other benefits provided under this tier shall require that those units benefiting from the provisions be restricted as affordable/workforce housing meeting the requirements of this section through a restrictive covenant.
    - (e) Additional financial incentives may be considered on a case by case basis by the applicable decision-making entity if the project provides more affordable/workforce units that the minimum required.
  - 2. Tier Two: applies to all projects utilizing other city incentive and/or bonus program(s)
    - (a) For all projects utilizing any other city incentive or bonus program(s), fifteen percent (15%) of the total number of dwelling units within the project must be restricted as affordable/workforce dwelling units meeting the requirements of this section through a restrictive covenant.
    - ~~(b) Any combination of Tier One incentives with other city incentive and/or bonus program(s) related to density, intensity and/or height shall require that all units benefiting from these increases and/or incentives~~



98 ~~be restricted as affordable/workforce dwelling units meeting the~~  
99 ~~requirements of this section through a restrictive covenant.~~

100 3. Tier One and Tier Two Combination: applies to all projects that combine the Tier  
101 One Incentives with other available city incentives

102 (a) For all projects combining a Tier One density incentive with other City incentive  
103 and/or bonus program(s) related to density, all units benefitting from the  
104 additional density incentive under Tier One shall be restricted as  
105 affordable/workforce dwelling units meeting the requirements of this section  
106 through a restrictive covenant in addition to the units required to be restricted  
107 under (Tier Two) other city incentive and/or bonus program(s).

108  
109 c) *Application and Review Process.*

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111 1. *Application.* All development proposals seeking increased density of up to  
112 fifteen percent (15%) and/or reductions in overall unit sizes of up to fifteen  
113 percent (15%) shall submit an affordable/workforce housing program  
114 application as provided by the department of community sustainability. The  
115 application shall accompany the standard City of Lake Worth Beach Universal  
116 Development Application for the development proposal. The  
117 affordable/workforce housing program application shall include all of the  
118 following:

119  
120 (a) A project fact sheet with building specifications including the number of  
121 additional units, unit types and unit sizes proposed.

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123 (b) The affordability criteria for each unit proposed to be included in the project.

124  
125 (c) Draft restrictive covenant should the City's version not be submitted.

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127 (d) Any other additional information (d) ensure the timely and efficient evaluation  
128 of the project by city staff to ensure that the requirements of the  
129 Affordable/Workforce Housing Program are being met.

130  
131 (e) Intent to meet the requirements of the Affordable/Workforce Housing  
132 Program through participation in another entity's program, including  
133 relevant program criteria and restrictive covenant.

134  
135 2. *Review/decision.* The development review official shall review the application  
136 along with the zoning approvals otherwise required of the development  
137 proposal under these LDRs. Development applications that require further  
138 review or approval by a decision-making board shall also include the  
139 development review official's recommendation regarding the award of  
140 additional density and/or unit size reduction under the Affordable/Workforce  
141 Housing Program. Any decision on the award shall be made by the planning  
142 and zoning board, the historic resources planning board, or the city commission  
143 as applicable. A decision on an award may be appealed under the procedures  
144 applicable to the development application with which it is associated. No waiver  
145 or variance may be granted regarding the award. The award of bonus density,

146 height or intensity under the Affordable/Workforce Housing Program shall be  
147 based on the following criteria:

- 148
- 149 (a) Is the award calculated correctly, consistent with the density and unit size  
150 reduction(s) that are allowed under the Affordable/Workforce Housing  
151 Program, including that the affordable/workforce housing unit type mix be  
152 reflective of the overall unit type mix for the entire project;
  - 153
  - 154 (b) Do the proposed income restrictions meet the intent of the  
155 Affordable/Workforce Housing Program;
  - 156
  - 157 (c) Do the proposed annual rents and/or mortgage costs meet the intent of the  
158 Affordable/Workforce Housing Program; and
  - 159
  - 160 (d) Do the proposed restrictive covenants to maintain affordability meet the  
161 intent of the Affordable/Workforce Housing Program?
  - 162

163 d) *Qualifying income restrictions.* The following provisions outline the required  
164 income limits and overall percentage of household income to qualify units as being  
165 affordable/workforce under the Affordable/Workforce Housing Program. All  
166 income values shall be based on the then current area (County) median household  
167 income published annually by the US Department of Housing & Urban  
168 Development. Whether with a rental unit or for a fee simple, for sale unit, the  
169 overall housing expense (rent, mortgage, property taxes, and insurances) for the  
170 unit shall not exceed thirty percent (30%) of the income limit provided for each unit  
171 type, based upon the number of bedrooms.

- 172
- 173 1. For a studio unit, the annual gross household income shall not exceed forty five  
174 percent (45%) of area median income and minimum household size is one (1)  
175 person, not to exceed two (2) people.
  - 176
  - 177 2. For a one-bedroom unit, the annual gross household income shall not exceed  
178 sixty five percent (65%) of the area median income and minimum household  
179 size of one (1) person, not to exceed two (2) people.
  - 180
  - 181 3. For a two-bedroom unit, the annual gross household income shall not exceed  
182 eighty five percent (85%) of the area median income and minimum household  
183 size of two (2) people, not to exceed two (2) people per bedroom.
  - 184
  - 185 4. For a three-bedroom unit, the annual gross household income shall not exceed  
186 one hundred and five percent (105%) of the area median income and minimum  
187 household size of three (3) people, not to exceed two (2) people per bedroom.
  - 188
  - 189 5. For a four or more-bedroom unit, the annual gross household income shall not  
190 exceed one hundred and twenty five percent (125%) of the area median income  
191 and minimum household size of four (4) people, not to exceed two (2) people  
192 per bedroom.
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6. For fee simple ownership, the limits provided above may be increased by fifteen (15%) based on unit type and shall include the overall housing expense.
  
7. Alternatively, if participating in another entity’s workforce (80% to 140% of Area Median Income) or affordable housing (less than 80% of Area Median Income) program, the income restrictions may adhere to the following guidelines shall not exceed the City’s income guidelines singularly or in combination with the alternative program for the units required to be income restricted under the City’s program. The applicant also shall comply fully with the requisite criteria requirements of the alternative program selected.
  - ~~a. “Affordable Housing Eligible Households” means a household with an annual gross household income at or less than eighty percent (80%) of the Area Median Income, calculated as percentages of the Median Family Income for Palm Beach County, as published annually by the US Department of Housing and Urban Development.~~
  
  - ~~b. “Workforce Housing Eligible Households” means a household with an annual gross household income within the following income categories: Moderate (80%-100%) and Middle (101%-140%) of the Area Median Income, calculated as percentages of the Median Family Income for Palm Beach County, as published annually by the US Department of Housing and Urban Development.~~
  
- e) *Additional restrictions.* The following requirements outline the restrictive covenant that shall be recorded and maintained on each unit awarded under the Affordable/Workforce Housing Program.
  1. The restrictive covenant shall be in a legal form acceptable to the department of community sustainability and the city attorney’s office or as otherwise provided by the city and shall require each unit awarded be maintained at the awarded level of affordability, in accordance with the Affordable/Workforce Housing Program, for a minimum of twenty-five (2025) years.
  
  2. The restrictive covenant shall include the more restrictive program requirements, which shall govern the project if other affordable/workforce housing incentives are combined with use of the Affordable/Workforce Housing Program.
  
  3. The restrictive covenant shall require an annual report of the project’s compliance with the restrictive covenants and the requirements of the Affordable/Workforce Housing Program be provided to the City or its designee for evaluation, review and approval. Should the annual report not be submitted or should it demonstrate the project is not meeting the requirements of the Affordable/Workforce Housing Program, the project owner shall pay the city, as a penalty, an amount no less than fifteen dollars (\$15) per square foot for each unit that did not comply with the program’s requirements for the previous year, or portion thereof. If the report is not submitted, the penalty payment will be

242 calculated as though no units met the requirements of the Affordable/Workforce  
243 Housing Program for the reporting period. The per square foot penalty value  
244 may increase based on the annual U.S. Consumer Price Index (CPI) and shall  
245 be reflected in the City's adopted annual Schedule of Fees and Charges. Any  
246 required penalty payment shall be made within ten (10) days of notification from  
247 the city of the calculated payment based on the report or failure to submit the  
248 report and the annual penalty value as adopted by the city.

- 249
- 250 4. The restrictive covenant shall provide for extension of the affordability period,  
251 as set forth in this section. If the property is qualified through its participation in  
252 another entity's affordability program, a separate restrictive covenant may be  
253 utilized to provide for the extension of the affordability period in accordance  
254 with the terms of this section.  
255

256 f) *Financial incentives.* The following are parameters for financial incentive values  
257 based on unit type, which may be utilized to ensure more than the required fifteen  
258 percent (15%) of the dwelling units available after the density increase incentive  
259 remain affordable for a guaranteed twenty-five (25) year period as governed  
260 through a covenant and/or deed restriction. Values may be paid through utilization  
261 of Sustainable Bonus Incentive Values, Transfer Development Right Values or  
262 cash payments from the City from the Affordable/Workforce Housing Program  
263 Trust Fund, Sustainable Bonus Incentive Trust Account or the Transfer  
264 Development Rights Trust Account or other legally approved funding source(s).  
265

- 266 1. For a studio dwelling unit, a one-time payment of \$40,000 or 50% percent of  
267 the area median income, whichever is greater;  
268
- 269 2. For a one-bedroom dwelling unit, a one-time payment of \$60,000 or 75%  
270 percent of the area median income, whichever is greater;  
271
- 272 3. For a two-bedroom dwelling unit, a one-time payment of \$80,000 or 100%  
273 percent of the area median income, whichever is greater;  
274
- 275 4. For a three-bedroom dwelling unit, a one-time payment of \$100,000 or 125%  
276 percent of the area median income, whichever is greater;  
277
- 278 5. For a four or more-bedroom dwelling unit, a one-time payment of \$120,000 or  
279 150% percent of the area median income, whichever is greater;  
280
- 281 6. For a fee simple ownership dwelling unit, an additional one-time payment of  
282 \$25,000 may be provided; and  
283
- 284 7. Payments shall be made at time of dwelling units receiving a final certificate of  
285 occupancy or certificate of completion.  
286

287 g) *Affordability extension(s).* The City shall have the express right, in its sole  
288 discretion, to extend the affordability deed restrictions and covenants for another  
289 period of no less than twenty-five (25) years) through the provision of a then current

290 economic incentive payment based on unit size. The affordability extension shall  
291 be available to the City pursuant to this subsection regardless of whether the  
292 original affordability period was under the Affordable/Workforce Housing Program  
293 or another entity's program.  
294

- 295 1. The City shall provide formal notice of intent to extend affordability of units a  
296 minimum of six (6) months prior to the expiration of the affordability deed  
297 restrictions and covenants.  
298
- 299 2. The City's notice shall include the number and type of units having affordability  
300 extended and the economic incentive to be provided for those units.  
301
- 302 3. The affordability extension may not exceed the original number and type of  
303 units governed by the Affordable/Workforce Housing Program.  
304
- 305 4. There shall be no limit on the number of affordability extensions the city may  
306 fund for a project.  
307
- 308 5. The extension incentive payment shall follow the parameters as set forth in f)  
309 of this section based on the values established for the year that the extension  
310 is authorized.  
311
- 312 6. Financial incentives and buy-down options, if part of the original approval, may  
313 each also be extended by mutual agreement of the City and the property  
314 owner(s) and payment by the City under the provisions of those sections at the  
315 time of the extension.  
316
- 317 7. If the original affordability period was under another entity's program, upon the  
318 City's notice of intent to extend affordability the covenant and/or deed restriction  
319 may be extended as-is or may be amended to comply with the provisions of the  
320 Affordable/Workforce Housing Program instead of the other entity's program,  
321 consistent with the provisions in the original recorded covenant and/or deed  
322 restriction providing for the affordability extension.  
323

324 h) Additional Buy Down Provisions for Affordability. The following are parameters for  
325 additional buy down values based on unit type, which may be utilized to reduce  
326 the individual unit type household income limits by an additional fifteen percent  
327 (15%) in order to provide expanded affordability for a guaranteed twenty-five (25)  
328 year period as governed through a covenant and/or deed restriction. Values will  
329 be paid as cash payments from the City from the Affordable/Workforce Housing  
330 Program Trust Fund or other legally approved funding source(s).  
331

- 332 1. For a studio dwelling unit, a one-time payment of \$40,000 or 50% percent  
333 of the area median income, whichever is greater;  
334
- 335 2. For a one-bedroom dwelling unit, a one-time payment of \$60,000 or 75%  
336 percent of the area median income, whichever is greater;  
337

- 338 3. For a two-bedroom dwelling unit, a one-time payment of \$80,000 or 100%  
339 percent of the area median income, whichever is greater;  
340
- 341 4. For a three-bedroom dwelling unit, a one-time payment of \$100,000 or  
342 125% percent of the area median income, whichever is greater;  
343
- 344 5. For a four or more-bedroom dwelling unit, a one-time payment of \$120,000  
345 or 150% percent of the area median income, whichever is greater;  
346
- 347 6. For a fee simple ownership dwelling unit, an additional one-time payment  
348 of \$25,000 may be provided; and  
349
- 350 7. Payments shall be made at time of dwelling units receiving a final certificate  
351 of occupancy or certificate of completion.  
352

353 i) *Policies and Procedures.* The city's director for community sustainability is hereby  
354 authorized to establish policies and procedures including covenants, accountability  
355 and reporting to ensure effective implementation of the Affordable/Workforce  
356 Housing Program and clarify the requirements and procedures as set forth herein.  
357

358 j) *Trust Fund.* There is hereby established an Affordable/Workforce Housing  
359 Program Trust Fund. The trust fund will be a separate line item in the City's budget.  
360

- 361 1. Payments required by the Affordable/Workforce Housing Program due to non-  
362 compliance with restrictive covenants shall be paid into the trust fund.  
363
- 364 2. Funds in the trust fund will be used to fund the financial incentives and the  
365 affordability extensions under the Affordable/Workforce Housing Program.  
366
- 367 3. At least once each fiscal period, the city manager shall present to the city  
368 commission a report on funds held in the trust fund, including any accrued  
369 interest, and any proposed use thereof. Monies, including any accrued interest,  
370 not assigned in any fiscal period shall be retained in the trust fund until the next  
371 fiscal period.  
372

373 k) *In Lieu Payment Provision.* In some instances, projects including Density, Intensity  
374 and/or Height Bonuses may not be appropriate for participation in the Program. In  
375 these cases, the project may pay an in lieu of payment based on the following  
376 provisions;

- 377 1. The fee shall be calculated on fifteen percent (15%) of the gross area of the  
378 bonuses requested for the project.
- 379 2. The fee shall be a one-time payment of \$50 or 0.0625% of the area median  
380 income, whichever is greater, per gross square foot.
- 381 3. Projects eligible for an in lieu of payment may include the following:  
382 i. Single or multiple use projects that do not include a residential use;  
383 ii. Mixed use projects that include residential and fewer than 25  
384 residential units;  
385 iii. Residential only projects that include fewer than 15 residential units;

386 iv. Any project that includes a residential use(s) and all of the dwelling  
387 units are for sale, home ownership such as condominiums,  
388 townhouses and/or single-family residences of which none are deed  
389 restricted as affordable/workforce housing.

390 4. Fee payment shall be due prior to issuance of any building permits related  
391 to the project.

392  
393 l) *Exemptions.* Projects in specific locations are exempt from the requirements of  
394 this section due to their maximum allowed density and/or to their allowed uses.

395 1. Individual residential dwelling units in the Single Family Residential (SF-R)  
396 and Single Family/Two Family Residential (SF/TF) Zoning Districts unless  
397 units are part of a project requesting additional densities under the  
398 provisions of one of the city’s incentive programs.

399 2. Projects within the Public (P), Public Recreation and Open Space (PROS),  
400 Beach and Casino (BAC), Conservation (C) and Industrial Park of  
401 Commerce (I-POC) Zoning Districts.

402  
403 **Section 4:** Severability. If any section, subsection, sentence, clause, phrase or  
404 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of  
405 competent jurisdiction, such portion shall be deemed a separate, distinct, and  
406 independent provision, and such holding shall not affect the validity of the remaining  
407 portions thereof.

408  
409 **Section 5:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in  
410 conflict herewith are hereby repealed to the extent of such conflict.

411  
412 **Section 6:** Codification. The sections of the ordinance may be made a part of  
413 the City Code of Laws and ordinances and may be re-numbered or re-lettered to  
414 accomplish such, and the word “ordinance” may be changed to “section”, “division”, or  
415 any other appropriate word.

416  
417 **Section 7:** Effective Date. This ordinance shall become effective 10 days after  
418 passage.

419  
420 The passage of this ordinance on first reading was moved by Vice Mayor McVoy,  
421 seconded by Commissioner Diaz, and upon being put to a vote, the vote was as follows:

422		
423	Mayor Betty Resch	AYE
424	Vice Mayor Christopher McVoy	AYE
425	Commissioner Sarah Malega	ABSENT
426	Commissioner Kimberly Stokes	AYE
427	Commissioner Reinaldo Diaz	AYE

428  
429 The Mayor thereupon declared this ordinance duly passed on first reading on the  
430 21<sup>st</sup> day of March, 2023.

431  
432

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

- 436
- 437 Mayor Betty Resch
- 438 Vice Mayor Christopher McVoy
- 439 Commissioner Sarah Malega
- 440 Commissioner Kimberly Stokes
- 441 Commissioner Reinaldo Diaz
- 442

443 The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_\_ day of  
444 \_\_\_\_\_, 2023.

LAKE WORTH BEACH CITY COMMISSION

449 By: \_\_\_\_\_  
450 Betty Resch, Mayor

451  
452 ATTEST:  
453  
454  
455 \_\_\_\_\_  
456 Melissa Ann Coyne, City Clerk  
457





DATE: January 23, 2023

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

FROM: William Waters, Director Community Sustainability

MEETING: February 1 & 8, 2023

SUBJECT: **Ordinance 2023-02:** Consideration of an ordinance amending Chapter 23 “Land Development Regulations,” Article 2 “Administration,” Division 3 “Permits,” Section 23.2-39 “Affordable/Workforce Housing Program” to provide clarification on the combination of incentives, qualifications for affordability, participation in other entity programs, and providing additional affordability buy downs provisions.

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**PROPOSAL / BACKGROUND/ ANALYSIS:**

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

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

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

**STAFF RECOMMENDATION:**

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2023-02.

**POTENTIAL MOTION:**

I move to RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION **TO ADOPT** the proposed LDR text amendments included in Ordinance 2023-02.

**Attachments**

- A. Draft Ordinance 2023-02

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** Community Sustainability

**TITLE:**

Ordinance 2023-03 & 2023-04 - Second Reading - A City-initiated small-scale Future Land Use Map (FLUM) amendment (Ordinance 2023-03) and a Zoning Map amendment (Ordinance 2023-04) on behalf of For The Children Inc (Lessee) located on City owned property at 1718 South Douglas Street

**SUMMARY:**

The proposed City-initiated FLUM amendment would amend the FLU designation for approximately 4.65 acres (2 subject properties) from the Public Recreation and Open Space (PROS) FLU to the Public (P) FLU. The proposed concurrent rezoning request would amend the zoning district on the subject properties from the Public Recreation and Open Space (PROS) zoning district to the Public (P) zoning district. The proposed map amendments would recognize the existing educational and community uses, and would allow for the expansion of facilities and use area on the site.

The proposed FLUM amendment is eligible for processing as a small-scale future land use map (FLUM) amendment per F.S. 163.3187. If adopted, the proposed FLUM amendment would be transmitted to the Florida Department of Economic Opportunity (DEO) upon adoption and become effective 31 days after adoption if not challenged within 30 days. The effective date of the rezoning would be the same day as the concurrent FLUM amendment.

**BACKGROUND AND JUSTIFICATION:**

The FLUM and Zoning Map amendments are proposed on property owned by City of Lake Worth Beach with a portion (4.62 acres) that is leased to the non-profit organization, For the Children, Inc. The historic Osborne School is located on this property. For The Children has a secured a grant to expand the facilities to provide additional services to children in the area and to rehabilitate the existing historic structure. In addition to the new facilities, the project will include an interactive educational component about The Osborne School, which is listed on the National Register of Historic Places for its role in the history of public education in Lake Worth Beach. The Osborne School is the only public school to be built for African-American students in the City. The school served residents of the City's segregated African-American Osborne neighborhood between 1948 and 1971. The subject amendments are corrective as the current uses are not permitted in the PROS zoning district, and would not allow the future expansion of site's facilities and use area.

The staff report was prepared in accordance with the requirements of Chapter 163 of the Florida Statutes, and provides the required, relevant and appropriate data based the City's community goals and vision and consistency with level of service requirements. The amendment is supported by and is consistent with the City's Comprehensive Plan, the Land Development Regulations, and Strategic Plan as described in the data and analysis contained in the attached advisory board staff report. There is no fiscal impact for this proposed amendment as the property's ownership and use is not proposed to be changed, and the proposed FLU and zoning district is Public (P).

The Planning & Zoning Board (PZB) unanimously voted to recommend approval of the proposed future land use map and zoning map amendments to the City Commission at their March 1, 2023 meeting.

The City Commission voted unanimously to approve the proposed future land use map and zoning map amendments at their March 21, 2023 meeting, and to schedule second reading/adoption on April 4, 2023..

**MOTION:**

Move to approve/disapprove Ordinance 2023-03 approving a City-initiated small-scale Future Land Use Map (FLUM) amendment (Ordinance 2023-03) on behalf of For The Children Inc (Lessee) located on City owned property at 1718 South Douglas Street and to transmit the adopted amendment to the Department of Economic Opportunity.

Move to approve/disapprove Ordinance 2023-04 approving a City-initiated Zoning Map amendment on behalf of For The Children Inc (Lessee) located on City owned property at 1718 South Douglas Street.

**ATTACHMENT(S):**

Ordinance 2023-03

Ordinance 2023-04

PZB Staff Report

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**ORDINANCE NO. 2023-03 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE CITY’S COMPREHENSIVE PLAN FUTURE LAND USE MAP THROUGH A SMALL SCALE MAP AMENDMENT FROM THE FUTURE LAND USE (FLU) DESIGNATION OF PUBLIC RECREATION AND OPEN SPACE (PROS) TO THE PUBLIC (P) FLU DESIGNATION ON THE PROPERTY GENERALLY LOCATED AT THE EAST SIDE OF SOUTH DOUGLAS STREET, WEST OF THE FEC RAILWAY, SOUTH OF LATONA AVENUE, AND NORTH HILLBRATH DRIVE AT 1718 SOUTH DOUGLAS STREET, AND AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the Florida Local Government Comprehensive Planning and Land Development Regulation Act, section 163.3220, *et seq.*, Florida Statutes, requires each municipality to adopt a comprehensive plan, including a future land use map and authorizes amendments to an adopted comprehensive plan; and

WHEREAS, this is a City-initiated request for two (2) parcels with a total of 4.65 acres described in Exhibit A (the “Property”) attached hereto and incorporated herein, for a small-scale map amendment to change the future land use designation of the property; and

WHEREAS, City staff has prepared and reviewed an amendment to the Future Land Use Map of the City’s Comprehensive Plan to change the land use designations of the property described below from a City of Lake Worth Beach future land use designation of Public Recreation and Open Space (PROS) to a City future land use designation of Public (P); and

WHEREAS, on March 1, 2023, the City Planning and Zoning Board, sitting as the duly constituted Local Planning Agency for the City, recommended approval of the Future Land Use Map Amendment to the Comprehensive Plan of the City; and

WHEREAS, the amendment qualifies and meets the criteria to be reviewed and approved as a small scale map amendment in accordance with section 163.3187, Florida Statutes; and

WHEREAS, the City Commission acknowledges that this Future Land Use Map Amendment is subject to the provisions of Section 163.3187, and 163.3189, Florida Statutes, and that the City shall maintain compliance with all provisions thereof; and

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WHEREAS, the City has received public input and participation through hearings before the Local Planning Agency and the City Commission in accordance with Section 163.3181, Florida Statutes; 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.

Section 2. The property of land more particularly described in **Exhibit A** is hereby designated Public (P) on the City's Future Land Use Map in **Exhibit B**.

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

Section 4. If any provision of this ordinance, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable,

Section 5. The effective date of this small scale map amendment shall be thirty-one (31) days after the Department of Economic Opportunity notifies the City that the plan amendment package is complete. If timely challenged, this amendment does not become effective until the Department of Economic Opportunity or the Administration Commission enters a final order determining the adopted amendment to be in compliance..

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

Mayor Betty Resch	AYE
Vice Mayor Christopher McVoy	AYE
Commissioner Sarah Malega	ABSENT
Commissioner Kimberly Stokes	AYE
Commissioner Reinaldo Diaz	AYE

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The Mayor thereupon declared this ordinance duly passed on first reading on the 21<sup>st</sup> day of March, 2023.

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

- Mayor Betty Resch
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Kimberly Stokes
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the \_\_\_ day of \_\_\_\_\_, 2023.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, City Clerk

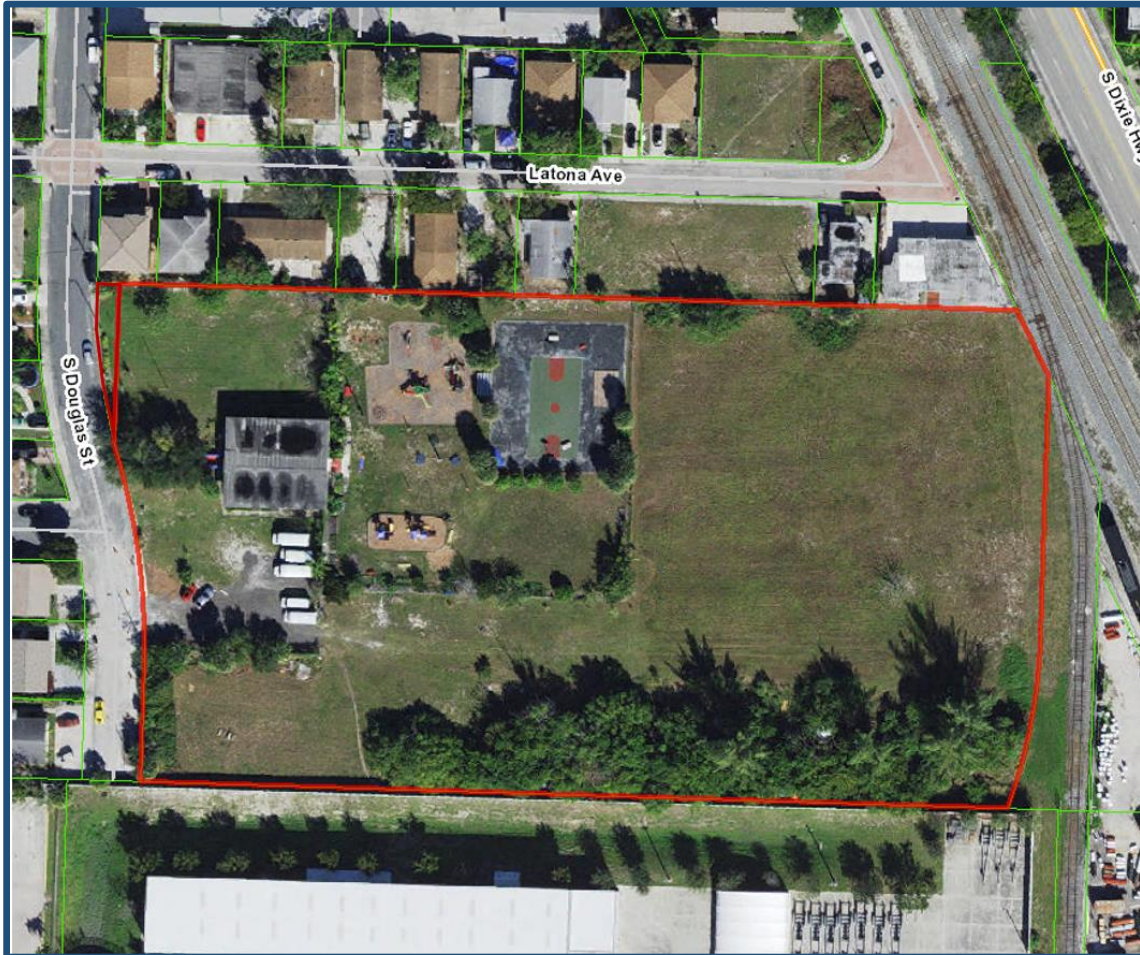
## Exhibit A Property Location

**Address:** 1718 South Douglas Street

**PCN:** 38-43-44-34-00-000-3020 (4.62 acres) & 38-43-44-34-03 -000-0310 (0.03 acres)

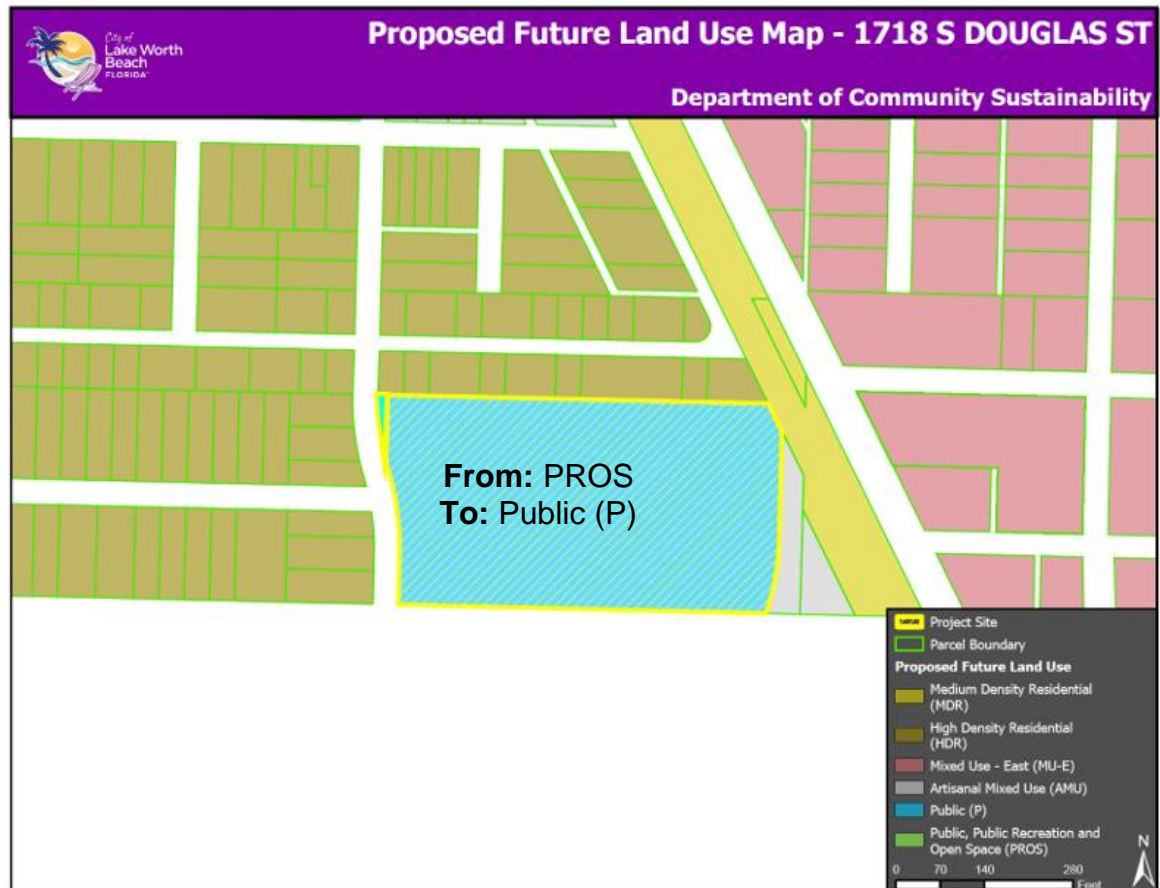
**Size:** 4.65 acres

**General Location:** East side of South Douglas Street, west of the FEC Railway, south of Latona Avenue, and north of Hillbrath Drive.



## Exhibit B

### Future Land Use Map (FLUM) Amendment From: Public Recreation and Open Space (PROS) To: Public (P) Future Land Use Designation





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**ORDINANCE NO. 2023-04 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE CITY’S OFFICIAL ZONING MAP FROM THE ZONING DISTRICT OF PUBLIC RECREATION AND OPEN SPACE (PROS) TO PUBLIC (P) ON THE PROPERTIES GENERALLY LOCATED AT THE EAST SIDE OF SOUTH DOUGLAS STREET, WEST OF THE FEC RAILWAY, SOUTH OF LATONA AVENUE, AND NORTH HILLBRATH DRIVE AT 1718 SOUTH DOUGLAS STREET, AND AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City Commission of the City of Lake Worth Beach, Florida, pursuant to the authority granted in Chapters 163 and 166, Florida Statutes, and the Land Development Regulations, as adopted by the City of Lake Worth Beach, is authorized and empowered to consider amending the City’s Official Zoning Map; and

WHEREAS, this is a City-initiated request for a zoning map amendment to change the zoning district of the properties as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the “Property”); and

WHEREAS, City staff has prepared and reviewed an amendment to the City’s Official Zoning Map to change the zoning district of the properties described below from Public Recreation and Open Space (PROS) to Public (P), pursuant to the City of Lake Worth Beach Land Development Regulations and Comprehensive Plan; and

WHEREAS, on March 1, 2023, the City Planning and Zoning Board, sitting as the duly constituted Local Planning Agency for the City, considered a concurrent future land use map (FLUM) amendment to the P future land use;

WHEREAS, on March 1, 2023, the City Planning and Zoning Board, sitting as the duly constituted Local Planning Agency for the City, recommended approval of the subject zoning map amendment to the City’s Official Zoning Map; and

WHEREAS, the City has received public input and participation through hearings before the Local Planning Agency and the City Commission in accordance with Section 163.3181, Florida Statutes; and

47 WHEREAS, the City Commission has considered all of the testimony and  
48 evidence and has determined that rezoning meets the rezoning review criteria of  
49 the Land Development Regulations, Section 23.2-36 and is consistent with the  
50 City's Comprehensive Plan and Strategic Plan.

51  
52 WHEREAS, the City Commission has considered all of the testimony and  
53 evidence and has determined that the adoption of this Ordinance is in the best  
54 interest of the citizens and residents of the City of Lake Worth Beach.

55  
56 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF  
57 THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

58  
59 Section 1. The foregoing recitals are hereby affirmed and ratified.

60  
61 Section 2. The two (2) parcels of land (4.65 acres) more particularly described  
62 in **Exhibit A** is hereby designated Public (P) on the City's Official Zoning Map.

63  
64 Section 3. The City's zoning maps shall be updated to reflect the changes to  
65 the property described in **Exhibit B**.

66  
67 Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances  
68 in conflict herewith are hereby repealed to the extent of such conflict.

69  
70 Section 5. Severability. If any provision of this ordinance or the application  
71 thereof is held invalid by a court of competent jurisdiction, the invalidity shall not  
72 affect other provisions of the ordinance which can be given effect without the  
73 invalid provision or application, and to this end the provisions of this ordinance  
74 are declared severable.

75  
76 Section 6. Effective Date. This ordinance shall become effective upon the  
77 same day  
78 as the concurrent Future Land Use Map amendment (Ordinance 2023-03). Per  
79 Florida Statute 163.3187. The Future Land Use Map amendment (Ordinance  
80 2023-03) shall be effective 31 days after adoption provided there is no challenge.

81  
82 The passage of this ordinance on first reading was moved by  
83 Commissioner Stokes, seconded by Vice Mayor McVoy and upon being put to a  
84 vote, the vote was as follows:

85		
86	Mayor Betty Resch	AYE
87	Vice Mayor Christopher McVoy	AYE
88	Commissioner Sarah Malega	ABSENT
89	Commissioner Kimberly Stokes	AYE
90	Commissioner Reinaldo Diaz	AYE

91  
92 The Mayor thereupon declared this ordinance duly passed on first reading  
93 on the 21<sup>st</sup> day of March 1, 2023.

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

- Mayor Betty Resch
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Kimberly Stokes
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, City Clerk

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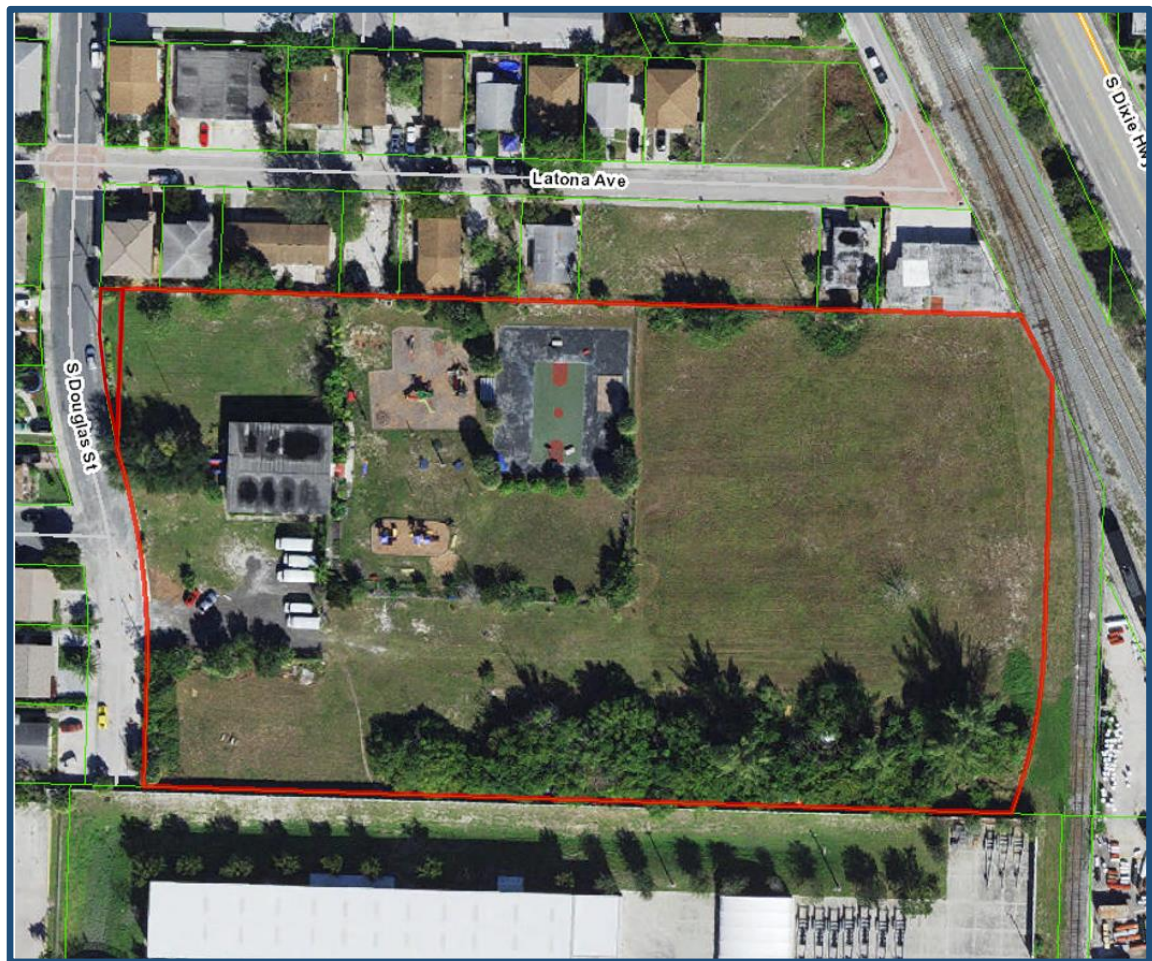
## Exhibit A Property Location

**Address:** 1718 South Douglas Street

**PCN:** 38-43-44-34-00-000-3020 (4.62 acres) & 38-43-44-34-03 -000-0310 (0.03 acres)

**Size:** 4.65 acres

**General Location:** East side of South Douglas Street, west of the FEC Railway, south of Latona Avenue, and north of Hillbrath Drive.

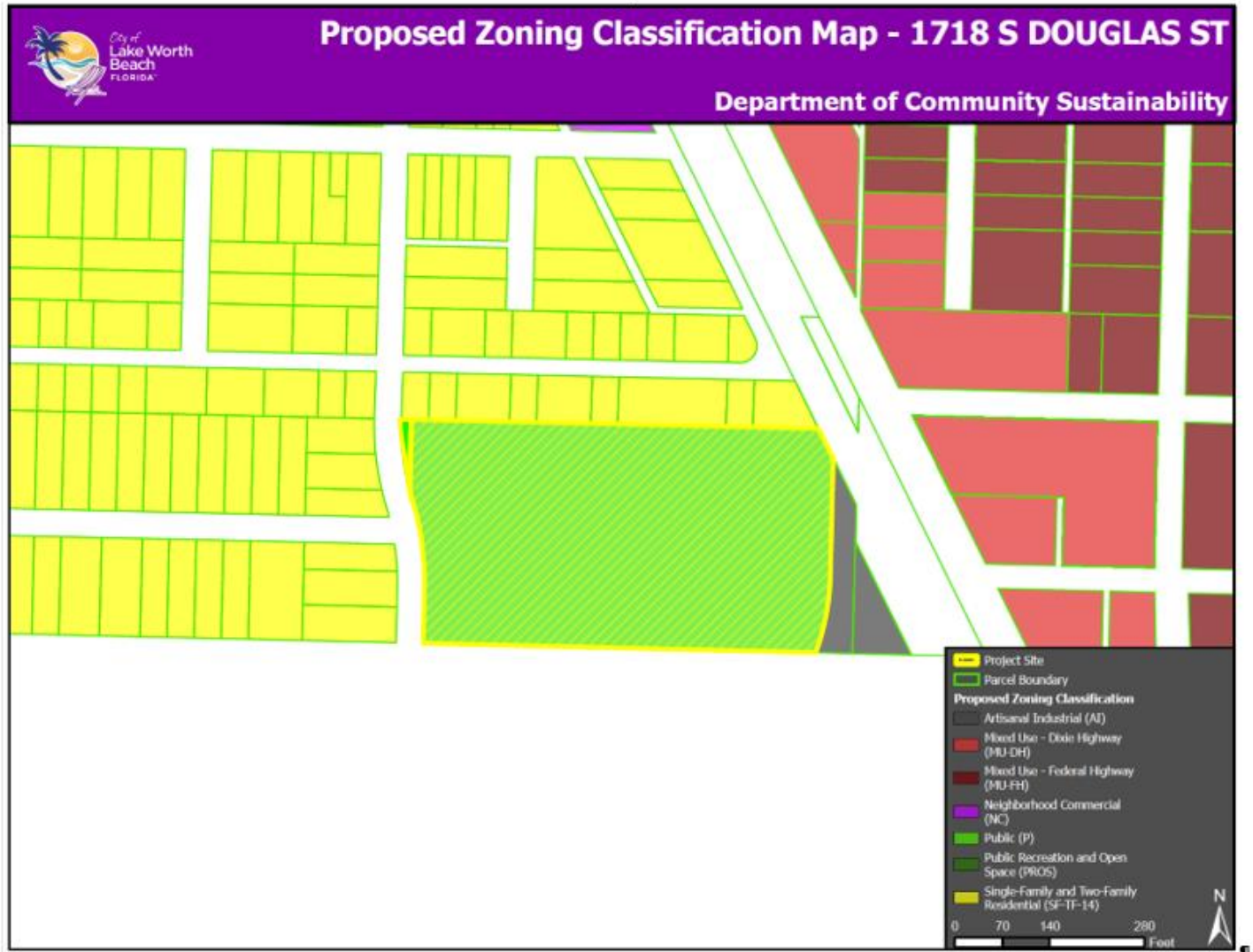


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**Exhibit B**  
**Amended Zoning District**  
Public Recreation and Open Space (PROS) to Public (P) Zoning District

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## PLANNING AND ZONING BOARD REPORT

**PZB 23-00300001 & 23-01300001**: City-initiated small-scale Future Land Use Map (FLUM) amendment (Ordinance 2023-03) and Zoning Map amendment (Ordinance 2023-04) on behalf of For The Children Inc (Lessee) requesting for the property located at 1718 South Douglas Street:

- A corrective FLUM amendment from the Public Recreation and Open Space (PROS) FLU to the Public (P) FLU; and,
- A corrective rezoning from the Public Recreation and Open Space (PROS) zoning district to the Public (P) zoning district.

**Transmittal Date:** February 22, 2023

**Meeting Date:** March 1, 2023

**Property Owner:** City of Lake Worth Beach

**Address:** 1718 South Douglas Street

**PCN:** 38-43-44-34-00-000-3020 (4.62 acres) & 38-43-44-34-03-000-0310 (0.03 acres)

**Size:** 4.65 acres

**General Location:** East side of South Douglas Street, west of the FEC Railway, south of Latona Avenue, and north of Hillbrath Drive.

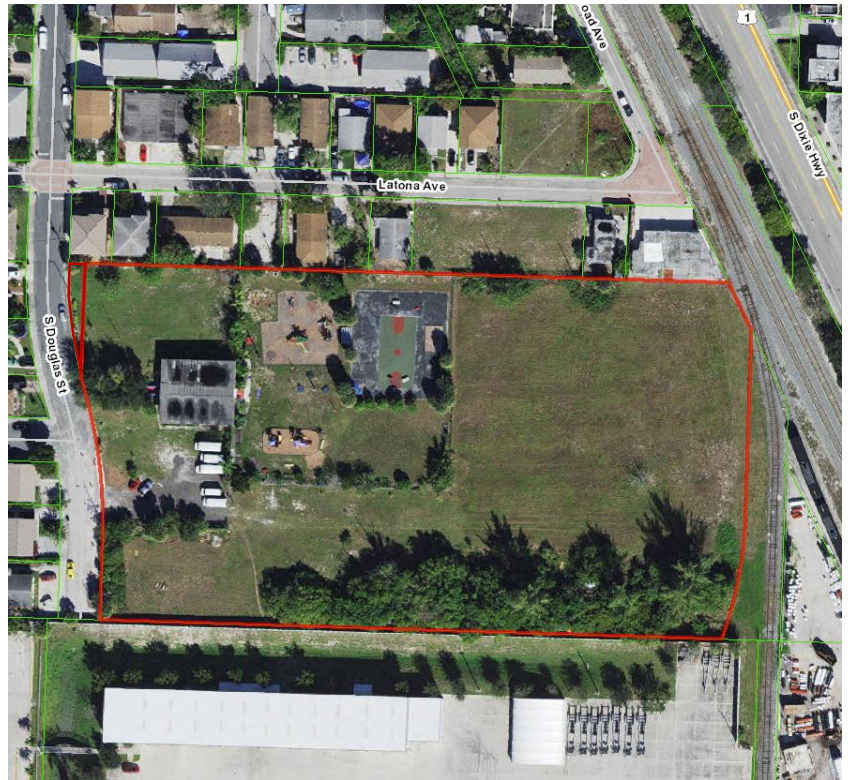
**Existing Land Use:** Charitable organization offering child care, educational support and community center uses (4.62 acres); and vacant (0.03 acres)

**Current Future Land Use Designation:** Public Recreation and Open Space (PROS)

**Proposed Future Land Use Designation:** Public (P)

**Current Zoning District:** Public Recreation and Open Space (PROS)

**Proposed Zoning District:** Public (P)



## RECOMMENDATION

The data and analysis in support of the proposed FLUM amendment was prepared in accordance with F.S. 163.3177. The proposed FLUM amendment is consistent with the purpose, intent, and requirements of the Comprehensive Plan, including the level of service requirements and the Strategic Plan. Therefore, staff recommends that the Planning and Zoning Board recommend to the City Commission to adopt the proposed small scale FLUM amendment (**PZB/HRPB 23-00300001**).

The proposed rezoning is consistent with the Comprehensive Plan, Strategic Plan, and the guidelines and standards found in the City of Lake Worth Beach Land Development Regulations (LDRs). Therefore, staff recommends that the Planning and Zoning Board recommend to the City Commission to approve the proposed rezoning request (**PZB/HRPB 23-01300001**).

## PROJECT DESCRIPTION

The proposed City-initiated FLUM amendment is a corrective amendment that would amend the FLU designation for approximately 4.65 acres (subject property) from the Public Recreation and Open Space (PROS) FLU to the Public (P) FLU. The proposed concurrent rezoning request would amend the zoning district on the subject property from the Public Recreation and Open Space (PROS) district to the Public (P) district. The proposed map amendments would recognize the historic use of the property as an educational institution and provide for greater flexibility for future expansions. The applicant has a received grant funding to expand its facilities, which includes a historic preservation component, to better serve local families. Furthermore, the amendments are supported by and are consistent with the Comprehensive Plan and City Strategic Plan as described in the respective Comprehensive Plan and Strategic Plan Analysis sections of this report for each request.

The data and analysis section of this staff report for the FLUM amendment was prepared in accordance with the requirements of F.S. 163.3177 and provides relevant and appropriate data based on the City's community goals and vision and consistency with level of service requirements. The proposed FLUM amendment is eligible for processing as a small-scale future land use map amendment per F.S.163.3187. If adopted, the proposed amendment would be sent to the Florida Department of Economic Opportunity (DEO) upon adoption and become effective 31 days after adoption if not challenged within 30 days.

The data and analysis section of this staff report for the concurrent Zoning Map amendment analyzes the proposed request for consistency with the City's Comprehensive Plan, Strategic Plan, and LDR Section 23.2-36(4): Review Criteria for the Rezoning of Land.

## COMMUNITY OUTREACH

Staff has not received letters of support or opposition for these applications.

## BACKGROUND

The proposed FLUM and Zoning Map amendments include two parcels owned by the City of Lake Worth Beach with a total 4.65 acres. For The Children Inc is located on the larger parcel (4.62 acres) that contains The Osborne School. For The Children has a secured a grant to expand the facilities to provide additional services to children in the area and to rehabilitate the existing historic structure. In addition to the new facilities, the project will include an interactive educational component about The Osborne School, which is listed on the National Register of Historic Places for its role in the history of public

education in Lake Worth Beach. The Osborne School is the only public school to be built for African-American students in the City. The school served residents of the City's segregated African-American Osborne neighborhood between 1948 and 1971.

In 1917, a five-block, ten-acre neighborhood in Lake Worth Beach located west of the FEC railroad and Dixie Highway was reserved for Black laborers and their families. The original plat entered in the Palm Beach Land Records was labeled "Osborne Colored Addition to Lake Worth." The name Osborne was presumably derived from nearby Lake Osborne. Original residents of the Osborne neighborhood moved to this area from the Bahamas and South Georgia. Family surnames of these original settlers included Glinton, Gibson, Jackson, Knowles, and Grimes. After 1922, several residents moved to the Osborne neighborhood from Lantana, which had passed an ordinance prohibiting "members of the colored races and people of foreign birth" from owning property in the town.

Although the Osborne neighborhood was laid out in 1917, the Palm Beach County Board made no provision for the local education of the residents' school-age children. Until the early 1940s, most African-American students in Lake Worth were bused to segregated schools in Delray Beach, nearly 15 miles to the south. By the 1940s, population growth in Palm Beach County spurred the construction of several schools for African-American students. On August 13, 1945, the Palm Beach County Board of Public Instruction authorized the purchase of land in the Osborne section of Lake Worth scheduled for sale for tax delinquency. The Board declared that the land was to be used for a public elementary school.

On February 25, 1947, the Board of Public Instruction authorized drawing up plans for a new Osborne School. The Board instructed its architect, Edgar S. Wortman, to utilize surplus lumber from the newly decommissioned Camp Murphy. Wortman, who was the unofficial architect for the Palm Beach County School Board, was responsible for many other schools in the county (including Pahokee School, Riviera Beach Junior High School, and part of Palm Beach High School) during the 1930s and 1940s.

Lake Worth Beach was hit by a severe hurricane on September 16, 1947. At a special meeting of the Palm Beach County Board of Instruction, the Board noted that the Osborne School was one of several in the county badly damaged by the hurricane and needed to be replaced by a more permanent building. On October 17, 1947, Wortman submitted a new set of plans for the Osborne School, utilizing concrete block construction instead of wood frame.

The Osborne school quickly became a center of the African-American community's educational and social life and was a source of community pride. Many of its teachers were locally trained and educated. The school closed in 1971, but reopened as a Head Start and community education facility in 1980. In 1985, the property was purchased by the City of Lake Worth Beach, and then leased to local community groups, who operated the school as an after-school training and educational facility. For The Children Inc began operating an after school program in 2000.

*Source: Osborne School – National Register of Historic Places Registration Form*

#### **FUTURE LAND USE MAP (FLUM) AMENDMENT ANALYSIS**

The proposed Public (P) FLU for the subject properties is compatible with the High Density Residential and Artisanal Mixed Use FLU designations of surrounding properties. The following outlines the FLU designations for the adjacent areas:



Subject Property FLU	Adjacent Direction	Adjacent Future Land Use	Existing Use(s)
Public Recreation and Open Space	North	High Density Residential	Single Family, Two-Family, Multi-Family, and Vacant
	South	Outside of City Limits	N/A
	East	Artisanal Mixed Use	Vacant and Utilities
	West	High Density Residential	Single Family, Two-Family, and Multi-Family

The Public (P) zoning district implements the Public (P) future land use category of the Lake Worth Beach Comprehensive Plan. The Public zoning district is specifically used for public school, institutional, community and public uses; and, provides land development regulations for publicly owned lands. As the district allows for a diversity of uses, the expansion of existing uses and the approval of new uses requires board approval at a public hearing to ensure community notice and comment on the use of public lands. The subject amendments to the FLUM and rezoning would allow for the site to be expanded as an after school educational facility and community center use with additional classrooms, assembly space, parking, and sports recreation for the students and staff. The current and historic use of the site is not permitted in the PROS zoning district. Expansion of these educational and community uses would help the City of Lake Worth Beach achieve educational, cultural, and historic preservation goals enumerated in its Strategic Plan and as consistent with the Comprehensive Plan.

**Consistency with the Comprehensive Plan**

The proposed FLUM amendments are consistent and in support of the following associated Objectives and Policies of the City of Lake Worth Beach’s Comprehensive Plan. The proposed amendment is amending the subject site from one public land use category to another. The underlined text emphasizes key concepts, strategies and objectives within these objectives and policies that are furthered by the subject amendments.

**1. FUTURE LAND USE ELEMENT**

**Objective 1.1.2: Future Land Use Map and Criteria for Delineating Land Use Designation Boundaries**  
 The City of Lake Worth Future Land Use Element contains a system of land use designations. The Future Land Use Map allocates those land uses spatially to outline the desired future development pattern for the City of Lake Worth

**Policy 1.1.2.13: Locational Criteria for the Public and Public Recreation and Open Designations**  
The Public and Public Recreation and Open Space land use designations are mapped on sites where such uses already exist. The mapping of these uses on these sites indicates that no alternative use of these sites should be established without a properly considered and enacted Future Land Use Map amendment. Public school sites have been delineated in areas proximate to residential land. Lands contiguous to school sites which are owned by the School Board, and proposed for school expansion are intended to be included in this category. The City retains the right to impose reasonable site planning standards when existing schools are proposed for expansion or new school sites are developed. Schools are allowed in all zoning districts except Industrial.

**Goal 1.2:** To strive to foster the City of Lake Worth as a livable community where live, work, play and learn become part of the daily life of residents and visitors.

**GOAL 1.3:** To preserve and enhance the City's character as a quality residential community and business center within Palm Beach County's urban area

**GOAL 1.4:** Encourage preservation and rehabilitation of natural, historic and archaeological resources and where appropriate restrict development that would damage or destroy these resources.

**Objective 1.4.2:** To provide for the protection, preservation or sensitive reuse of historic resources. Policy 1.4.2.1: The City shall refine and maintain regulations to provide for protection, preservation or sensitive reuse of designated historic neighborhoods and historic sites listed on the National Register, Local Designation and/or Florida Site File.

## 2. EDUCATION ELEMENT

**Goal 10.1:** Advocate for the educational needs of the citizens of Lake Worth by fostering and further developing relationships between the City, Non-Profit partners, Colleges and Universities, Government Entities and the School District of Palm Beach County (the District).

**OBJECTIVE 10.1.4:** The City shall work to promote an approach to education that is coordinated with ancillary facilities such as: parks, libraries, recreational facilities, and Non-profit agencies.

**Policy 10.1.4.2:** The City shall encourage the location and development of facilities such as university campuses, testing centers, private educational facilities, satellite educational programs, magnet facilities, teaching universities, and technical centers that will enhance the educational opportunities in Lake Worth for children and adults alike. These public and private facilities shall be located in areas that meet the location criteria and site development conditions adopted in the Land Development Regulations.

## 3. HOUSING AND NEIGHBORHOODS ELEMENT

Policy 3.3.1.7: Strengthen the positive attributes and distinctive character of each neighborhood to help sustain Lake Worth as a healthy, vital City.

- Strengthen the sense of place in each neighborhood with adequate and well-designed, public facilities such as libraries, schools, recreation centers, fire stations and streetscapes.
- Continue to support public art and historic preservation as a focus for neighborhood identity and pride.
- Recognize that every neighborhood has assets that identify that neighborhood and contribute to the well-being of the people who live there. Understand what those are and look for opportunities to enhance them and leverage them for neighborhood improvement. Assets include trees, large yards, schools, people and independent businesses.

**4. ECONOMIC DEVELOPMENT ELEMENT**

Policy 11.1.7.1: The City shall encourage education and training institutions to provide education and research programs that meet the needs of targeted cluster industries, and encourage supplemental education to support existing businesses and programs to stimulate new business development.

**Consistency with the Strategic Plan**

The proposed amendments further the City’s Strategic Plan that is committed to building a vibrant and diverse economy, planning thoughtfully for the future, and support the Strategic Pillars of positioning Lake Worth Beach to be a competitive viable location of choice, strengthening Lake Worth Beach as a “Community of Neighborhoods,” and navigating towards a sustainable community.

Specifically, the proposed amendments are consistent with the following Strategic Plan Pillars:

**Pillar I: Positioning Lake Worth Beach to be a competitive viable location of choice**

A: Ensure effective economic development incentives and zones

E: Provide superior public amenities and services to retain existing and entice new residents and businesses

**Pillar II: Strengthening Lake Worth Beach as a ‘Community of Neighborhoods’**

D: Preserve the character and protect historic resources.

F: Deliver sustainable indoor-outdoor leisure opportunities (Parks and Open Spaces).

**Pillar IV: Navigating Towards a Sustainable Community**

D: Influence the supply and expansion of jobs.

E: Ensure facility placement, construction and development that anticipates and embraces the future.

**Level of Service Analysis**

Pursuant to Chapter 163 of the Florida Statutes, any FLU amendment must be evaluated to determine if the proposed future land use will have a significant impact on the long-range level of service (LOS) for public facilities (i.e. drainage, potable water, wastewater, solid waste, parks, schools, and traffic) that service the property and the surrounding area. The LOS for public facilities is analyzed based on the maximum development potential for the existing and proposed FLU, and whether or not each public facility has capacity to accommodate any additional demands.

According to the City’s Comprehensive Plan, there is no change in the potential development. The existing Public Recreation and Open Space (PROS) FLU maximum development potential is 0 du/acre and the proposed Public FLU is also 0 du/acre. Public FLU generates the same demands as Public Recreation and Open Space FLU. Community facilities and services are available in the area to sustain the future demands and long-range Level of Service (LOS) can be met with current and planned system capacities. The following table provides a LOS summary.

**FLUM AMENDMENT LOS SUMMARY TABLE**

Type of Facility:	Existing FLU Designations: (at 0 du/acre for Public Recreation and Open Space)	Proposed FLU Designations: (at 0 du/acre for Public)
Drainage	3-year, 1-hour storm duration, as recorded in the FDOT Drainage Manual IDF curves, current edition and fully contained onsite.	Both FLU designations meet the 3 yr. – 1 hr. drainage LOS requirements. Site improvements may be required to provide drainage collection and conveyance systems to positive outfall.

<b>Potable Water</b>	105 gpcpd (gallons per capita per day).	The City facilities have available capacity to accommodate both FLU designations.
<b>Sanitary Sewer</b>	Collection and treatment of 100 gallons per capita per day at secondary treatment level, or 250 gallons per ERU per day.	The City facilities have available capacity to accommodate both FLU designations.
<b>Solid Waste</b>	Collection and disposal of 6.5 pounds of solid waste per capita per day.	The Solid Waste Authority has available capacity to accommodate the demand of both FLU designations.
<b>Parks</b>	2.5 acres of community parks for every 1,000 persons and 2.0 acres of neighborhood parks for every 1,000 persons.  Public Use No increase in demand.	Public Use No increase in demand / No density Expansion of the existing facilities are planned to be added in the future on this property, which would include some recreational facilities.
<b>Schools</b>	Public Use No Increase in School Capacity Required.	Public Use No Increase in School Capacity Required/ No density
<b>Traffic</b>	Site historically utilized as school, recreational, and community center uses.	This item is a corrective amendment. The expansion of the site’s facilities in the future would be subject to review by the City Engineer, and PBC County-wide concurrency to ensure any additional uses and structures will meet required levels of service by both the City and Palm Beach County.

**ZONING MAP AMENDMENT ANALYSIS**

**Consistency with the Comprehensive Plan and Strategic Plan**

The subject property currently has a Future Land Use (FLU) designation of Public Recreation and Open Space (PROS). Per **Comprehensive Plan Future Land Use Element Policy 1.1.1.11**, the PROS land use category “designates locations for parks and other outdoor open space areas intended for active use or passive use. Sites designated in the Public Recreation and Open Space category should not be used for other than public recreation purposes or essential services without careful consideration of the most appropriate use and a properly enacted amendment to the land use plan. The implementing zoning district is PROS.” The property’s historic use as an educational site is not consistent with the current PROS zoning district. While the site does offer some recreational opportunities, the primary use has been as school or as educational program for local children. The intention is to change the zoning district of the property from PROS to Public (P) with a concurrent FLUM change from the current PROS future land use to Public (P) future land use (FLU) to better reflect the existing use of the site, and allow for expansion of the use over time. Approval of the FLU map amendment and rezoning request would allow For The Children Inc to improve the site while being consistent with the intent of the requested zoning district and future land use designation.

Additionally, the proposed changes to the property's Zoning District and FLU Designation are consistent with **Future Land Use Element Policy 1.1.2.13 (Locational Criteria for the Public and Public Recreation and Open Designations)** as this site is adjacent to residential uses to the north and west. **Future Land Use Element Goal 1.2 states:** "To strive to foster the City of Lake Worth as a livable community where live, work, play and learn become part of the daily life of residents and visitors." Approval of the rezoning request would be consistent with the educational and community uses and would be in keeping with the intent of **Goal 1.2**.

Furthermore, the **Education Element Policy 10.1.4.2** provides for encouragement of the location and development of educational facilities that will enhance the educational opportunities in Lake Worth Beach.

**The City's Strategic Plan** sets goals and ideals for the City's future vision and lays out methods to achieve them. Pillar Two, Section F seeks to "Collaborate with schools to foster rich, diverse and culturally enriching educational opportunities for all". Approval of the rezoning will result in the continued educational use of the site as well as opportunities to expand in concert with the permitted uses under the Public Zoning District. These expansions will allow for more diverse programs that can be implemented on site and in keeping with the City's Strategic Plan. Additionally, the proposal, if approved, would be consistent with **Strategic Plan Pillar I. A and E** ensuring effective economic development and superior public amenities and services, and **Strategic Plan Pillar IV. D and E** influencing the supply and expansion of jobs, and ensuring facilities that anticipate and embrace the future.

#### **Consistency with the City's Land Development Regulations**

Rezoning of the subject site will reflect the current educational use of the property and allow for future educational development of the property. Schools are not permitted in the PROS zoning district which is inconsistent with the historic use of the property. The property is adjacent to residential uses on the north and west sides and would be subject to the development regulations for sites adjacent to residentially zoned lands (**Section 23.3-26.c.1-5**).

The LDRs also require all rezoning requests with a concurrent Future Land Use Map (FLUM) Amendment be analyzed for consistency with the review criteria in Section 23.2-36(4). Staff's full analysis of the review criteria is provided below. The analysis demonstrates that the proposed rezoning complies with the review criteria and that the required findings can be made in support of the rezoning.

#### **Section 23.2-36(4): Review Criteria for the Rezoning of Land**

The Department of Community Sustainability is tasked in the Code to review rezoning applications for consistency with the findings for granting rezoning applications in LDR Section 23.2-36 and to provide a recommendation for whether the application should be approved, approved with conditions, or denied.

At the hearing on the application, the Planning and Zoning Board or Historic Resources Preservation Board shall consider the rezoning/FLUM amendment application and request, the staff report including recommendations of staff, and shall receive testimony and information from the petitioner, the owner, city staff, and public comment. At the conclusion of the hearing, the Board shall make a recommendation on the rezoning/FLUM amendment request to the City Commission.

The land development regulations require all rezoning requests with a concurrent FLUM Amendment be analyzed for consistency with **Section 23.2-36(4)**. Staff has reviewed the rezoning against this section and has determined that the rezoning complies with the following review criteria:

**a. Consistency:** Whether the proposed rezoning amendment would be consistent with the purpose and intent of the applicable comprehensive plan policies, redevelopment plans, and land development regulations. Approvals of a request to rezone to a planned zoning district may include limitations or requirements imposed on the master plan in order to maintain such consistency.

**Analysis:** If the FLUM amendment and the rezoning are approved, the new P zoning district would be consistent with the existing uses on the property, and further the purpose and intent of the P FLU designation. Additionally, the existing educational, recreational and community uses on the site are consistent with both the P FLU designation and P zoning district. **Meets Criterion.**

**b. Land use pattern.** Whether the proposed FLUM amendment would be contrary to the established land use pattern, or would create an isolated land use classification 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 FLUM amendments that would result in more desirable and sustainable growth for the community.

**Analysis:** The rezoning request will not be contrary or incompatible to the established land pattern, nor will it create an isolated zoning district unrelated to the adjacent and nearby classifications or constitute a grant of special privilege to the petitioner as contrasted with the protection of the public welfare. The proposed Public zoning district is consistent with the current and future use of the property. Both the current and proposed zoning districts are for publicly owned lands. Below is a table outlining the existing zoning and future land use designations of adjacent properties. **Meets Criterion.**

Subject Property FLU	Adjacent Direction	Adjacent Future Land Use Designations	Adjacent Zoning Districts	Existing Use
Public Recreation and Open Space	North	High Density Residential	Single-Family and Two-Family Residential	Single Family, Two-Family, Multi-Family, and Vacant
	South	Outside of City Limits	Outside of City Limits	N/A
	East	Artisanal Mixed Use	Artisanal Industrial	Vacant and Utilities
	West	High Density Residential	Single-Family and Two-Family Residential	Single Family, Two-Family, and Multi-Family

**c. Sustainability:** Whether the proposed rezoning would support the integration of a mix of land uses consistent with smart growth or sustainability initiatives, with an emphasis on 1) complementary land uses; 2) access to alternative modes of transportation; and 3) interconnectivity within the project and between adjacent properties.

**Analysis:** The rezoning request supports the integration of a mix of land uses consistent with smart growth and sustainability initiatives with an emphasis on complementary land uses. Approval of the rezoning request would reflect existing educational land use of the Osborne School. Further, the proposed rezoning would allow the City to benefit from increased efficiency and the proximity of educational services on already-developed land that compliments the existing educational, community and recreational uses and facilities. The uses immediately surrounding the properties are primarily single-family residential, and multi-family residential. The site’s existing uses are considered complementary uses in function and nature to residential uses. Approval of the rezoning will allow for continuation of these complementary uses. **Meets Criterion.**

**d. Availability of public services/infrastructure:** Requests for rezoning to planned zoning districts shall be subject to review pursuant to section 23.5-2.

**Analysis:** This criterion is only applicable to requests to rezone land to a planned zoning district. As this request seeks approval to rezone the subject properties to the conventional Public zoning district and not a planned development district, this criterion does not apply. **Criterion not applicable.**

**e. Compatibility:** The application shall consider the following compatibility factors:

1. Whether the proposed FLUM amendment 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.

**Analysis:** The proposed Public (P) FLU for the subject property is compatible with the residential and mixed-use FLU designations of surrounding properties and will not affect the property values of the neighborhoods. The existing zoning district of the subject site is not reflective of the current uses on the site. Rezoning of the subject site and the land use change to Public would be consistent with the current use of the site, allow for future modernization/expansion, and restoration of the historic structure. **Meets Criterion.**

**f. Direct community sustainability and economic development benefits:** For rezoning involving rezoning to a planned zoning district, the review shall consider the economic benefits of the proposed amendment, specifically, whether the proposal would:

1. Further implementation of the city's economic development (CED) program;
2. Contribute to the enhancement and diversification of the city's tax base;
3. Respond to the current market demand or community needs or provide services or retail choices not locally available;
4. Create new employment opportunities for the residents, with pay at or above the county average hourly wage;
5. Represent innovative methods/technologies, especially those promoting sustainability;
6. Support more efficient and sustainable use of land resources in furtherance of overall community health, safety and general welfare;
7. Be complementary to existing uses, thus fostering synergy effects; and
8. Alleviate blight/economic obsolescence of the subject area.

**Analysis:** The rezoning request does not include rezoning to a planned zoning district nor does it have a concurrent site plan application in review at this time. As such, this criterion is not applicable. **Criterion not applicable.**

**g. Economic development impact determination for conventional zoning districts:** For 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
2. Represent a potential decrease in the number of uses with high probable economic development benefits.

**Analysis:** The proposed rezoning to the P zoning district will not result in a decrease in development intensity or of a public amenity for the neighborhood. The education use is consistent with the City's goal to encourage education and training institutions to provide education and research programs and support existing businesses and programs to stimulate new business development. **Meets Criterion.**

**h. Commercial and industrial land supply.** The review shall consider whether the proposed FLUM amendment would reduce the amount of land available for commercial/industrial development. If such determination is made, the approval can be recommended under the following conditions:

1. The size, shape, and/or location of the property makes it unsuitable for commercial/industrial development; or
2. The proposed FLUM amendment provides substantiated evidence of satisfying at least four (4) of the direct economic development benefits listed in subparagraph "f" above; and
3. The proposed FLUM amendment would result in comparable or higher employment numbers, building size and valuation than the potential of existing land use designation.

**Analysis:** If approved, the proposed rezoning will not result in a reduction of land available for commercial and industrial development. Commercial (apart from recreational) and industrial uses are not permitted under the existing zoning. Therefore, the change from PROS to P zoning district would not reduce or change the commercial and industrial development potential of the subject properties. **Meets Criterion.**

*i. Alternative sites.* Whether there are sites available elsewhere in the city in zoning districts which already allow the desired use.

**Analysis:** The purpose of the rezoning request is to reflect the long-standing existing uses on the subject properties as a Public use. As such the proposed P rezoning is appropriate for the subject properties. **Meets Criterion.**

*j. A 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.

**Analysis:** The rezoning request does not require or include a concurrent site plan application as it is a corrective amendment. As such, this **criterion is not applicable.**

The analysis has shown that the required findings can be made in support of the rezoning. Therefore, the proposed rezoning is consistent with the review criteria for rezoning as outlined in LDR Section 23.2-36.

## CONCLUSION

The proposed FLUM amendment request is consistent with the purpose, intent, and requirements of the Comprehensive Plan. The proposed rezoning is also consistent with the purpose, intent, and requirements of the Comprehensive Plan and LDRs. Therefore, staff recommends that the Board recommend approval to the City Commission of both the FLUM amendment and the Zoning Map amendment based on the data and analysis in this report and the findings summarized below:

- The amendments are consistent with the existing uses of the subject property, and would allow for future expansion of these uses, which would provide additional educational, recreational, and cultural resources and opportunities for the City's residents;
- The amendments are supported by and are consistent with the Comprehensive Plan and City Strategic Plan as described in the respective Comprehensive Plan and Strategic Plan Analysis sections of this report;
- The FLUM amendment is supported by data and analysis prepared in accordance with the requirement of F.S. 163.3177 that provides relevant and appropriate data based on the City's community goals and vision and consistency with level of service requirements; and
- The Zoning Map amendment is consistent with the proposed FLUM amendment.

## BOARD POTENTIAL MOTION:

I MOVE TO RECOMMEND APPROVAL OF PZB PROJECT NUMBER 23-00300001 & 23-01300001 of the proposed amendments to the Future Land Use Map and the Zoning Map based on the data and analysis in the staff report and the testimony at the public hearing.

I MOVE TO NOT RECOMMEND APPROVAL OF PZB PROJECT NUMBER 23-00300001 & 23-01300001 of the proposed amendments to the Future Land Use Map and Zoning Map as the proposal is not consistent with the City's Comprehensive Plan and Strategic Plan for the following reasons [Board member please state reasons.]

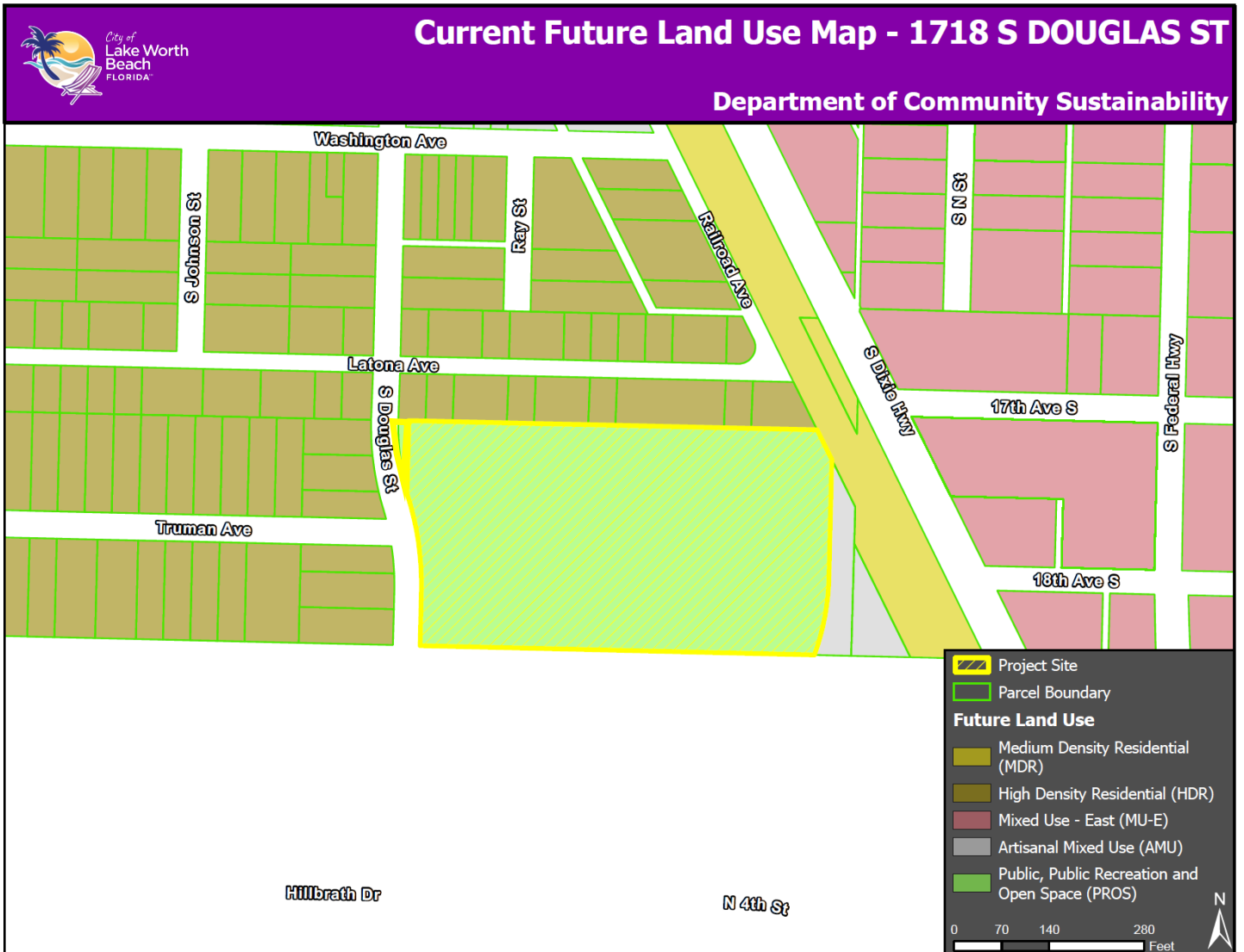


**Consequent Action:** The Planning and Zoning Board will be making a recommendation to the City Commission on the FLUM and Zoning Map amendment requests.

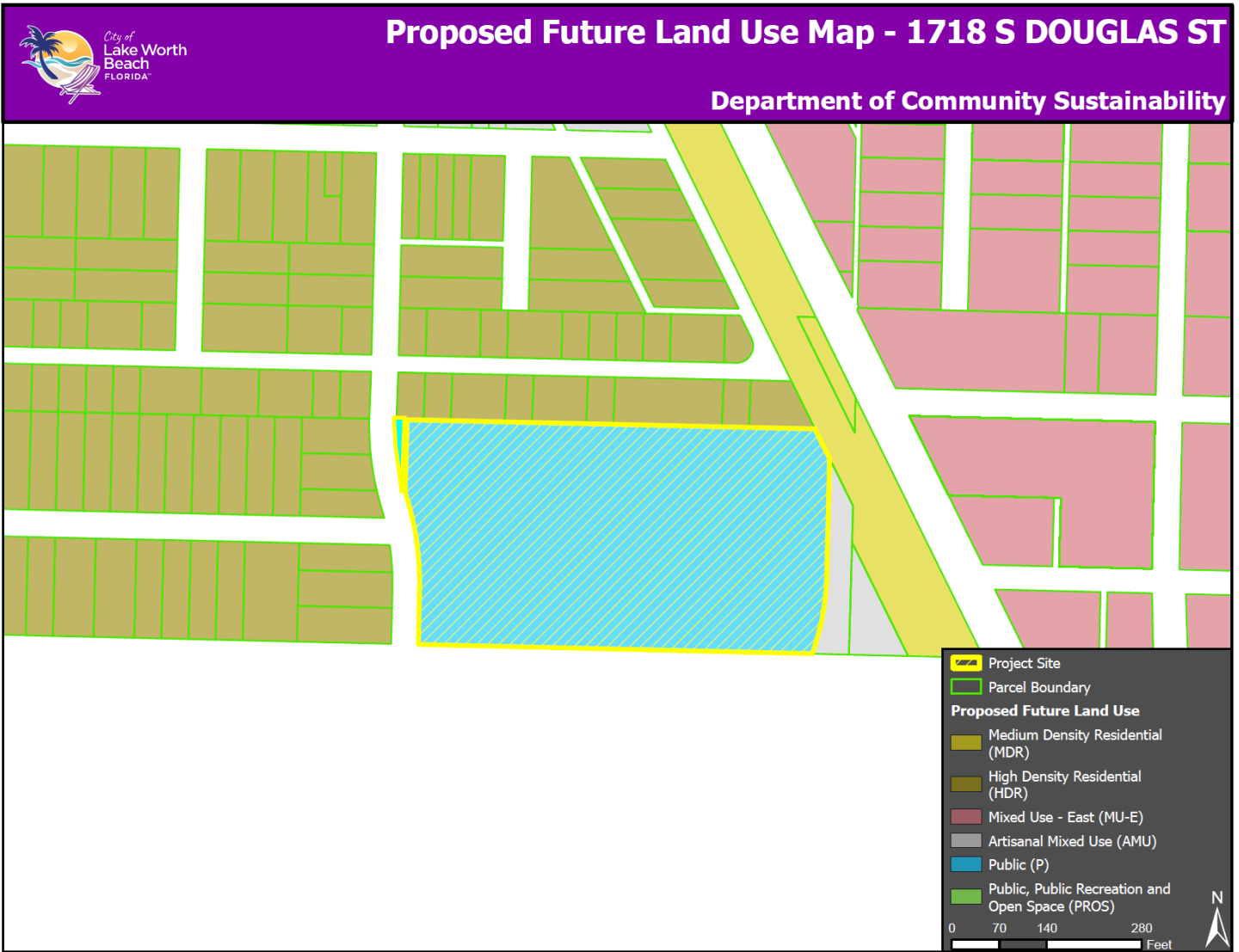
#### **ATTACHMENTS**

- A. Current FLU Map of property
- B. Proposed FLU Map of property
- C. Current Zoning Map of property
- D. Proposed Zoning Map of property
- E. DRAFT Ordinance 2023-03
- F. DRAFT Ordinance 2023-04

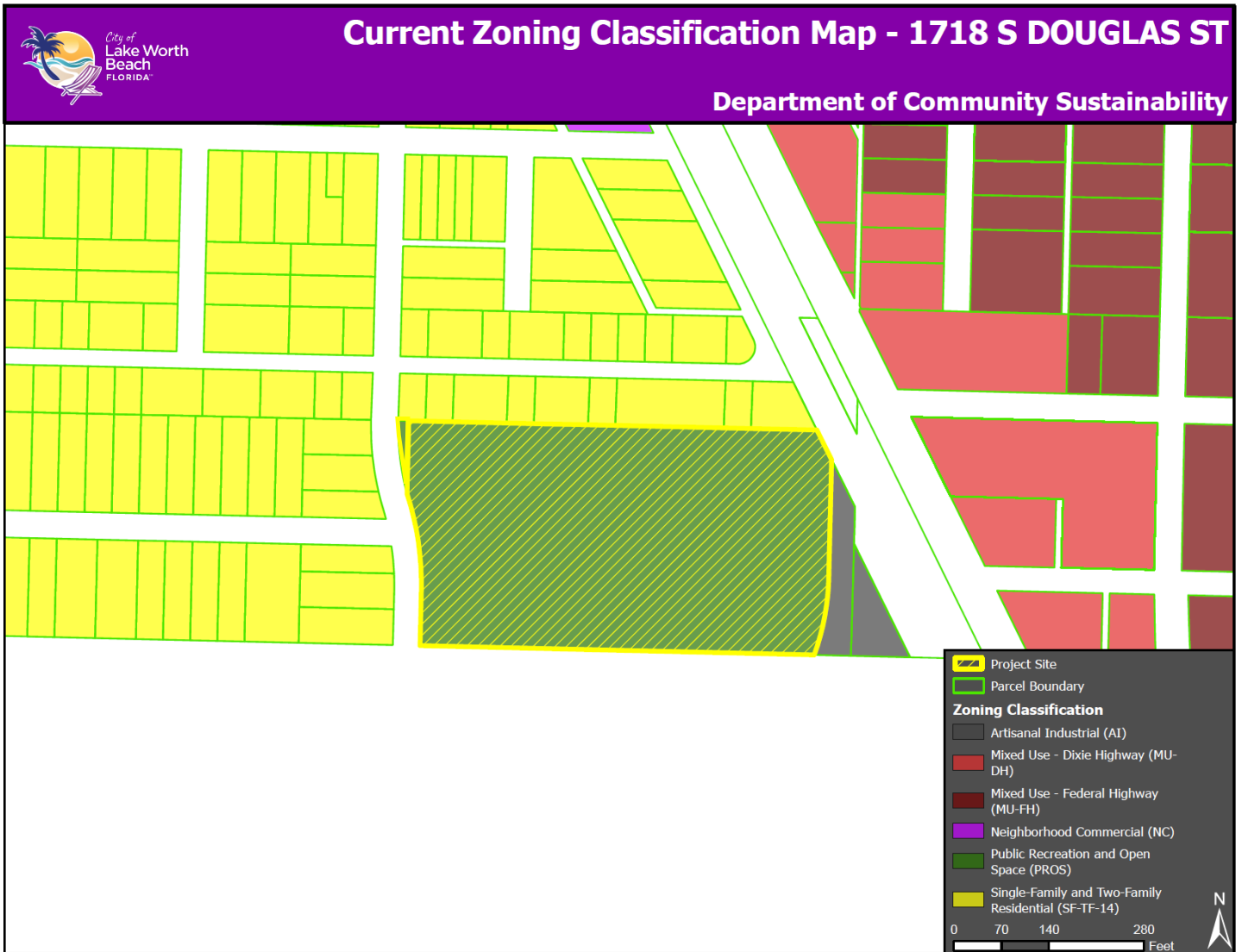
ATTACHMENT A  
Current FLU Map of Subject Properties



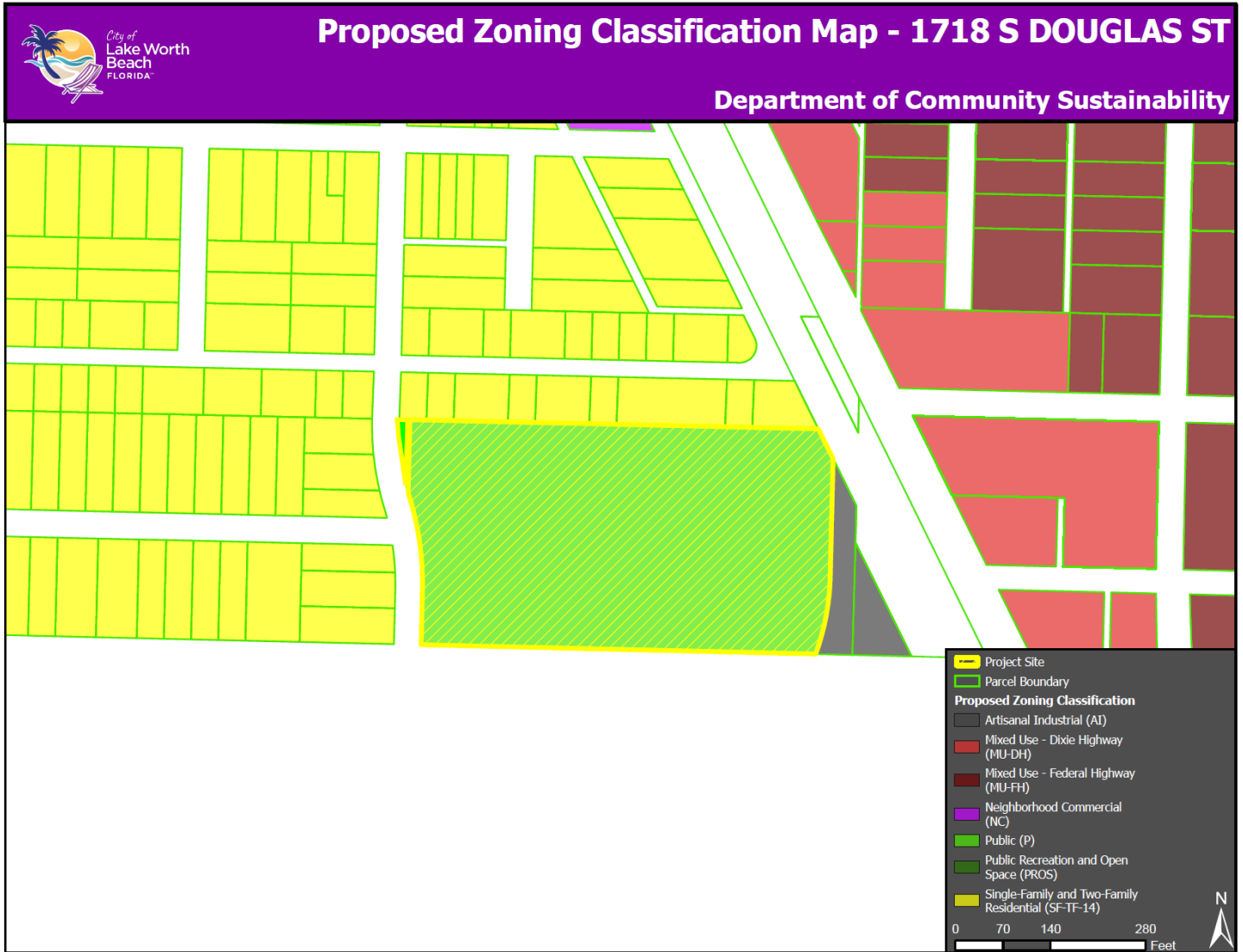
**ATTACHMENT B**  
**Proposed FLU Map of Subject Properties**



ATTACHMENT C  
CURRENT ZONING MAP



ATTACHMENT D  
PROPOSED ZONING MAP



# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** City Wide

**TITLE:**

Continuing Contracts for Professional Services for Geotechnical Category

**SUMMARY:**

Continuing Contracts for Professional Services for Geotechnical category with Tierra South Florida, Inc, Radise International LLC, GFA International, Inc dba Universal Engineering Services and Terracon Consultants, Inc consistent with Florida's Consultants' Competitive Negotiations Act (CCNA)

**BACKGROUND AND JUSTIFICATION:**

The City of Lake Worth Beach has a requirement for professional consulting firms to provide civil engineering, geotechnical engineering, surveying, architecture, hydrogeological services, energy management and engineering services. The services consist of engineering studies, reports, design and construction phase services for capital improvements projects and other needs within the municipal limits of the City of Lake Worth Beach and the water and electric utility service areas. The City desires to establish "continuing contracts" with a manageable number of firms for each engineering category, with the intent of affording the City a diverse consultant base, and to facilitate the issuance of engagements for studies, design, engineering, construction inspection and other services across a range of CCNA disciplines.

The City issued Request for Qualifications RFQ#23-300 to acquire select professional services for the City consistent with the Florida's Consultants' Competitive Negotiations Act (CCNA) (section 287.055, Florida Statutes). The RFQ included seven different engineering service categories: Architecture, Civil Engineering for Water and Transportation; Geotechnical, Hydrogeological Sciences, Surveying and Energy Management and Engineering Services. It is the intent of the City to award multiple non-exclusive agreements for the initial period of three years with the possibility to extend the agreements for three additional one-year terms.

The City received 60 qualifications from interested firms across all categories.

The City assembled Evaluation Committees comprised of City staff for each of the seven categories that met publicly to evaluate received qualifications. The first step of the evaluations included shortlisting of the firms based on the personnel availability, capability, experience and skill, firm's past performance, client management, past terminations and litigations and evidence of veteran business enterprise, small business and local business preference. Shortlisted firms were invited to prepare presentations at the final evaluation meeting. Evaluation Committees evaluated shortlisted firms after their presentations based on firm's ability of professional personnel, evidence of successful past performance for similar projects, recent and current workload and location/convenience to City staff and recommended the awards for each of the categories.

For the Geotechnical category, the City received 5 qualification submittals. The Evaluation Committee shortlisted all five firms for presentations and in the final evaluation meeting recommended award to four firms: Tierra South Florida, Inc, Radise International LLC, GFA International, Inc dba Universal Engineering Services and Terracon Consultants, Inc. City staff negotiated rates with each of the recommended firms.

**MOTION:**

Move to approve/disapprove to enter into Agreements for Continuing Contracts for professional services for Geotechnical category with Tierra South Florida, Inc, Radise International LLC, GFA International, Inc dba Universal Engineering Services and Terracon Consultants, Inc

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A

Shortlist Results Geotechnical

Final Results Geotechnical

Tierra South Florida, Inc, Agreement

Radise International, LLC, Agreement

GFA International, Inc dba Universal Engineering Services Agreement

Terracon Consultants, Inc Agreement



## **RFQ#23-300 Continuing Contracts for Professional Services**

### **Evaluation Committee Meeting – Shortlisting Results Geotechnical**

The following firms have been shortlisted by the Evaluation Committee to proceed to presentation meeting:

COMPANY	TOTAL	RANK
Tierra South Florida	490	1
Radise	449	2
Terracon	446	3
GFA International, Inc., dba Universal Engineering Sciences	415	4
AE Engineering	373	5

Attachments:

Evaluation Sheet for RFQ # 23-300 Continuing Contracts for Professional Services  
(CCNA) Civil Engineering – Geotechnical



**City of Lake Worth Beach**  
Evaluation Matrix - Shortlisting

**RFQ # 23-300 Continuing Contracts for Professional Services (CCNA) - Geotechnical**

		RANKED:	5	4	2	3	1
Shortlist Evaluation Criteria Score Sheet:		Weight	A & E	GFA dba UES	Radise	Terracon	TSF
1	Evidence of personnel availability, capability, experience and skill	35	136	158	165	168	172
2	Successful past performance for similar projects & accountability	35	139	156	166	170	170
3	Client Management and Project Staffing Plan	20	82	86	93	93	98
4	Terminations and/or litigation(if statement not provided – 0 points)	5	16	15	25	15	25
5	Evidence of veteran business enterprise, small business or local business preference (documents must be provided to claim preference) Completed & verified by Purchasing Division	5	0	0	0	0	25
<b>Total Points Received:</b>			<b>373</b>	<b>415</b>	<b>449</b>	<b>446</b>	<b>490</b>
Exhibit "B" - Respondent Information Form			submitted	submitted	submitted	submitted	submitted
Exhibit "C" - Drug Free Workplace Form			submitted	submitted	submitted	submitted	submitted
Exhibit "D" - References			submitted	submitted	submitted	submitted	submitted
Exhibit "E" - Campaign Contribution Statement			submitted	submitted	submitted	submitted	submitted
Exhibit "F" - Scrutinized Companies Certification			submitted	submitted	submitted	submitted	submitted
Exhibit "G" - Veteran Bus. Enterprise, Small Bus. Local Bus. Preference default, termination, litigation statement			no. does not meet LWB requirements*	n/a	No. Not compliant with LWB policy. *	n/a	yes/small business
			submitted	submitted	submitted	submitted	submitted
			MBE/DBE business		*W/MBE business		

**City of Lake Worth Beach**  
Final Evaluation Matrix - Oral Presentations

**RFQ # 23-300 Continuing Contracts for Professional Services (CCNA) - Geotechnical**

		RANKED:	1	1	4	3	5
Oral Presentation Evaluation Criteria Score Sheet:		Weight	Tierra South Florida	Radise	Terracon	GFA Int. dba Universal Engineering Sciences	AE Engineering
1	Ability of professional personnel	35	139	137	136	134	128
2	Evidence of successful past performance for similar projects	35	137	140	131	132	127
3	Recent, current workload	15	60	59	55	57	53
4	Location/Convenience to City staff	15	60	60	60	60	57
<b>Total Points Received:</b>			<b>396</b>	<b>396</b>	<b>382</b>	<b>383</b>	<b>365</b>

**CONTINUING PROFESSIONAL SERVICES AGREEMENT**  
**RFQ#23-300**  
**(Geotechnical)**

THIS CONTINUING PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on \_\_\_\_\_, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Tierra South Florida, Inc. dba TSFGeo**, a corporation registered to do business in the State of Florida (“CONSULTANT”).

**RECITALS**

**WHEREAS**, the City issued Request for Qualifications (No. 23-300) for civil engineering, geotechnical engineering, surveying, architecture, hydrogeological services, transportation and mobility planning, energy management and engineering services, construction management and project management and related professional services in accordance with the Consultants’ Competitive Negotiations Act, section 287.055, Florida Statutes (“RFQ”); and

**WHEREAS**, the CONSULTANT submitted its qualifications in response to the RFQ; and

**WHEREAS**, the City desires to award the RFQ to the CONSULTANT based on CONSULTANT’s qualifications and experience to provide Geotechnical services; and

**WHEREAS**, the CONSULTANT has significant experience in assisting municipal organizations in providing engineering services; and

**WHEREAS**, this Agreement may be funded, in whole or in part, by the Federal agencies, in which case, the CONSULTANT agrees that any services performed pursuant to the RFQ and this Agreement will comply with all applicable Federal law, Federal regulations, executive orders, FEMA policies, procedures, and directives and special clauses as provided for in **Exhibit “C”**; and

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

**WHEREAS**, the City finds entering this Agreement with the CONSULTANT serves a valid public purpose.

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

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

**SECTION 2: CONSULTANT’S SERVICES.** The City has awarded the CONSULTANT the non-exclusive right to provide the City with Geotechnical services (“services”).

**SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP.** No relationship of employer or employee is created by this Agreement, it being understood that CONSULTANT will act hereunder as an independent contractor and none of the CONSULTANT’s, officers, directors, employees, independent contractors, representatives or agents performing services for CONSULTANT pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and CONSULTANT is that of independent contractors, and

neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

**SECTION 4: TERM, TIME AND TERMINATION.**

(a) Term. This non-exclusive Agreement shall become effective upon approval by the City Commission and execution by the City, and shall have an initial term of three (3) years with three (3) optional, one (1) year renewals. The City Manager is authorized to exercise the optional one (1) year renewals. Each fiscal year of this Agreement and any renewals will be subject to the availability of funds lawfully appropriated for its purpose by the City Commission. Notwithstanding the foregoing, this Agreement may be terminated as stated herein. The term may be extended by written agreement of the parties for further services related to those services identified herein.

(b) Time for Completion. Time is of the essence in the performance of this Agreement. The CONSULTANT shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the project schedule set forth by the City.

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

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

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

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

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

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

#### **SECTION 5: COMPENSATION.**

(a) Fee Schedule. The fee schedule attached as **Exhibit "B"** shall remain firm for the first three (3) years of this Agreement. After the first three (3) years, the CONSULTANT may request a change to the fee schedule. No changes to the fee schedule shall occur unless approved in writing by the City, which may be by an approved amendment signed by the City Manager. The fee schedule shall be the basis for all fees proposed by the CONSULTANT and in any approved task order.

(b) Task Order(s). This non-exclusive Agreement does not guarantee that the City will utilize CONSULTANT in any capacity or for any services identified herein. When the City identifies a need for the CONSULTANT's services, the City will request a proposal from the CONSULTANT to provide the services requested. The CONSULTANT's proposal shall be submitted in the format of the sample task order, attached hereto and incorporated herein as **Exhibit "A"** and shall be based on the CONSULTANT's currently hourly fee set forth in the CONSULTANT's proposal and attached hereto as **Exhibit "B"**. If a sub-consultant(s) is to be utilized for services under a task order, the CONSULTANT shall obtain a written proposal from the sub-consultant(s) and attach the same with to the CONSULTANT's proposal submitted to the City. Upon receipt of the CONSULTANT's proposal, the City shall decide in its sole discretion whether to award the task order to the CONSULTANT. Depending on the lump sum, not to exceed amount of each proposed task order, the task order may be awarded by the City Manager (if within her purchasing authority of \$50,000 or less) or the City Commission. If the task order is awarded to the CONSULTANT, the CONSULTANT shall commence the identified services upon receipt of a Notice to Proceed from the City or upon the CONSULTANT's receipt of a fully executed task order for the services. The City reserves the right to reject any and all proposals submitted by the CONSULTANT.

(c) Invoices. Unless otherwise agreed in an issued Task Order, the CONSULTANT shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will be paid within thirty (30) days following the City's receipt of the CONSULTANT's invoice.

(d) Reimbursable Expenses. The CONSULTANT's reimbursable, out-of-pocket expenses including, but not limited to, travel, per diem and other living expenses, shall be identified in an approved task order. The City shall not be responsible for payment of any such reimbursable, out-of-pocket expenses except as provided for in an approved task order or amendment thereto. Reimbursement for mileage shall only be for travel required outside of Palm Beach County. CONSULTANT shall not be reimbursed for

travel within Palm Beach County and all travel shall be proposed and reimbursed pursuant to section 112.061, Florida Statutes.

(e) Direct Project Expenses. Unless otherwise specifically stated in an approved task order, charges for printing, reproduction, use of computer-aided design equipment, field equipment, and any laboratory analysis performed by the CONSULTANT or its subconsultants or its subcontractors, and the use of the CONSULTANT's and employee's automobiles shall be identified in an approved task order. The City shall not be responsible for payment of any other direct project expenses. All direct project expenses shall be billed at cost to the City and the CONSULTANT shall not mark-up or charge an administrative fee in addition to the direct cost for such expenses.

(f) Additional Services. If the City seeks to utilize the CONSULTANT for any additional services related to the services identified herein, the City and CONSULTANT will meet and negotiate a reasonable fee for such services. The negotiated fee shall be approved by the City in the form of an Amendment prior to said services being provided.

(g) Status Report. The CONSULTANT shall complete and submit a technical summary and budgetary status report with each invoice at no additional cost to the City (format may be provided by City or CONSULTANT for each approved task order).

(h) Fiscal Non-funding. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the CONSULTANT of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without penalty or expense to the City. The CONSULTANT will be paid for all services rendered through the date of termination.

#### **SECTION 6: TERMS OF PERFORMANCE**

(a) Starting Work. The CONSULTANT will not begin any of the services until authorized in writing by a Notice to Proceed from the City or upon the CONSULTANT's receipt of an approved Task Order for the services.

(b) Ownership of Documents. The drawings, specifications, calculations, supporting documents, or other work products which are prepared for the City by the CONSULTANT under this Agreement, a City issued Task Order, or amendments thereto ("Work Product"), shall be and shall become the property of the City upon delivery or completion by the CONSULTANT or receipt of payment from the City for the same. The CONSULTANT may keep copies or samples thereof and shall have the right to use such Work Product. The City accepts sole responsibility for its reuse of any Work Product in a manner other than as initially intended, or for any use of incomplete Work Product unless prior written approval is obtained from the CONSULTANT.

(c) Accounting Records. The CONSULTANT's accounting records, insofar as they pertain to invoicing the City or for disbursements made from the CONSULTANT's account for services under this Agreement, shall be open to City's inspection and audit at the CONSULTANT's office upon reasonable prior notice and during normal business hours. Backup documentation for out-of-pocket expenses exceeding Twenty-Five Dollars (\$25.00) each shall be available at the CONSULTANT's office. These records will be retained by the CONSULTANT for five (5) years after the calendar year in which the services to which they pertain were rendered or the disbursements were made.

(d) Approval of Changes. The City, through the City Manager must approve in writing any changes in the scope of services which result in additional costs or expenses to the City, extension of the schedule or which would change the underlying purpose of the services. Changes include, but are not limited to, issuing additional instructions, requesting additional work, direct omission of work previously ordered, or changes in time of performance.

(e) Authorized Representative. Before starting work, the CONSULTANT shall designate an authorized representative acceptable to the City to represent and act for the CONSULTANT and shall inform the City in writing of the name and address of such representative together with a clear definition of the scope of their authority. The CONSULTANT shall keep the City informed of any subsequent changes in the foregoing. The authorized representative of the City shall be the City Manager or designee.

(f) Design/Construction Phase Services. Visits to construction sites and observations made by the CONSULTANT as part of construction phase services, if any, shall not relieve the construction contractor(s) of obligation to conduct comprehensive inspections of the work sufficient to insure conformance with the intent of the construction contract documents, and shall not relieve the construction contractor(s) of full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work under the construction contract(s) and for all safety precautions incidental thereto. Safety precautions administered by the CONSULTANT, if any, to protect the CONSULTANT's personnel shall meet those policies enacted by the City. Further, CONSULTANT shall endeavor to make reasonable efforts to guard the City against defects and deficiencies in the services of the construction contractor(s) and to help determine if the provisions of the construction contract documents are being fulfilled. This paragraph does not, however, release the CONSULTANT from any liability which might be attributable to its negligent acts, errors, or omissions, including but not limited to design, construction phase services, or other services as defined in this Agreement, of the CONSULTANT.

(g) Personnel. The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The CONSULTANT shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind. All of the CONSULTANT's personnel (and all subconsultants) while on City premises, will comply with all City requirements governing conduct, safety, and security. The City reserves the right to request replacement of any of CONSULTANT's personnel furnished by the CONSULTANT upon written notice by City to CONSULTANT of the cause for such replacement.

(h) Conflict of Interest. The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Section 112.311, Florida Statutes. The CONSULTANT further represents that no person having any such conflicting interest shall be employed for said performance. The CONSULTANT shall promptly notify the City's representative, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the CONSULTANT. The City agrees to notify the CONSULTANT of its opinion within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the City shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by the CONSULTANT under the terms of this Agreement.

(i) News Releases / Publicity. The CONSULTANT shall not make any news releases, publicity releases, or advertisements relating to this Agreement or the services hereunder without prior written City approval.

**SECTION 8: CITY'S RESPONSIBILITIES**

(a) Service of Others. The City shall furnish to the CONSULTANT, if required for performance of the Consultant's services, all available data prepared by or the result of the services of others, including without limitation (as may be appropriate): building plans and related drawings, core borings, probings, and subsurface explorations, hydraulic surveys, laboratory tests, and inspections of samples, materials, and equipment, appropriate professional interpretations of all of the foregoing; environmental assessments and impact statements, appropriate professional interpretations of all of the foregoing; property boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; zoning, deed, and other land use restrictions; and any other special data or consultations relating to the Project.

(b) Examine Work of the Consultant. Within a reasonable time so as not to delay the services of the CONSULTANT, the City shall examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the CONSULTANT, obtain advice of an attorney, insurance counselor, or other consultants, as the City deems appropriate, for such examinations and the rendering, if required, of written opinions pertaining thereto.

**SECTION 9: SUSPENSION BY CITY FOR CONVENIENCE.** The City may, at any time without cause, order CONSULTANT in writing to suspend, delay or interrupt its services in whole or in part for such period of time as City may determine for City's convenience. Such order shall be by written notice to the CONSULTANT providing at least ten (10) days advance notice unless such order is immediately necessary for the protection of the public health, safety or welfare or for the protection of property.

**SECTION 10: INDEMNIFICATION.** The CONSULTANT shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the CONSULTANT, its officers, directors, employees, representatives, and agents employed or utilized by the CONSULTANT in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the CONSULTANT, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

**SECTION 11: COMPLIANCE AND DISQUALIFICATION.** Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

**SECTION 12: SUB-CONSULTANTS.** The City reserves the right to accept the use of a subconsultant or to reject the selection of a particular subconsultant and approve all qualifications of any subconsultant in order to make a determination as to the capability of the subconsultant to perform properly under this Agreement. All subconsultants providing professional services to the CONSULTANT under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement for the CONSULTANT. In the event that a subconsultant does not have insurance or does not meet the insurance limits as stated in this Agreement, the CONSULTANT shall indemnify and hold harmless the City for any claim in excess of the subconsultant's insurance coverage, arising out of the negligent acts, errors or omissions of the subconsultant. Nothing contained herein shall create any contractual relationship between any subconsultant and the City.



**SECTION 13: FEDERAL AND STATE TAX.** The City is exempt from payment of Florida State Sales and Use Tax. The CONSULTANT is not authorized to use the City’s Tax Exemption Number.

**SECTION 14: INSURANCE.** Prior to commencing any services, the CONSULTANT shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than “excellent” by A.M. Best or as mutually agreed upon by the City and the CONSULTANT. All such insurance policies may not be modified or terminated without the express written authorization of the City.

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

The commercial general liability and automobile policies will name the City as an additional insured on primary, non-contributory basis and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the CONSULTANT has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve CONSULTANT of its liability and obligations under this Agreement.

Additional Insured status shall be provided pursuant and subject to ISO Form CG 20 10 12 19 (ongoing operations) and, if applicable, CG 20 37 12 19 (completed operations), or equivalent forms for coverages other than Commercial General Liability, to the extent that the loss or claim in question is caused by the CONSULTANT’s negligence in its operations in and during the performance of the services, and to no greater extent than is necessary to provide insurance coverage for the covered indemnity obligations expressly assumed by CONSULTANT under this Agreement, it being the express intent and understanding of the Parties that, up to specified limits, additional insured status is provided hereunder as a support to performance of CONSULTANT’s expressly assumed, covered indemnity obligations hereunder.

**SECTION 15: SUCCESSORS AND ASSIGNS.** The City and the CONSULTANT each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

**SECTION 16: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.** All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator’s fee equally. The mediation shall be held in Palm Beach County, Florida. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Venue for any and all legal action necessary to enforce the Agreement or disputes arising out of the Agreement will be held exclusively in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given

hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 17: WAIVER OF JURY TRIAL.** TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**SECTION 18: NONDISCRIMINATION.** The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**SECTION 19: AUTHORITY TO PRACTICE.** The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 20: SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 21: PUBLIC ENTITY CRIMES.** CONSULTANT acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or subcontractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The CONSULTANT will advise the City immediately if it becomes aware of any violation of this statute.

**SECTION 22: NOTICE.** All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the CITY shall be sent to:

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

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

Tierra South Florida, Inc. dba TSFGEO  
Attn: Raj Krishnasamy, President  
2765 Vista Parkway, Suite 10  
West Palm Beach, FL 33411

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

**SECTION 23: ENTIRETY OF AGREEMENT AND CONTROLLING PROVISIONS.** This Agreement consists of the terms and conditions set forth in this Agreement (inclusive of all exhibits hereto) and any City issued Task Orders. The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement (inclusive of all exhibits hereto) and a City issued Task Order, the terms and conditions of this Agreement shall prevail with the City issued Task Order next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 24: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 25: PREPARATION AND NON-EXCLUSIVE.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

**SECTION 26: MATERIALITY.** All provisions of the Agreement shall be deemed material. In the event CONSULTANT fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the CONSULTANT to terminate for cause.

**SECTION 27: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved by the City Commission. The Effective Date is the date this Agreement is executed by the City.

**SECTION 28: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS.** Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**SECTION 29: SURVIVABILITY.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**SECTION 30: COUNTERPARTS.** This Agreement may be executed in one or more counterparts electronically or digitally, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all the signatories hereto have signed a counterpart of this Agreement.

**SECTION 31: PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY.** By signing this Agreement, on behalf of the CONSULTANT, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the CONSULTANT for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**SECTION 33: PUBLIC RECORDS.** The CONSULTANT shall comply with Florida’s Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City’s custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the CONSULTANT does not transfer the records to the City.

(d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the CONSULTANT or keep and maintain public records required by the City to perform the service. If the CONSULTANT transfers all public records to the City upon completion of the Agreement, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the Agreement, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City’s custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, [CITYCLERK@LAKEWORTHBEACHFL.GOV](mailto:CITYCLERK@LAKEWORTHBEACHFL.GOV), OR 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

**SECTION 34: CONFIDENTIAL AND PROPRIETARY INFORMATION.** Each party (the “Receiving Party”) will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software (“Confidential Information”) obtained from the other party (the “Disclosing Party”); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party’s Confidential Information, (iv) that is already in the Receiving Party’s possession at the time of disclosure, or (v) that is required to be released by law.

**SECTION 35: EXPORT ADMINISTRATION.** Each party agrees to comply with all export laws and regulations of the United States (“Export Laws”) to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

**SECTION 36: NO THIRD-PARTY BENEFICIARIES.** There are no third party beneficiaries under this Agreement.

**SECTION 37: SCRUTINIZED COMPANIES.**

(a) The CONSULTANT certifies that it and its subconsultants are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the CONSULTANT or any of its subconsultants are found to have submitted a false certification; or if the CONSULTANT or any of its subconsultants, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

(b) If this Agreement is for one million dollars or more, the CONSULTANT certifies that it and its subconsultants are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the CONSULTANT or any of its subconsultants are found to have submitted a false certification; or if the CONSULTANT or any of its subconsultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

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

(d) The CONSULTANT agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

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

(f) As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above stated contracting prohibitions then they shall become inoperative.

**SECTION 38: E-VERIFY.** Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONSULTANT shall:

(a) Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subconsultants (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subconsultants' newly hired employees;

(b) Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subconsultant does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

(c) Maintain copies of all subconsultant affidavits for the duration of this Agreement and provide the same to the City upon request;

(d) Comply fully, and ensure all subconsultant comply fully, with Section 448.095, Florida Statutes;

(e) Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized Aliens; Employment Prohibited) shall be grounds for termination of this Agreement; and,

(f) Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONSULTANT may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Continuing Professional Services Agreement for Geotechnical Services as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Betty Resch, Mayor

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

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

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

**CONSULTANT: TIERRA SOUTH FLORIDA, INC. dba TSFGeo**

By: \_\_\_\_\_  
Raj Krishnasamy, P.E., President

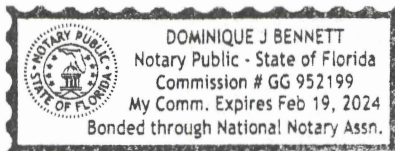
[Corporate Seal]

STATE OF Florida )  
COUNTY OF Palm Beach )

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 1st day of March, 2023, by **Tierra South Florida, Inc. dba TSFGeo** a Florida Corporation, who is personally known to me or who has produced n/a as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

Dominique J Bennett  
Notary Public Signature

Notary Seal:



**EXHIBIT "A"**  
**(Sample Task Order)**

**Note: Task Order Number will be issued by the City, leave the line number empty.**



**TASK ORDER No. \_\_\_\_\_**

**CONTINUING PROFESSIONAL SERVICES  
(Geotechnical)**

THIS TASK ORDER FOR CONTINUING PROFESSIONAL SERVICES (“Task Order”) is made on the day of \_\_\_\_\_, between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Tierra South Florida, Inc. dba TSFGeo** a State of Florida, CORPORATION (“CONSULTANT”).

**1.0 Project Description:**

The City desires the CONSULTANT to provide those services as identified herein for the Project. The Project is described in the CONSULTANT’s Proposal, dated \_\_\_\_\_ and services are generally described as: \_\_\_\_\_ (the “Project”).

**2.0 Scope**

Under this Task Order, the CONSULTANT will provide the City of Lake Worth Beach \_\_\_\_\_ with geotechnical consulting services for the Project as specified in the **CONSULTANT’s proposal attached hereto and incorporated herein as Exhibit “1”**.

**3.0 Schedule**

The services to be provided under this Task Order shall be completed within \_\_\_\_\_ calendar days from the City’s approval of this Task Order or the issuance of a Notice to Proceed.

**4.0 Compensation**

This Task Order is issued for a lump sum, not to exceed amount of \_\_\_\_\_. The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

**5.0 Project Manager**

The Project Manager for the CONSULTANT is \_\_\_\_\_, phone (\_\_\_\_\_; email: \_\_\_\_\_; and, the Project Manager for the City is \_\_\_\_\_, phone: \_\_\_\_\_; email: \_\_\_\_\_.

**6.0 Progress Meetings**

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

**7.0 Authorization**

This Task Order is issued pursuant to the Continuing Professional Services Agreement (Geotechnical) based on RFQ#23-300 between the City of Lake Worth Beach and the CONSULTANT, dated \_\_\_\_\_ (“Agreement” hereafter). If there are any conflicts between the terms and conditions of this Task Order and the Agreement, the terms and conditions of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order No. \_\_\_\_\_ as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

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

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

CONSULTANT: **TIERRA SOUTH FLORIDA, INC. dba TSFGeo**

By: **DO NOT SIGN – SAMPLE ONLY**

[Corporate Seal]

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this \_\_\_\_ day of \_\_\_\_\_, 2023, by **Tierra South Florida, Inc. dba TSFGeo** a Florida Corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

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

Notary Seal:

# Exhibit "B"

## Consultant's Rate Schedule



February 27, 2023

### GENERAL ENGINEERING SERVICES – CITY OF LAKE WORTH BEACH SCHEDULE OF FEES & SERVICES

#### SCOPE OF WORK

The general scope of work consists of geotechnical engineering, geotechnical drilling, construction materials testing and inspection, threshold inspection services, and any other related services. The Schedule of Fees and Services shown below provides the standard services that may be requested.

#### I. SOIL TESTING

1. Field Density Test (five [5] minimum).....	\$45.00/test
2. Proctors .....	\$110.00/test
3. Florida Bearing Value Test.....	\$45.00/test
4. Limerock Bearing Ratio Test.....	\$360.00/test
5. Atterberg Limit Test.....	\$85.00/test
6. Carbonate Content Test.....	\$100.00/test
7. Organic Content Test.....	\$55.00/test
8. Corrosion Series .....	\$200.00/test
9. Soil Observation (On Site) .....	\$90.00/hr.
10. Natural Sample Moisture Content.....	\$25.00/test
11. Unit Weight and Moisture Content (Undisturbed Sample).....	\$65.00/test

#### II. CONCRETE & MASONRY MATERIALS

1. Concrete Compression test (Min. four [4] cylinders per trip) -Prepare cylinders & slump test on site, and deliver to lab.....	\$160.00/set
2. Additional Concrete cylinders.....	\$20.00/cyl.
3. Concrete Compression test only [delivered to lab].....	\$20.00/cyl.
4. Slump test.....	\$20.00/ea.
5. Air Content Test.....	\$35.00/ea.
6. Stand-by.....	\$90.00/hr.
7. Grout Prism (Four [4] per set) - Includes preparation of Prism on site.....	\$85.00/set
8. 2" x 2" Mortar Cubes (Six [6] per set) - Includes preparation of Cubes on site.....	\$85.00/set
9. Additional Mortar cubes.....	\$25.00/ea.
10. Masonry Units	
A. Compressive Strength.....	\$85.00/unit
B. Absorption.....	\$50.00/unit
11. Concrete Cores (Min. 3); - Secure, trim & test .....	\$85.00/core
- Testing of core [delivered to lab (Incl. Trim)].....	\$55.00/core
12. Swiss Hammer Testing.....	\$90.00/hr.
13. Windsor Probe Test (Min. 3 shots).....	\$160.00/test
14. Additional Windsor Probe Tests.....	\$110.00/test

#### III. AGGREGATE TESTING

1. Grain size determination:	
A. Full grain size (8 sieves).....	\$80.00/test
B. Wash through (#200).....	\$55.00/test
2. Sieve Analysis – Course Aggregate.....	\$80.00/test
3. Specific Gravity & Absorption of Fine or Coarse Aggregate.....	\$80.00/test

<b>IV.</b>	<b><u>ASPHALT TESTING</u></b>	
	1. Asphalt Cores (obtaining core samples).....	\$160.00/ea.
	2. Asphalt Extraction & Gradation.....	\$160.00/ea.
	3. Asphalt Density and Thickness.....	\$32.00/ea.
	4. Marshall Stability (Incl. density, flow and stability of 3 specimens) (50 blows).....	\$150.00/ea.
	5. Coring Machine plus Generator Rental.....	\$450.00/trip
<b>V.</b>	<b><u>INSPECTION SERVICES</u></b>	
	1. Concrete Inspection (on job-site or plant).....	\$90.00/hr.
	2. Pile Driving Inspection.....	\$95.00/hr.
	3. Pre-Stress Yard Inspection.....	\$90.00/hr.
	4. Steel/Welding Inspection.....	\$90.00/hr.
	5. Threshold Inspection.....	\$95.00/hr.
	6. Asphalt Inspection (Plant or Roadway).....	\$95.00/hr.
	7. PDA (Pile Dynamic Testing Services) .....	\$3150.00/test
	8. Helical Pile Inspection .....	\$95.00/hr.
	9. Drilled Shaft Logging / Inspection Services .....	\$95.00/hr.
<b>VI.</b>	<b><u>FIELD EXPLORATIONS / INVESTIGATIONS</u></b>	
	1. Auger Borings.....	\$12.00/ft.
	2. Hand Augers.....	\$170.00/hr.**
	3. Standard Penetration Test Borings - Truck Rig (0' – 50') .....	\$14.00/ft.
	51' – 100'.....	\$16.00/ft.
	4. Grout-Seal Boreholes - 0' – 50'.....	\$8.00/ft.
	51' – 100'.....	\$9.00/ft.
	5. Casing Allowance - 0' – 50'.....	\$9.00/ft.
	51' – 100'.....	\$10.00/ft.
	6. Muck Probing (4 hr. min.) (2-man crew).....	\$170.00/hr.**
	7. Mobilization of drilling equipment to project (Min. Charge)	
	1. 50-mile travel .....	\$450.00/ea.
	8. Support Truck .....	\$150.00/day.
<b>VII.</b>	<b><u>MISCELLANEOUS SERVICE</u></b>	
	1. Foundation Analysis and Recommendation.....	\$Staff
	2. Percolation Test .....	\$450.00/test
	3. Double Ring Infiltrometer test.....	\$750.00/test
	4. Install Monitoring Well, 25' Depth (per PBCWUD Standards & Details).....	\$60/LF
	5. Plug & Abandon Monitoring Well, 25' depth.....	\$160/hour
	6. MOT (Maintenance of Traffic) .....	\$1650/set-up
<b>VIII.</b>	<b><u>ENGINEERING AND PROFESSIONAL SERVICES</u></b>	
	1. Principal Engineer/PM, P.E.....	\$275/hour
	2. Senior Geotechnical Engineer, P.E.....	\$225/hour
	3. Engineer, P.E.....	\$175/hour
	4. Staff Engineer.....	\$145/hour
	5. Senior Engineering Technician .....	\$105/hour
	6. Engineering Technician.....	\$90/hour
	7. Drafter/CADD .....	\$95/hour

\*\*2 technicians @ \$85/hr. involves access, carrying equipment, setup & etc.

## Exhibit "C"

### Federal Contract Provisions

The Consultant hereby agrees that the following terms, at a minimum, will be incorporated into any subsequent contract resulting from this RFQ, which is funded in whole or in part with any federal or other funding where the following terms are applicable:

**Equal Employment Opportunity.** During the performance of the resulting contract, the Consultant agrees as follows:

(1) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

(4) The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of

September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Consultant debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

#### **Compliance with the Contract Work Hours and Safety Standards Act.**

(1) Overtime requirements. No Consultant or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Consultant and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. DOJ, the State of Florida, or the CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### **Rights to Inventions Made Under a Contract or Agreement**

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

#### **Clean Air Act**

- (1) The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Consultant agrees to report each violation to the City, and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

#### **Federal Water Pollution Control Act**

- (1) The Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Consultant agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

#### **Suspension and Debarment.**

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Consultant is required to verify that none of the Consultant’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification, as laid out in Exhibit I, is a material representation of fact relied upon by the City. If it is later determined that the Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida or the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **Byrd Anti-Lobbying Amendment.**

Consultants who apply or bid for an award of \$100,000 or more shall file the required certification as laid out in Exhibit J. Each tier certifies to the tier above that it will not and has not used Federal appropriated

funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

**Procurement of Recovered materials.**

- (i) In the performance of this contract, the Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
- Competitively within a timeframe providing for compliance with the contract performance schedule;
  - Meeting contract performance requirements; or
  - At a reasonable price.
- (ii) Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (iii) The Consultant also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

**Access to Records.**

- (1) The Consultant agrees to provide the State of Florida, the CITY, the DOJ Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Consultant agrees to provide the Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the City and the Consultant acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the DOJ Administrator or the Comptroller General of the United States.

**DHS Seal, Logo, and Flags.**

The Consultant shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific DOJ pre-approval.

**Compliance with Federal Law, Regulations, and Executive Orders.**

By signing this agreement, the Consultant acknowledges that federal financial assistance may be used to fund all or a portion of the contract. The Consultant will comply with all applicable Federal law, regulations, executive orders, federal policies, procedures, and directives.

**No Obligation by Federal Government.**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Consultant, or any other party pertaining to any matter resulting from the contract.

**Program Fraud and False or Fraudulent Statements or Related Acts.** The Consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Consultant’s actions pertaining to this contract.

**Affirmative Steps. Required Affirmative Steps**

If the Consultant intends to subcontract any portion of the work covered by this Contract, the Consultant must take all necessary affirmative steps to assure that small and minority businesses, women’s business



enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

**Domestic preferences for procurements.**

(1) As appropriate and to the extent consistent with law, the Consultant should purchase, acquire, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(2) For purposes of this section:

(a) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(b) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Prohibition on certain telecommunications and video surveillance services or equipment.

(1) The Consultant is prohibited from obligating or expending loan or grant funds to:

(a) Procure or obtain;

(b) Extend or renew a contract to procure or obtain; or

(c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(2) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), the City shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

## **CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS - LOWER-TIER COVERED TRANSACTIONS**

This document is a covered transaction for purposes of the debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 3000 (Non- procurement Debarment and Suspension). As such, Consultant is required to confirm that none of the Consultant, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

### **INSTRUCTIONS FOR CERTIFICATION**

- 1) By signing this Certification the Consultant, also sometimes referred to herein as a prospective primary participant, is providing the certification set out below.
- 2) The inability of a Consultant to provide the certification required below will not necessarily result in denial of participation in the covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the City's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- 3) The certification in this clause is a material representation of fact upon which reliance was placed when the City determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 4) The prospective primary participant shall provide immediate written notice to the City if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal and voluntarily excluded, as used in this certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- 6) The prospective primary participant agrees by signing the Addendum that it shall not knowingly enter into any lower tier covered transactions with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction. If it is later determined that the prospective primary participant knowingly entered into such a transaction, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 7) The prospective primary participant further agrees by signing this Addendum that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," as available through the United States Department of Homeland Security, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that

the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.



\_\_\_\_\_  
Signature of Consultant's Authorized Official

Raj Krishnasamy, P.E./President

\_\_\_\_\_  
Name and Title of Consultant's Authorized Official

March 1, 2023

Date

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant Tierra South Florida, Inc. certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



\_\_\_\_\_  
Signature of Consultant's Authorized Official

Raj Krishnasamy, P.E./President

\_\_\_\_\_  
Name and Title of Consultant's Authorized Official

March 1, 2023

Date

**CONTINUING PROFESSIONAL SERVICES AGREEMENT**

**RFQ#23-300**  
**(Geotechnical)**

THIS CONTINUING PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on \_\_\_\_\_, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **RADISE International, L.C.**, a Limited Company registered to do business in the State of Florida (“CONSULTANT”).

**RECITALS**

**WHEREAS**, the City issued Request for Qualifications (No. 23-300) for civil engineering, geotechnical engineering, surveying, architecture, hydrogeological services, transportation and mobility planning, energy management and engineering services, construction management and project management and related professional services in accordance with the Consultants’ Competitive Negotiations Act, section 287.055, Florida Statutes (“RFQ”); and

**WHEREAS**, the CONSULTANT submitted its qualifications in response to the RFQ; and

**WHEREAS**, the City desires to award the RFQ to the CONSULTANT based on CONSULTANT’s qualifications and experience to provide Geotechnical services; and

**WHEREAS**, the CONSULTANT has significant experience in assisting municipal organizations in providing engineering services; and

**WHEREAS**, this Agreement may be funded, in whole or in part, by the Federal agencies, in which case, the CONSULTANT agrees that any services performed pursuant to the RFQ and this Agreement will comply with all applicable Federal law, Federal regulations, executive orders, FEMA policies, procedures, and directives and special clauses as provided for in **Exhibit “C”**; and

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

**WHEREAS**, the City finds entering this Agreement with the CONSULTANT serves a valid public purpose.

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

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

**SECTION 2: CONSULTANT’S SERVICES**. The City has awarded the CONSULTANT the non-exclusive right to provide the City with Geotechnical services (“services”).

**SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP**. No relationship of employer or employee is created by this Agreement, it being understood that CONSULTANT will act hereunder as an independent contractor and none of the CONSULTANT’s, officers, directors, employees, independent contractors, representatives or agents performing services for CONSULTANT pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and CONSULTANT is that of independent contractors, and

neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

**SECTION 4: TERM, TIME AND TERMINATION.**

(a) Term. This non-exclusive Agreement shall become effective upon approval by the City Commission and execution by the City, and shall have an initial term of three (3) years with three (3) optional, one (1) year renewals. The City Manager is authorized to exercise the optional one (1) year renewals. Each fiscal year of this Agreement and any renewals will be subject to the availability of funds lawfully appropriated for its purpose by the City Commission. Notwithstanding the foregoing, this Agreement may be terminated as stated herein. The term may be extended by written agreement of the parties for further services related to those services identified herein.

(b) Time for Completion. Time is of the essence in the performance of this Agreement. The CONSULTANT shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the project schedule set forth by the City.

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

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

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

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

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

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

#### **SECTION 5: COMPENSATION.**

(a) Fee Schedule. The fee schedule attached as **Exhibit "B"** shall remain firm for the first three (3) years of this Agreement. After the first three (3) years, the CONSUL TANT may request a change to the fee schedule. No changes to the fee schedule shall occur unless approved in writing by the City, which may be by an approved an amendment signed by the City Manager. The fee schedule shall be the basis for all fees proposed by the CONSUL TANT and in any approved task order.

(b) Task Order(s). This non-exclusive Agreement does not guarantee that the City will utilize CONSULTANT in any capacity or for any services identified herein. When the City identifies a need for the CONSULTANT's services, the City will request a proposal from the CONSULTANT to provide the services requested. The CONSULTANT's proposal shall be submitted in the format of the sample task order, attached hereto and incorporated herein as **Exhibit "A"** and shall be based on the CONSULTANT's currently hourly fee set forth in the CONSULTANT's proposal and attached hereto as **Exhibit "B"**. If a sub-consultant(s) is to be utilized for services under a task order, the CONSULTANT shall obtain a written proposal from the sub-consultant(s) and attach the same with to the CONSULTANT's proposal submitted to the City. Upon receipt of the CONSULTANT's proposal, the City shall decide in its sole discretion whether to award the task order to the CONSULTANT. Depending on the lump sum, not to exceed amount of each proposed task order, the task order may be awarded by the City Manager (if within her purchasing authority of \$50,000 or less) or the City Commission. If the task order is awarded to the CONSULTANT, the CONSULTANT shall commence the identified services upon receipt of a Notice to Proceed from the City or upon the CONSULTANT's receipt of a fully executed task order for the services. The City reserves the right to reject any and all proposals submitted by the CONSULTANT.

(c) Invoices. Unless otherwise agreed in an issued Task Order, the CONSULTANT shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will be paid within thirty (30) days following the City's receipt of the CONSULTANT's invoice.

(d) Reimbursable Expenses. The CONSUL TANT's reimbursable, out-of-pocket expenses including, but not limited to, travel, per diem and other living expenses, shall be identified in an approved task order. The City shall not be responsible for payment of any such reimbursable, out-of-pocket expenses except as provided for in an approved task order or amendment thereto. Reimbursement for mileage shall only be for travel required outside of Palm Beach County. CONSULTANT shall not be reimbursed for

travel within Palm Beach County and all travel shall be proposed and reimbursed pursuant to section 112.061, Florida Statutes.

(e) Direct Project Expenses. Unless otherwise specifically stated in an approved task order, charges for printing, reproduction, use of computer-aided design equipment, field equipment, and any laboratory analysis performed by the CONSULTANT or its subconsultants or its subcontractors, and the use of the CONSULTANT's and employee's automobiles shall be identified in an approved task order. The City shall not be responsible for payment of any other direct project expenses. All direct project expenses shall be billed at cost to the City and the CONSULTANT shall not mark-up or charge an administrative fee in addition to the direct cost for such expenses.

(f) Additional Services. If the City seeks to utilize the CONSULTANT for any additional services related to the services identified herein, the City and CONSULTANT will meet and negotiate a reasonable fee for such services. The negotiated fee shall be approved by the City in the form of an Amendment prior to said services being provided.

(g) Status Report. The CONSULTANT shall complete and submit a technical summary and budgetary status report with each invoice at no additional cost to the City (format may be provided by City or CONSULTANT for each approved task order).

(h) Fiscal Non-funding. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the CONSULTANT of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without penalty or expense to the City. The CONSULTANT will be paid for all services rendered through the date of termination.

#### **SECTION 6: TERMS OF PERFORMANCE**

(a) Starting Work. The CONSULTANT will not begin any of the services until authorized in writing by a Notice to Proceed from the City or upon the CONSULTANT's receipt of an approved Task Order for the services.

(b) Ownership of Documents. The drawings, specifications, calculations, supporting documents, or other work products which are prepared for the City by the CONSULTANT under this Agreement, a City issued Task Order, or amendments thereto ("Work Product"), shall be and shall become the property of the City upon delivery or completion by the CONSULTANT or receipt of payment from the City for the same. The CONSULTANT may keep copies or samples thereof and shall have the right to use such Work Product. The City accepts sole responsibility for its reuse of any Work Product in a manner other than as initially intended, or for any use of incomplete Work Product unless prior written approval is obtained from the CONSULTANT.

(c) Accounting Records. The CONSULTANT's accounting records, insofar as they pertain to invoicing the City or for disbursements made from the CONSULTANT's account for services under this Agreement, shall be open to City's inspection and audit at the CONSULTANT's office upon reasonable prior notice and during normal business hours. Backup documentation for out-of-pocket expenses exceeding Twenty-Five Dollars (\$25.00) each shall be available at the CONSULTANT's office. These records will be retained by the CONSULTANT for five (5) years after the calendar year in which the services to which they pertain were rendered or the disbursements were made.

(d) Approval of Changes. The City, through the City Manager must approve in writing any changes in the scope of services which result in additional costs or expenses to the City, extension of the schedule or which would change the underlying purpose of the services. Changes include, but are not limited to, issuing additional instructions, requesting additional work, direct omission of work previously ordered, or changes in time of performance.



(e) Authorized Representative. Before starting work, the CONSULTANT shall designate an authorized representative acceptable to the City to represent and act for the CONSULTANT and shall inform the City in writing of the name and address of such representative together with a clear definition of the scope of their authority. The CONSULTANT shall keep the City informed of any subsequent changes in the foregoing. The authorized representative of the City shall be the City Manager or designee.

(f) Design/Construction Phase Services. Visits to construction sites and observations made by the CONSULTANT as part of construction phase services, if any, shall not relieve the construction contractor(s) of obligation to conduct comprehensive inspections of the work sufficient to insure conformance with the intent of the construction contract documents, and shall not relieve the construction contractor(s) of full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work under the construction contract(s) and for all safety precautions incidental thereto. Safety precautions administered by the CONSULTANT, if any, to protect the CONSULTANT's personnel shall meet those policies enacted by the City. Further, CONSULTANT shall endeavor to make reasonable efforts to guard the City against defects and deficiencies in the services of the construction contractor(s) and to help determine if the provisions of the construction contract documents are being fulfilled. This paragraph does not, however, release the CONSULTANT from any liability which might be attributable to its negligent acts, errors, or omissions, including but not limited to design, construction phase services, or other services as defined in this Agreement, of the CONSULTANT.

(g) Personnel. The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The CONSULTANT shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind. All of the CONSULTANT's personnel (and all subconsultants) while on City premises, will comply with all City requirements governing conduct, safety, and security. The City reserves the right to request replacement of any of CONSULTANT's personnel furnished by the CONSULTANT upon written notice by City to CONSULTANT of the cause for such replacement.

(h) Conflict of Interest. The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Section 112.311, Florida Statutes. The CONSULTANT further represents that no person having any such conflicting interest shall be employed for said performance. The CONSULTANT shall promptly notify the City's representative, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the CONSULTANT. The City agrees to notify the CONSULTANT of its opinion within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the City shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by the CONSULTANT under the terms of this Agreement.

(i) News Releases / Publicity. The CONSULTANT shall not make any news releases, publicity releases, or advertisements relating to this Agreement or the services hereunder without prior written City approval.

**SECTION 8: CITY'S RESPONSIBILITIES**

(a) Service of Others. The City shall furnish to the CONSULTANT, if required for performance of the Consultant's services, all available data prepared by or the result of the services of others, including without limitation (as may be appropriate): building plans and related drawings, core borings, probings, and subsurface explorations, hydraulic surveys, laboratory tests, and inspections of samples, materials, and equipment, appropriate professional interpretations of all of the foregoing; environmental assessments and impact statements, appropriate professional interpretations of all of the foregoing; property boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; zoning, deed, and other land use restrictions; and any other special data or consultations relating to the Project.

(b) Examine Work of the Consultant. Within a reasonable time so as not to delay the services of the CONSULTANT, the City shall examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the CONSULTANT, obtain advice of an attorney, insurance counselor, or other consultants, as the City deems appropriate, for such examinations and the rendering, if required, of written opinions pertaining thereto.

**SECTION 9: SUSPENSION BY CITY FOR CONVENIENCE.** The City may, at any time without cause, order CONSULTANT in writing to suspend, delay or interrupt its services in whole or in part for such period of time as City may determine for City's convenience. Such order shall be by written notice to the CONSULTANT providing at least ten (10) days advance notice unless such order is immediately necessary for the protection of the public health, safety or welfare or for the protection of property.

**SECTION 10: INDEMNIFICATION.** The CONSULTANT shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the CONSULTANT, its officers, directors, employees, representatives, and agents employed or utilized by the CONSULTANT in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the CONSULTANT, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

**SECTION 11: COMPLIANCE AND DISQUALIFICATION.** Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

**SECTION 12: SUB-CONSULTANTS.** The City reserves the right to accept the use of a subconsultant or to reject the selection of a particular subconsultant and approve all qualifications of any subconsultant in order to make a determination as to the capability of the subconsultant to perform properly under this Agreement. All subconsultants providing professional services to the CONSULTANT under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement for the CONSULTANT. In the event that a subconsultant does not have insurance or does not meet the insurance limits as stated in this Agreement, the CONSULTANT shall indemnify and hold harmless the City for any claim in excess of the subconsultant's insurance coverage, arising out of the negligent acts, errors or omissions of the subconsultant. Nothing contained herein shall create any contractual relationship between any subconsultant and the City.

**SECTION 13: FEDERAL AND STATE TAX.** The City is exempt from payment of Florida State Sales and Use Tax. The CONSULTANT is not authorized to use the City's Tax Exemption Number.

**SECTION 14: INSURANCE.** Prior to commencing any services, the CONSULTANT shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the CONSULTANT. All such insurance policies may not be modified or terminated without the express written authorization of the City.

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

The commercial general liability and automobile policies will name the City as an additional insured on primary, non-contributory basis and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the CONSULTANT has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve CONSULTANT of its liability and obligations under this Agreement.

Additional Insured status shall be provided pursuant and subject to ISO Form CG 20 10 12 19 (ongoing operations) and, if applicable, CG 20 37 12 19 (completed operations), or equivalent forms for coverages other than Commercial General Liability, to the extent that the loss or claim in question is caused by the CONSULTANT's negligence in its operations in and during the performance of the services, and to no greater extent than is necessary to provide insurance coverage for the covered indemnity obligations expressly assumed by CONSULTANT under this Agreement, it being the express intent and understanding of the Parties that, up to specified limits, additional insured status is provided hereunder as a support to performance of CONSULTANT's expressly assumed, covered indemnity obligations hereunder.

**SECTION 15: SUCCESSORS AND ASSIGNS.** The City and the CONSULTANT each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

**SECTION 16: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.** All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County, Florida. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Venue for any and all legal action necessary to enforce the Agreement or disputes arising out of the Agreement will be held exclusively in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given

hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 17: WAIVER OF JURY TRIAL.** TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**SECTION 18: NONDISCRIMINATION.** The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**SECTION 19: AUTHORITY TO PRACTICE.** The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 20: SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 21: PUBLIC ENTITY CRIMES.** CONSULTANT acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or subcontractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The CONSULTANT will advise the City immediately if it becomes aware of any violation of this statute.

**SECTION 22: NOTICE.** All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the CITY shall be sent to:

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

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

RADISE International, L.C.  
Attn: Andrew Nixon, Operations Manager  
4152 West Blue Heron Blvd., Suite 1114  
Riviera Beach, FL 33404

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

**SECTION 23: ENTIRETY OF AGREEMENT AND CONTROLLING PROVISIONS.** This Agreement consists of the terms and conditions set forth in this Agreement (inclusive of all exhibits hereto) and any City issued Task Orders. The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement (inclusive of all exhibits hereto) and a City issued Task Order, the terms and conditions of this Agreement shall prevail with the City issued Task Order next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 24: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 25: PREPARATION AND NON-EXCLUSIVE.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

**SECTION 26: MATERIALITY.** All provisions of the Agreement shall be deemed material. In the event CONSULTANT fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the CONSULTANT to terminate for cause.

**SECTION 27: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved by the City Commission. The Effective Date is the date this Agreement is executed by the City.

**SECTION 28: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS.** Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**SECTION 29: SURVIVABILITY.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**SECTION 30: COUNTERPARTS.** This Agreement may be executed in one or more counterparts electronically or digitally, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all the signatories hereto have signed a counterpart of this Agreement.

**SECTION 31: PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY.** By signing this Agreement, on behalf of the CONSULTANT, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the CONSULTANT for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**SECTION 33: PUBLIC RECORDS.** The CONSULTANT shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the CONSULTANT does not transfer the records to the City.

(d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the CONSULTANT or keep and maintain public records required by the City to perform the service. If the CONSULTANT transfers all public records to the City upon completion of the Agreement, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the Agreement, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, [CITYCLERK@LAKEWORTHBEACHFL.GOV](mailto:CITYCLERK@LAKEWORTHBEACHFL.GOV), OR 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

**SECTION 34: CONFIDENTIAL AND PROPRIETARY INFORMATION.** Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software ("Confidential Information") obtained from the other party (the "Disclosing Party"); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.

**SECTION 35: EXPORT ADMINISTRATION.** Each party agrees to comply with all export laws and regulations of the United States ("Export Laws") to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

**SECTION 36: NO THIRD-PARTY BENEFICIARIES.** There are no third party beneficiaries under this Agreement.

**SECTION 37: SCRUTINIZED COMPANIES.**

(a) The CONSULTANT certifies that it and its subconsultants are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the CONSULTANT or any of its subconsultants are found to have submitted a false certification; or if the CONSULTANT or any of its subconsultants, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

(b) If this Agreement is for one million dollars or more, the CONSULTANT certifies that it and its subconsultants are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the CONSULTANT or any of its subconsultants are found to have submitted a false certification; or if the CONSULTANT or any of its subconsultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

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

(d) The CONSULTANT agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

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

(f) As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above stated contracting prohibitions then they shall become inoperative.

**SECTION 38: E-VERIFY.** Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONSULTANT shall:

(a) Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subconsultants (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subconsultants' newly hired employees;

(b) Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subconsultant does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

(c) Maintain copies of all subconsultant affidavits for the duration of this Agreement and provide the same to the City upon request;

(d) Comply fully, and ensure all subconsultant comply fully, with Section 448.095, Florida Statutes;

(e) Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized Aliens; Employment Prohibited) shall be grounds for termination of this Agreement; and,

(f) Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONSULTANT may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.



IN WITNESS WHEREOF, the parties hereto have made and executed this Continuing Professional Services Agreement for Geotechnical Services as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Betty Resch, Mayor

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

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

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director



**CONSULTANT:**

**RADISE INTERNATIONAL, L.C.**

By: \_\_\_\_\_ *03/16/2023*  
*PANNEER SHANMUGAM, PE*  
*PRESIDENT*

[Corporate Seal]

STATE OF Florida  
COUNTY OF West Palm Beach

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 16 day of March, 2023, by **RADISE International, L.C.** a Florida Limited Company, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

*Jenny Cadet*  
\_\_\_\_\_  
Notary Public Signature

Notary Seal:



**JENNY CADET**  
Notary Public  
State of Florida  
Comm# HH178659  
Expires 11/5/2025

**EXHIBIT "A"**  
**(Sample Task Order)**

**Note: Task Order Number will be issued by the City, leave the line number empty.**

**TASK ORDER No. \_\_\_\_\_**

**CONTINUING PROFESSIONAL SERVICES  
(Geotechnical)**

THIS TASK ORDER FOR CONTINUING PROFESSIONAL SERVICES (“Task Order”) is made on the day of \_\_\_\_\_, between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **RADISE International, L.C.** a State of Florida, Limited Company (“CONSULTANT”).

**1.0 Project Description:**

The City desires the CONSULTANT to provide those services as identified herein for the Project. The Project is described in the CONSULTANT’s Proposal, dated \_\_\_\_\_ and services are generally described as: \_\_\_\_\_ (the “Project”).

**2.0 Scope**

Under this Task Order, the CONSULTANT will provide the City of Lake Worth Beach \_\_\_\_\_ with geotechnical consulting services for the Project as specified in the **CONSULTANT’s proposal attached hereto and incorporated herein as Exhibit “1”**.

**3.0 Schedule**

The services to be provided under this Task Order shall be completed within \_\_\_\_\_ calendar days from the City’s approval of this Task Order or the issuance of a Notice to Proceed.

**4.0 Compensation**

This Task Order is issued for a lump sum, not to exceed amount of \_\_\_\_\_. The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

**5.0 Project Manager**

The Project Manager for the CONSULTANT is \_\_\_\_\_, phone (\_\_\_\_\_; email: \_\_\_\_\_; and, the Project Manager for the City is \_\_\_\_\_, phone: \_\_\_\_\_; email: \_\_\_\_\_.

**6.0 Progress Meetings**

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

**7.0 Authorization**

This Task Order is issued pursuant to the Continuing Professional Services Agreement (Geotechnical) based on RFQ#23-300 between the City of Lake Worth Beach and the CONSULTANT, dated \_\_\_\_\_ (“Agreement” hereafter). If there are any conflicts between the terms and conditions of this Task Order and the Agreement, the terms and conditions of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order No. \_\_\_\_\_ as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

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

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

**CONSULTANT: RADISE INTERNATIONAL, L.C.**

By: **DO NOT SIGN – SAMPLE ONLY**

[Corporate Seal]

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this \_\_\_\_ day of \_\_\_\_\_, 2023, by **RADISE International, L.C.** a Florida Limited Corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

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

Notary Seal:

Exhibit "B"

Consultant's Rate Schedule



**RADISE INTERNATIONAL, LC**  
**STANDARD UNIT PRICE FEE SCHEDULE FOR CONSTRUCTION**  
**MATERIALS TESTING AND INSPECTION SERVICES**  
**(EFFECTIVE JANUARY 2023)**

GEOTECHNICAL FIELD EXPLORATIONS	UNIT	REVISED UNIT COST
<i>I - Drill Equipment Mobilization</i>		
Truck Mounted Drill Rill and Chase Truck - Round Trip		
0 - 50 Miles	each	\$391.50
51 - 75 Miles	each	\$450.00
76 - 100 Miles	each	\$504.00
101 + Miles	per mile	\$5.63
ATV Mounted Drill Rill and Chase Truck - Round Trip		
0 - 50 Miles	each	\$504.00
51 - 75 Miles	each	\$616.50
76 - 100 Miles	each	\$729.00
101 + Miles	each	\$8.44
Barge Mounted	each	TBD
<i>II - Field Drilling/Sampling/Coring</i>		
Auger Borings, 3 or 4 inch Flint Auger (0 - 25')	linear foot	\$12.38
Hand Auger Borings (0 - 10' Max.)	hour	\$168.75
Standard Pen Tests (SPT) (ASTM D-1586)-Truck Rig (0 - 50')	linear foot	\$16.88
Standard Pen Tests (SPT) (ASTM D-1586)-Truck Rig (50-100')	linear foot	\$20.25
Standard Pen Tests (SPT) (ASTM D-1586)-Truck Rig (100-150')	linear foot	\$23.63
Casing (up to 4 inch diameter) - Truck Rig (0 - 50')	linear foot	\$6.75
Casing (up to 4 inch diameter)-Truck Rig (50 - 100')	linear foot	\$7.88
Casing (up to 4 inch diameter)-Truck Rig (100 - 150')	linear foot	\$9.00
Continuous Sampling- Extra Split Spoons (0 - 50')	sample	\$33.75
Continuous Sampling- Extra Split Spoons (50 - 100')	sample	\$39.38
Continuous Sampling- Extra Split Spoons (100 - 150')	sample	\$47.81
Undisturbed Samples (Over and above Standard/Continuous Sampling Costs)	sample	\$61.88
Borehole Grouting (0 - 50')	linear foot	\$5.63
Borehole Grouting (50 - 100')	linear foot	\$6.75
Borehole Grouting (100 - 150')	linear foot	\$7.88
Tripod SPT Borings	8 Hr. day	\$1,856.25
Muck Probes, 2-man crew w/vehicle	hour	\$168.75
Rock Corin11: (Nx) minimum 5' run (0 - 50')	linear foot	\$50.63
Rock Corin11: (Nx) minimum 5' run (50 - 100')	linear foot	\$61.88
Rock Corin11: (Nx) minimum 5' run (100 - 150')	linear foot	\$84.38
Rock corin11: (4-inch) minimum 5' run (0 - 50')	linear foot	\$56.25

Rock coring (4-inch) minimum 5' run (50 - 100')	linear foot	\$67.50
Rock coring (4-inch) minimum 5' run 000 - 150'	linear foot	\$90.00
Rock coring (>4-inch) minimum 5' run	linear foot	TBD
<b>SOILS LABORATORY SERVICES</b>		
<b>SOILS LABORATORY SERVICES</b>	<b>UNIT</b>	<b>REVISED UNIT COST</b>
Standard or Modified proctor moisture density relationship	test	\$151.88
Limerock Bearing Ratio (LBR)	test	\$376.88
Florida Bearing Value (FBV)	test	\$45.00
Moisture Content	test	\$13.50
Organic Content	test	\$50.63
Sieve Analysis (Complete)	test	\$99.00
Sieve Analysis (-200 only)	test	\$47.25
Hydrometer Analysis (does not include +200 sieve analysis)	test	\$106.88
Atterberg Limits	test	\$95.63
Incremental Consolidation test	test	Cost
Constant Strain Consolidation test	test	Cost
Permeability tests on sands	test	\$208.13
Permeability tests on fine grained soils	test	\$331.88
Unconfined Compression Test (soil)	test	Cost
Tri-axial Tests	point	Cost
Preparation of samples for consolidation, permeability or strength tests	sample	\$61.88
<b>SITE PREPARATION MONITORING &amp; TESTING</b>		
<b>SITE PREPARATION MONITORING &amp; TESTING</b>	<b>UNIT</b>	<b>REVISED UNIT COST</b>
Density Tests - Nuclear Method (minimum of five tests per trip)	test	\$36.00
<i>Field Technician time for monitoring site preparation or sample collection:</i>		
Senior Engineering Technician	hour	\$67.50
Engineering Technician	hour	\$56.25
<b>SAMPLING &amp; TESTING OF FRESH CONCRETE</b>		
<b>SAMPLING &amp; TESTING OF FRESH CONCRETE</b>	<b>UNIT</b>	<b>REVISED UNIT COST</b>
Technician time for sampling fresh concrete, casting test cylinders, conducting slump tests, and standby time (minimum 2 hours)	hour	\$56.25
Curing and compressive strength testing of concrete cylinders	cylinder	\$16.31
Air Content Tests	test	\$28.13

Unit Weight Tests	test	\$39.38
Yield Tests (Calculation only; does not include time at the plant)	test	\$39.38
Plant Control (Precast Yard Inspection)	hour	\$76.50
Mix Designs <Materials delivered to contractor's laboratory>	design	TBN
Verification of Mix Design	design	TBN
Fineness Modulus	test	\$61.88
Concrete Block Strength Test ( Gross area)	block	\$73.13
Concrete Block Absorption & Strength Test (net area) - 3 Blocks/Set	set	\$168.75
Flexural Strength of Beams	test	\$54.00
Technician time for sampling & molding beams <Minimum 2 hours>	hour	\$67.50
<b>SAMPLING/TESTING OF IN-PLACE CONC. AND ASPHALT</b>		
<b>SAMPLING/TESTING OF IN-PLACE CONC. AND ASPHALT</b>	<b>UNIT</b>	<b>REVISED UNIT COST</b>
Mobilization for Coring or Ultrasonic testing	mobilization	\$168.75
Coring: Machine plus Generator Rental	day	\$337.50
Asphalt Cold Patch or Concrete Patch	core	\$56.25
Technician time for coring (2 man crew)	hour	\$163.13
Diamond Bit usage charge for concrete coring	per inch depth	\$5.63
Trimming, measuring, curing & testing of concrete cores	per core	\$45.00
Technician time for Ultrasonic testing - Staff Eng.,	hour	\$95.63
Asphalt Density and Thickness	sample	\$47.25
Pachometer Windsor Probe or Swiss Hammer testing -Staff Engineer	hour	\$95.63
Windsor Probe charges (set of 3)	set	\$73.13
<b>ASPHALT LABORATORY SERVICES</b>	<b>UNIT</b>	<b>REVISED UNIT COST</b>
Asphalt Laboratory Services	design	\$731.25
Extraction & Gradation	sample	\$196.88
Marshal Stability & Flow	set of 3 pills	\$123.75
Density of Pills or Cores	sample	\$39.38
<i>Field Inspection and Sampling:</i>		
Senior Engineer Technician - FDOT CTQP Certified	hour	\$73.13
Engineer Technician - FDOT CTQP Certified	hour	\$67.50
<b>STRUCTURAL &amp; BUILDING CONSTRUCTION INSPECTIONS</b>		
<b>STRUCTURAL &amp; BUILDING CONSTR. INSPECTIONS</b>	<b>UNIT</b>	<b>REVISED UNIT COST</b>
Monitor install of sheet piles foundation piles, etc. - Staff Eng.	Hour	\$95.63
Senior Engineering Technician	hour	\$67.50

Engineering Technician	hour	\$56.25
Check torque of bolted connections	hour	\$73.13
Welding Inspector	hour	\$73.13
Building & Roofing Inspector	hour	\$84.38
Threshold Inspector (PE)	hour	\$151.88
Sampling & Testing, built up roof specimens	sample	Cost
Mobilization of loading jacks & vibration monitoring equipment	mobilization	Cost
<b>TURBIDITY MONITORING</b>		
<b>TURBIDITY MONITORING</b>	<b>UNIT</b>	<b>REVISED UNIT COST</b>
<i>Collect Water Samples &amp; Turbidity Tests:</i>		
Senior Engineering Technician	hour	\$67.50
Engineering Technician	hour	\$58.50
Equipment	day	TBD
<b>ENGINEERING &amp; ADMINISTRATIVE SUPPORT SERVICES</b>		
<b>ENGINEERING &amp; ADMINISTRATIVE SUPPORT SERVICES</b>	<b>UNIT</b>	<b>REVISED UNIT COST</b>
Senior Project Engineer	hour	\$166.50
Project Engineer	hour	\$130.50
Staff Engineer	hour	\$103.50
Senior Engineering Technician	hour	\$67.50
Engineering Technician	hour	\$58.50
Draftsman	hour	\$76.50
Administrative Assistant	hour	\$58.50
<b>MISCELLANEOUS SERVICES/ITEMS</b>		
<b>MISCELLANEOUS SERVICES/ITEMS</b>	<b>UNIT</b>	<b>REVISED UNIT COST</b>
PDA Equipment Mobilization	mobilization	\$540.00
Geo Dynamic Pile Testing/PDA Equipment Monitoring	day	\$2,025.00
Geo Saximeter Equipment	day	\$315.00
EDC Equipment Mobilization	mobilization	\$540.00
Geo Dynamic Pile Testing/EDC Equipment (SP202) Monitoring	day	\$2,025.00
Geo Dynamic Pile Testing/EDC Equipment (SP402) Monitoring:	day	\$2,025.00
Vibration Monitor Equipment	day	\$63.00
Vehicle Trip Charge (within 50 mile radius of office)	Trip	0.60 /mile
<b>OVERTIME AND WEEKENDS</b>		
	unit rate	1.5
<b>HOLIDAYS</b>		
	unit rate	1.5
<b>TRAVEL - Time Charged will include Travel Portal to Portal</b>		



## Exhibit "C"

### Federal Contract Provisions

The Consultant hereby agrees that the following terms, at a minimum, will be incorporated into any subsequent contract resulting from this RFQ, which is funded in whole or in part with any federal or other funding where the following terms are applicable:

**Equal Employment Opportunity.** During the performance of the resulting contract, the Consultant agrees as follows:

- (1) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:  
Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.
- (4) The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of

September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Consultant debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

**Compliance with the Contract Work Hours and Safety Standards Act.**

(1) Overtime requirements. No Consultant or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Consultant and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. DOJ, the State of Florida, or the CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### **Rights to Inventions Made Under a Contract or Agreement**

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

#### **Clean Air Act**

- (1) The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Consultant agrees to report each violation to the City, and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

#### **Federal Water Pollution Control Act**

- (1) The Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Consultant agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

#### **Suspension and Debarment.**

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Consultant is required to verify that none of the Consultant’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification, as laid out in Exhibit I, is a material representation of fact relied upon by the City. If it is later determined that the Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida or the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **Byrd Anti-Lobbying Amendment.**

Consultants who apply or bid for an award of \$100,000 or more shall file the required certification as laid out in Exhibit J. Each tier certifies to the tier above that it will not and has not used Federal appropriated

funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

**Procurement of Recovered materials.**

(i) In the performance of this contract, the Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- Competitively within a timeframe providing for compliance with the contract performance schedule;
- Meeting contract performance requirements; or
- At a reasonable price.

(ii) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(iii) The Consultant also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

**Access to Records.**

(1) The Consultant agrees to provide the State of Florida, the CITY, the DOJ Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Consultant agrees to provide the Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the City and the Consultant acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the DOJ Administrator or the Comptroller General of the United States.

**DHS Seal, Logo, and Flags.**

The Consultant shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific DOJ pre-approval.

**Compliance with Federal Law, Regulations, and Executive Orders.**

By signing this agreement, the Consultant acknowledges that federal financial assistance may be used to fund all or a portion of the contract. The Consultant will comply with all applicable Federal law, regulations, executive orders, federal policies, procedures, and directives.

**No Obligation by Federal Government.**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Consultant, or any other party pertaining to any matter resulting from the contract.

**Program Fraud and False or Fraudulent Statements or Related Acts.** The Consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Consultant's actions pertaining to this contract.

**Affirmative Steps. Required Affirmative Steps**

If the Consultant intends to subcontract any portion of the work covered by this Contract, the Consultant must take all necessary affirmative steps to assure that small and minority businesses, women's business

enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

**Domestic preferences for procurements.**

(1) As appropriate and to the extent consistent with law, the Consultant should purchase, acquire, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(2) For purposes of this section:

(a) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(b) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Prohibition on certain telecommunications and video surveillance services or equipment.

(1) The Consultant is prohibited from obligating or expending loan or grant funds to:

(a) Procure or obtain;

(b) Extend or renew a contract to procure or obtain; or

(c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(2) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), the City shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

## **CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS - LOWER-TIER COVERED TRANSACTIONS**

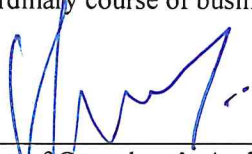
This document is a covered transaction for purposes of the debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 3000 (Non- procurement Debarment and Suspension). As such, Consultant is required to confirm that none of the Consultant, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

### **INSTRUCTIONS FOR CERTIFICATION**

- 1) By signing this Certification, the Consultant, also sometimes referred to herein as a prospective primary participant, is providing the certification set out below.
- 2) The inability of a Consultant to provide the certification required below will not necessarily result in denial of participation in the covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the City's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- 3) The certification in this clause is a material representation of fact upon which reliance was placed when the City determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 4) The prospective primary participant shall provide immediate written notice to the City if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal and voluntarily excluded, as used in this certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- 6) The prospective primary participant agrees by signing the Addendum that it shall not knowingly enter into any lower tier covered transactions with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction. If it is later determined that the prospective primary participant knowingly entered into such a transaction, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 7) The prospective primary participant further agrees by signing this Addendum that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," as available through the United States Department of Homeland Security, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that

the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.



\_\_\_\_\_  
Signature of Consultant's Authorized Official

PANNIR SHANMUGAM, PRESIDENT  
Name and Title of Consultant's Authorized Official

03/17/2023  
Date

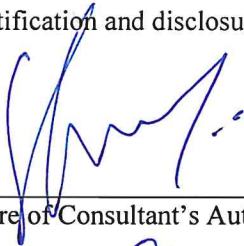
**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant \_\_\_\_\_ certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



\_\_\_\_\_  
Signature of Consultant's Authorized Official

*Panneer Shanmugam, President.*  
\_\_\_\_\_  
Name and Title of Consultant's Authorized Official

3/17/2023  
Date



**CONTINUING PROFESSIONAL SERVICES AGREEMENT**

**RFQ#23-300**  
**(Geotechnical)**

THIS CONTINUING PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on \_\_\_\_\_, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **GFA International, Inc., dba Universal Engineering Sciences** a corporation registered to do business in the State of Florida (“CONSULTANT”).

**RECITALS**

**WHEREAS**, the City issued Request for Qualifications (No. 23-300) for civil engineering, geotechnical engineering, surveying, architecture, hydrogeological services, transportation and mobility planning, energy management and engineering services, construction management and project management and related professional services in accordance with the Consultants’ Competitive Negotiations Act, section 287.055, Florida Statutes (“RFQ”); and

**WHEREAS**, the CONSULTANT submitted its qualifications in response to the RFQ; and

**WHEREAS**, the City desires to award the RFQ to the CONSULTANT based on CONSULTANT’s qualifications and experience to provide Geotechnical services; and

**WHEREAS**, the CONSULTANT has significant experience in assisting municipal organizations in providing engineering services; and

**WHEREAS**, this Agreement may be funded, in whole or in part, by the Federal agencies, in which case, the CONSULTANT agrees that any services performed pursuant to the RFQ and this Agreement will comply with all applicable Federal law, Federal regulations, executive orders, FEMA policies, procedures, and directives and special clauses as provided for in **Exhibit “C”**; and

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

**WHEREAS**, the City finds entering this Agreement with the CONSULTANT serves a valid public purpose.

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

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

**SECTION 2: CONSULTANT’S SERVICES.** The City has awarded the CONSULTANT the non-exclusive right to provide the City with Geotechnical services (“services”).

**SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP.** No relationship of employer or employee is created by this Agreement, it being understood that CONSULTANT will act hereunder as an independent contractor and none of the CONSULTANT’s, officers, directors, employees, independent contractors, representatives or agents performing services for CONSULTANT pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement.

The relationship between the City and CONSULTANT is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

#### **SECTION 4: TERM, TIME AND TERMINATION.**

(a) Term. This non-exclusive Agreement shall become effective upon approval by the City Commission and execution by the City, and shall have an initial term of three (3) years with three (3) optional, one (1) year renewals. The City Manager is authorized to exercise the optional one (1) year renewals. Each fiscal year of this Agreement and any renewals will be subject to the availability of funds lawfully appropriated for its purpose by the City Commission. Notwithstanding the foregoing, this Agreement may be terminated as stated herein. The term may be extended by written agreement of the parties for further services related to those services identified herein.

(b) Time for Completion. Time is of the essence in the performance of this Agreement. The CONSULTANT shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the project schedule set forth by the City.

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

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

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

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

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

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

#### **SECTION 5: COMPENSATION.**

(a) Fee Schedule. The fee schedule attached as **Exhibit "B"** shall remain firm for the first three (3) years of this Agreement. After the first three (3) years, the CONSULTANT may request a change to the fee schedule. No changes to the fee schedule shall occur unless approved in writing by the City, which may be by an approved amendment signed by the City Manager. The fee schedule shall be the basis for all fees proposed by the CONSULTANT and in any approved task order.

(b) Task Order(s). This non-exclusive Agreement does not guarantee that the City will utilize CONSULTANT in any capacity or for any services identified herein. When the City identifies a need for the CONSULTANT's services, the City will request a proposal from the CONSULTANT to provide the services requested. The CONSULTANT's proposal shall be submitted in the format of the sample task order, attached hereto and incorporated herein as **Exhibit "A"** and shall be based on the CONSULTANT's currently hourly fee set forth in the CONSULTANT's proposal and attached hereto as **Exhibit "B"**. If a sub-consultant(s) is to be utilized for services under a task order, the CONSULTANT shall obtain a written proposal from the sub-consultant(s) and attach the same with to the CONSULTANT's proposal submitted to the City. Upon receipt of the CONSULTANT's proposal, the City shall decide in its sole discretion whether to award the task order to the CONSULTANT. Depending on the lump sum, not to exceed amount of each proposed task order, the task order may be awarded by the City Manager (if within her purchasing authority of \$50,000 or less) or the City Commission. If the task order is awarded to the CONSULTANT, the CONSULTANT shall commence the identified services upon receipt of a Notice to Proceed from the City or upon the CONSULTANT's receipt of a fully executed task order for the services. The City reserves the right to reject any and all proposals submitted by the CONSULTANT.

(c) Invoices. Unless otherwise agreed in an issued Task Order, the CONSULTANT shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will be paid within thirty (30) days following the City's receipt of the CONSULTANT's invoice.

(d) Reimbursable Expenses. The CONSULTANT's reimbursable, out-of-pocket expenses including, but not limited to, travel, per diem and other living expenses, shall be identified in an approved task order. The City shall not be responsible for payment of any such reimbursable, out-of-pocket expenses except as provided for in an approved task order or amendment thereto. Reimbursement for mileage shall only be for travel required outside of Palm Beach County. CONSULTANT shall not be reimbursed for travel

within Palm Beach County and all travel shall be proposed and reimbursed pursuant to section 112. 061, Florida Statutes.

(e) Direct Project Expenses. Unless otherwise specifically stated in an approved task order, charges for printing, reproduction, use of computer-aided design equipment, field equipment, and any laboratory analysis performed by the CONSULTANT or its subconsultants or its subcontractors, and the use of the CONSULTANT's and employee's automobiles shall be identified in an approved task order. The City shall not be responsible for payment of any other direct project expenses. All direct project expenses shall be billed at cost to the City and the CONSULTANT shall not mark-up or charge an administrative fee in addition to the direct cost for such expenses.

(f) Additional Services. If the City seeks to utilize the CONSULTANT for any additional services related to the services identified herein, the City and CONSULTANT will meet and negotiate a reasonable fee for such services. The negotiated fee shall be approved by the City in the form of an Amendment prior to said services being provided.

(g) Status Report. The CONSULTANT shall complete and submit a technical summary and budgetary status report with each invoice at no additional cost to the City (format may be provided by City or CONSULTANT for each approved task order).

(h) Fiscal Non-funding. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the CONSULTANT of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without penalty or expense to the City. The CONSULTANT will be paid for all services rendered through the date of termination.

#### **SECTION 6: TERMS OF PERFROMANCE**

(a) Starting Work. The CONSULTANT will not begin any of the services until authorized in writing by a Notice to Proceed from the City or upon the CONSULTANT's receipt of an approved Task Order for the services.

(b) Ownership of Documents. The drawings, specifications, calculations, supporting documents, or other work products which are prepared for the City by the CONSULTANT under this Agreement, a City issued Task Order, or amendments thereto ("Work Product"), shall be and shall become the property of the City upon delivery or completion by the CONSULTANT or receipt of payment from the City for the same. The CONSULTANT may keep copies or samples thereof and shall have the right to use such Work Product. The City accepts sole responsibility for its reuse of any Work Product in a manner other than as initially intended, or for any use of incomplete Work Product unless prior written approval is obtained from the CONSULTANT.

(c) Accounting Records. The CONSULTANT's accounting records, insofar as they pertain to invoicing the City or for disbursements made from the CONSULTANT's account for services under this Agreement, shall be open to City's inspection and audit at the CONSULTANT's office upon reasonable prior notice and during normal business hours. Backup documentation for out-of-pocket expenses exceeding Twenty-Five Dollars (\$25.00) each shall be available at the CONSULTANT's office. These records will be retained by the CONSULTANT for five (5) years after the calendar year in which the services to which they pertain were rendered or the disbursements were made.

(d) Approval of Changes. The City, through the City Manager must approve in writing any changes in the scope of services which result in additional costs or expenses to the City, extension of the schedule or which would change the underlying purpose of the services. Changes include, but are not limited to, issuing additional instructions, requesting additional work, direct omission of work previously ordered, or changes in time of performance.

(e) Authorized Representative. Before starting work, the CONSULTANT shall designate an authorized representative acceptable to the City to represent and act for the CONSULTANT and shall inform the City in writing of the name and address of such representative together with a clear definition of the scope of their authority. The CONSULTANT shall keep the City informed of any subsequent changes in the foregoing. The authorized representative of the City shall be the City Manager or designee.

(f) Design/Construction Phase Services. Visits to construction sites and observations made by the CONSULTANT as part of construction phase services, if any, shall not relieve the construction contractor(s) of obligation to conduct comprehensive inspections of the work sufficient to insure conformance with the intent of the construction contract documents, and shall not relieve the construction contractor(s) of full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work under the construction contract(s) and for all safety precautions incidental thereto. Safety precautions administered by the CONSULTANT, if any, to protect the CONSULTANT's personnel shall meet those policies enacted by the City. Further, CONSULTANT shall endeavor to make reasonable efforts to guard the City against defects and deficiencies in the services of the construction contractor(s) and to help determine if the provisions of the construction contract documents are being fulfilled. This paragraph does not, however, release the CONSULTANT from any liability which might be attributable to its negligent acts, errors, or omissions, including but not limited to design, construction phase services, or other services as defined in this Agreement, of the CONSULTANT.

(g) Personnel. The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The CONSULTANT shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind. All of the CONSULTANT's personnel (and all subconsultants) while on City premises, will comply with all City requirements governing conduct, safety, and security. The City reserves the right to request replacement of any of CONSULTANT's personnel furnished by the CONSULTANT upon written notice by City to CONSULTANT of the cause for such replacement.

(h) Conflict of Interest. The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Section 112.311, Florida Statutes. The CONSULTANT further represents that no person having any such conflicting interest shall be employed for said performance. The CONSULTANT shall promptly notify the City's representative, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the CONSULTANT. The City agrees to notify the CONSULTANT of its opinion within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the City shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by the CONSULTANT under the terms of this Agreement.

(i) News Releases / Publicity. The CONSULTANT shall not make any news releases, publicity releases, or advertisements relating to this Agreement or the services hereunder without prior written City approval.

**SECTION 8: CITY'S RESPONSIBILITIES**

(a) Service of Others. The City shall furnish to the CONSULTANT, if required for performance of the Consultant's services, all available data prepared by or the result of the services of others, including without limitation (as may be appropriate): building plans and related drawings, core borings, probings, and subsurface explorations, hydraulic surveys, laboratory tests, and inspections of samples, materials, and equipment, appropriate professional interpretations of all of the foregoing; environmental assessments and impact statements, appropriate professional interpretations of all of the foregoing; property boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; zoning, deed, and other land use restrictions; and any other special data or consultations relating to the Project.

(b) Examine Work of the Consultant. Within a reasonable time so as not to delay the services of the CONSULTANT, the City shall examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the CONSULTANT, obtain advice of an attorney, insurance counselor, or other consultants, as the City deems appropriate, for such examinations and the rendering, if required, of written opinions pertaining thereto.

**SECTION 9: SUSPENSION BY CITY FOR CONVENIENCE.** The City may, at any time without cause, order CONSULTANT in writing to suspend, delay or interrupt its services in whole or in part for such period of time as City may determine for City's convenience. Such order shall be by written notice to the CONSULTANT providing at least ten (10) days advance notice unless such order is immediately necessary for the protection of the public health, safety or welfare or for the protection of property.

**SECTION 10: INDEMNIFICATION.** The CONSULTANT shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the CONSULTANT, its officers, directors, employees, representatives, and agents employed or utilized by the CONSULTANT in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the CONSULTANT, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

**SECTION 11: COMPLIANCE AND DISQUALIFICATION.** Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

**SECTION 12: SUB-CONSULTANTS.** The City reserves the right to accept the use of a subconsultant or to reject the selection of a particular subconsultant and approve all qualifications of any subconsultant in order to make a determination as to the capability of the subconsultant to perform properly under this Agreement. All subconsultants providing professional services to the CONSULTANT under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement for the CONSULTANT. In the event that a subconsultant does not have insurance or does not meet the insurance limits as stated in this Agreement, the CONSULTANT shall indemnify and hold harmless the City for any claim in excess of the subconsultant's insurance coverage, arising out of the negligent acts, errors or omissions of the subconsultant. Nothing contained herein shall create any contractual relationship between any subconsultant and the City.

**SECTION 13: FEDERAL AND STATE TAX.** The City is exempt from payment of Florida State Sales and Use Tax. The CONSULTANT is not authorized to use the City's Tax Exemption Number.

**SECTION 14: INSURANCE.** Prior to commencing any services, the CONSULTANT shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury

or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the CONSULTANT. All such insurance policies may not be modified or terminated without the express written authorization of the City.

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

The commercial general liability and automobile policies will name the City as an additional insured on primary, non-contributory basis and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the CONSULTANT has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve CONSULTANT of its liability and obligations under this Agreement.

Additional Insured status shall be provided pursuant and subject to ISO Form CG 20 10 12 19 (ongoing operations) and, if applicable, CG 20 37 12 19 (completed operations), or equivalent forms for coverages other than Commercial General Liability, to the extent that the loss or claim in question is caused by the CONSULTANT's negligence in its operations in and during the performance of the services, and to no greater extent than is necessary to provide insurance coverage for the covered indemnity obligations expressly assumed by CONSULTANT under this Agreement, it being the express intent and understanding of the Parties that, up to specified limits, additional insured status is provided hereunder as a support to performance of CONSULTANT's expressly assumed, covered indemnity obligations hereunder.

**SECTION 15: SUCCESSORS AND ASSIGNS.** The City and the CONSULTANT each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

**SECTION 16: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.** All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County, Florida. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Venue for any and all legal action necessary to enforce the Agreement or disputes arising out of the Agreement will be held exclusively in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 17: WAIVER OF JURY TRIAL.** TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**SECTION 18: NONDISCRIMINATION.** The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**SECTION 19: AUTHORITY TO PRACTICE.** The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 20: SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 21: PUBLIC ENTITY CRIMES.** CONSULTANT acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or subcontractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The CONSULTANT will advise the City immediately if it becomes aware of any violation of this statute.

**SECTION 22: NOTICE.** All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the CITY shall be sent to:

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

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

GFA International, Inc. dba Universal Engineering Sciences  
Attn: Carlos A. Mercado, Principal  
1215 Wallace Drive  
Delray Beach, FL 33444

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

**SECTION 23: ENTIRETY OF AGREEMENT AND CONTROLLING PROVISIONS.** This Agreement consists of the terms and conditions set forth in this Agreement (inclusive of all exhibits hereto) and any City issued Task Orders. The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement (inclusive of all exhibits hereto) and a City issued Task Order, the terms and conditions of this Agreement shall prevail with the City issued Task Order next taking precedence. Wherever possible, the



provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 24: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 25: PREPARATION AND NON-EXCLUSIVE.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

**SECTION 26: MATERIALITY.** All provisions of the Agreement shall be deemed material. In the event CONSULTANT fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the CONSULTANT to terminate for cause.

**SECTION 27: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved by the City Commission. The Effective Date is the date this Agreement is executed by the City.

**SECTION 28: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS.** Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**SECTION 29: SURVIVABILITY.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**SECTION 30: COUNTERPARTS.** This Agreement may be executed in one or more counterparts electronically or digitally, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all the signatories hereto have signed a counterpart of this Agreement.

**SECTION 31: PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY.** By signing this Agreement, on behalf of the CONSULTANT, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the CONSULTANT for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**SECTION 33: PUBLIC RECORDS.** The CONSULTANT shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the CONSULTANT does not transfer the records to the City.

(d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the CONSULTANT or keep and maintain public records required by the City to perform the service. If the CONSULTANT transfers all public records to the City upon completion of the Agreement, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the Agreement, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, [CITYCLERK@LAKEWORTHBEACHFL.GOV](mailto:CITYCLERK@LAKEWORTHBEACHFL.GOV), OR 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

**SECTION 34: CONFIDENTIAL AND PROPRIETARY INFORMATION.** Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software ("Confidential Information") obtained from the other party (the "Disclosing Party"); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.

**SECTION 35: EXPORT ADMINISTRATION.** Each party agrees to comply with all export laws and regulations of the United States ("Export Laws") to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

**SECTION 36: NO THIRD-PARTY BENEFICIARIES.** There are no third party beneficiaries under this Agreement.

**SECTION 37: SCRUTINIZED COMPANIES.**

(a) The CONSULTANT certifies that it and its subconsultants are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the CONSULTANT or any of its subconsultants are found to have submitted a false certification; or if the CONSULTANT or any of its

subconsultants, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

(b) If this Agreement is for one million dollars or more, the CONSULTANT certifies that it and its subconsultants are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the CONSULTANT or any of its subconsultants are found to have submitted a false certification; or if the CONSULTANT or any of its subconsultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

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

(d) The CONSULTANT agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

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

(f) As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above stated contracting prohibitions then they shall become inoperative.

**SECTION 38: E-VERIFY.** Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONSULTANT shall:

(a) Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subconsultants (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subconsultants' newly hired employees;

(b) Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subconsultant does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

(c) Maintain copies of all subconsultant affidavits for the duration of this Agreement and provide the same to the City upon request;

(d) Comply fully, and ensure all subconsultant comply fully, with Section 448.095, Florida Statutes;

(e) Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized Aliens; Employment Prohibited) shall be grounds for termination of this Agreement; and,

(f) Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONSULTANT may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Continuing Professional Services Agreement for Geotechnical Services as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Betty Resch, Mayor

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

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

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

**CONSULTANT: GFA INTERNATIONAL, INC. dba  
UNIVERSAL ENGINEERING SCIENCES**

By: \_\_\_\_\_  
*REINALDO VILA*

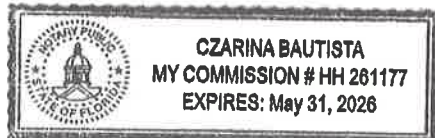
[Corporate Seal]

STATE OF FL )  
COUNTY OF Palm beach )

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 17th day of March, 2023, by **GFA International, Inc. dba Universal Engineering Sciences**, a Florida Corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

*[Signature]*  
\_\_\_\_\_  
Notary Public Signature

Notary Seal:



**EXHIBIT "A"**  
**(Sample Task Order)**

**Note: Task Order Number will be issued by the City, leave the line number empty.**

**TASK ORDER No.**

**CONTINUING PROFESSIONAL SERVICES  
(Geotechnical)**

THIS TASK ORDER FOR CONTINUING PROFESSIONAL SERVICES (“Task Order”) is made on the day of \_\_\_\_\_, between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **GFA International, Inc. dba Universal Engineering Sciences** a State of Florida, CORPORATION (“CONSULTANT”).

**1.0 Project Description:**

The City desires the CONSULTANT to provide those services as identified herein for the Project. The Project is described in the CONSULTANT’s Proposal, dated \_\_\_\_\_ and services are generally described as: \_\_\_\_\_ (the “Project”).

**2.0 Scope**

Under this Task Order, the CONSULTANT will provide the City of Lake Worth Beach \_\_\_\_\_ with geotechnical consulting services for the Project as specified in the CONSULTANT’s proposal attached hereto and incorporated herein as Exhibit “1”.

**3.0 Schedule**

The services to be provided under this Task Order shall be completed within \_\_\_\_\_ calendar days from the City’s approval of this Task Order or the issuance of a Notice to Proceed.

**4.0 Compensation**

This Task Order is issued for a lump sum, not to exceed amount of \_\_\_\_\_. The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

**5.0 Project Manager**

The Project Manager for the CONSULTANT is \_\_\_\_\_, phone ( \_\_\_\_\_; email: \_\_\_\_\_; and, the Project Manager for the City is \_\_\_\_\_, phone: \_\_\_\_\_; email: \_\_\_\_\_.

**6.0 Progress Meetings**

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

**7.0 Authorization**

This Task Order is issued pursuant to the Continuing Professional Services Agreement (Geotechnical) based on RFQ#23-300 between the City of Lake Worth Beach and the CONSULTANT, dated \_\_\_\_\_ (“Agreement” hereafter). If there are any conflicts between the terms and conditions of this Task Order and the Agreement, the terms and conditions of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order No. \_\_\_\_\_ as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

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

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

**CONSULTANT: GFA INTERNATIONAL, INC. dba  
UNIVERSAL ENGINEERING SCIENCES**

By: **DO NOT SIGN – SAMPLE ONLY**

[Corporate Seal]

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this \_\_\_\_ day of \_\_\_\_\_, 2023, by **GFA International, Inc. dba Universal Engineering Sciences** a Florida Corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

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

Notary Seal:

**Exhibit "B"**

**Consultant's Rate Schedule**

<u>Discipline</u>	<u>Rate Unit</u>	
<b>Professional, Technical, and Administrative Personnel</b>		
Principal Engineer	\$146.70	Hour
Senior Engineer	\$135.90	Hour
Soil Scientist	\$90.65	Hour
Staff Engineer	\$103.50	Hour
CADD Draftsman	\$74.70	Hour
Senior Engineering Technician	\$87.30	Hour
Engineering Technician	\$61.20	Hour
Secretary / Clerical	\$47.70	Hour
<b>Inspectors/Inspections</b>		
Asphalt Inspector, Level 1 and 2	\$83.58	Hour
Asphalt Plant Inspector, Level 1 and 2	\$83.58	Hour
Concrete Inspector, Level 1 and 2	\$83.58	Hour
Drilled Shaft Inspector	\$83.58	Hour
Earthwork Field Inspector, Level 1 and 2	\$65.01	Hour
Q.C. Manager	\$90.65	Hour
State Certified Building Inspector (minimum 3 hours)	\$76.50	Hour
Threshold Inspection (minimum 3 hours)	\$94.50	Hour
<b>Geotechnical Exploration</b>		
Auger Borings (Hand)	\$7.20	Foot
Auger Borings (Power):		
0' - 50'	\$15.47	Foot
50' - 100'	\$17.54	Foot
100' - 150'	\$19.60	Foot
150' - 200'	\$23.73	Foot
Grout Bore Hole	\$6.30	Foot
<b>Cone Penetration:</b>		
0' - 50' Continuous Data Sampling	\$41.27	Foot
50' - 100' Continuous Data Sampling	\$48.50	Foot
100' - 150' Continuous Data Sampling	\$54.68	Foot
<b>Standard Penetration:</b>		
0' - 50'	\$17.10	Foot
50' - 100'	\$19.80	Foot
100' - 150'	\$24.30	Foot
150' - 200'	\$29.70	Foot
<b>Undisturbed Samples (Shelby Tubes):</b>		
0' - 50'	\$113.51	Foot
5' - 10'	\$123.82	Foot
Extra Split Spoons	\$22.50	Spoon



<b>Temporary Casing</b>		
0' - 5'	\$7.20	Foot
5' - 10'	\$8.10	Foot
10' - 12'	\$9.00	Foot
Groundwater Sample Analysis by EPA Methods 8260, EPA 8270, FL-PRO and 8 RCRA Metals	\$382.50	Each
Soil Sample Analyzed for EPA Methods 8260/5035, EPA 8270, FL-PRO and 8 RCRA Metals	\$382.50	Each
Encore Samplers, Low Level Soil Sample	\$10.80	Each
Field Horizontal/Vertical Permeability	\$562.50	Each
Percolation Test 10'	\$497.66	Each
Percolation Test 15'	\$510.76	Each
Fillable Porosity	\$510.76	Each
<b>Materials Testing</b>		
Air Content (Volumetric Method)	\$115.57	Each
<b>Asphalt Core:</b>		
Depth Check (4"/6")	\$115.57	Each
Density (4"/6")	\$118.66	Each
Backfill w/ asphalt (4")	\$115.57	Each
Backfill w/ asphalt (6")	\$115.57	Each
Concrete Cylinders (Set of Four)	\$113.51	Each
Additional Cylinders	\$16.20	Each
Additional Slump	\$18.00	Each
Soil Densities (Nuclear)	\$28.80	Each
Soil Densities (Calibrated Dry Sleeve)	\$88.74	Each
Wait Time (delay, or time between tests, exceeding 60 minutes)	\$67.46	Hour
Width/Depth Roadway (Set of 3)	\$135.00	Each
Unit Weight and Relative Yield of Fresh Concrete	\$49.50	Each
<b>Laboratory Services</b>		
# 200 Sieve Wash	\$42.30	Each
Asphalt Mix Design	\$792.00	Each
Asphalt Extraction	\$140.62	Each
Asphalt Gradation	\$140.62	Each
Atterberg Limits	\$50.30	Each
Carbonates	\$72.23	Each
Corrosion Series	\$244.80	Each
Gradation (Dry Sieve Analysis)	\$66.03	Each
Limerock Bearing Ratio (LBR)	\$331.62	Each
Marshall Stability	\$125.88	Each
Moisture Content	\$32.40	Each
Organic Content	\$51.59	Each
Permeability Tests (Lab) (Falling Head)	\$312.30	Each
pH Test	\$148.59	Each
Proctor (Standard or Modified)	\$93.60	Each
Soil Cement (Lab)	\$63.00	Each
Soil Cement Mix Design	\$774.90	Each
Soil Classification (FDOT)	\$99.05	Each
Soil Resistivity Testing	\$90.00	Each

<b>Miscellaneous Items and Equipment</b>		
Core Rig Mobilization	\$282.60	Each
Drill Rig Mobilization	\$361.14	Each
Ground Penetrating Radar (GPR)	\$1,665.00	Day
Geoprobe Rental	\$1,650.95	Day
OVA Rental	\$135.00	Day
Equipment Decontamination	\$112.43	Hour
Boring Layout	\$112.43	Hour
Delineation of Deleterious Soils	\$112.43	Hour
Maintenance of Traffic (MOT)	\$111.67	Hour
Site Clearing Supervision	\$112.43	Hour
Site Clearing (Minimum 1 day)	\$2,700.00	Day
Well Development	\$112.43	Hour

## Exhibit "C"

### Federal Contract Provisions

The Consultant hereby agrees that the following terms, at a minimum, will be incorporated into any subsequent contract resulting from this RFQ, which is funded in whole or in part with any federal or other funding where the following terms are applicable:

**Equal Employment Opportunity.** During the performance of the resulting contract, the Consultant agrees as follows:

(1) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

(4) The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The

Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Consultant debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

**Compliance with the Contract Work Hours and Safety Standards Act.**

(1) Overtime requirements. No Consultant or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Consultant and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. DOJ, the State of Florida, or the CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses

in any lower tier subcontracts. The prime Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### **Rights to Inventions Made Under a Contract or Agreement**

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

#### **Clean Air Act**

- (1) The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Consultant agrees to report each violation to the City, and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

#### **Federal Water Pollution Control Act**

- (1) The Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Consultant agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

#### **Suspension and Debarment.**

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Consultant is required to verify that none of the Consultant's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification, as laid out in Exhibit I, is a material representation of fact relied upon by the City. If it is later determined that the Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida or the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **Byrd Anti-Lobbying Amendment.**

Consultants who apply or bid for an award of \$100,000 or more shall file the required certification as laid out in Exhibit J. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining

any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

**Procurement of Recovered materials.**

- (i) In the performance of this contract, the Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
  - Competitively within a timeframe providing for compliance with the contract performance schedule;
  - Meeting contract performance requirements; or
  - At a reasonable price.
- (ii) Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (iii) The Consultant also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

**Access to Records.**

- (1) The Consultant agrees to provide the State of Florida, the CITY, the DOJ Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Consultant agrees to provide the Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the City and the Consultant acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the DOJ Administrator or the Comptroller General of the United States.

**DHS Seal, Logo, and Flags.**

The Consultant shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific DOJ pre-approval.

**Compliance with Federal Law, Regulations, and Executive Orders.**

By signing this agreement, the Consultant acknowledges that federal financial assistance may be used to fund all or a portion of the contract. The Consultant will comply with all applicable Federal law, regulations, executive orders, federal policies, procedures, and directives.

**No Obligation by Federal Government.**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Consultant, or any other party pertaining to any matter resulting from the contract.

**Program Fraud and False or Fraudulent Statements or Related Acts.** The Consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Consultant’s actions pertaining to this contract.

**Affirmative Steps. Required Affirmative Steps**

If the Consultant intends to subcontract any portion of the work covered by this Contract, the Consultant must take all necessary affirmative steps to assure that small and minority businesses, women’s business enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

**Domestic preferences for procurements.**

(1) As appropriate and to the extent consistent with law, the Consultant should purchase, acquire, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(2) For purposes of this section:

(a) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(b) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Prohibition on certain telecommunications and video surveillance services or equipment.

(1) The Consultant is prohibited from obligating or expending loan or grant funds to:

(a) Procure or obtain;

(b) Extend or renew a contract to procure or obtain; or

(c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(2) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), the City shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

## **CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS - LOWER-TIER COVERED TRANSACTIONS**

This document is a covered transaction for purposes of the debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 3000 (Non- procurement Debarment and Suspension). As such, Consultant is required to confirm that none of the Consultant, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

### **INSTRUCTIONS FOR CERTIFICATION**

- 1) By signing this Certification the Consultant, also sometimes referred to herein as a prospective primary participant, is providing the certification set out below.
- 2) The inability of a Consultant to provide the certification required below will not necessarily result in denial of participation in the covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the City's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- 3) The certification in this clause is a material representation of fact upon which reliance was placed when the City determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 4) The prospective primary participant shall provide immediate written notice to the City if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal and voluntarily excluded, as used in this certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- 6) The prospective primary participant agrees by signing the Addendum that it shall not knowingly enter into any lower tier covered transactions with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction. If it is later determined that the prospective primary participant knowingly entered into such a transaction, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 7) The prospective primary participant further agrees by signing this Addendum that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," as available through the United States Department of Homeland Security, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the



**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant \_\_\_\_\_ certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Consultant's Authorized Official

BERNARD VINA | Branch Manager

Name and Title of Consultant's Authorized Official

3/17/23

Date

eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.



Signature of Consultant's Authorized Official

BERNARDO VILLA / Branch Manager

Name and Title of Consultant's Authorized Official

3/18/23

Date

**CONTINUING PROFESSIONAL SERVICES AGREEMENT**

**RFQ#23-300**

**(Geotechnical)**

THIS CONTINUING PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on \_\_\_\_\_, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Terracon Consultants, Inc.**, a corporation registered to do business in the State of Florida (“CONSULTANT”).

**RECITALS**

**WHEREAS**, the City issued Request for Qualifications (No. 23-300) for civil engineering, geotechnical engineering, surveying, architecture, hydrogeological services, transportation and mobility planning, energy management and engineering services, construction management and project management and related professional services in accordance with the Consultants’ Competitive Negotiations Act, section 287.055, Florida Statutes (“RFQ”); and

**WHEREAS**, the CONSULTANT submitted its qualifications in response to the RFQ; and

**WHEREAS**, the City desires to award the RFQ to the CONSULTANT based on CONSULTANT’s qualifications and experience to provide Geotechnical services; and

**WHEREAS**, the CONSULTANT has significant experience in assisting municipal organizations in providing engineering services; and

**WHEREAS**, this Agreement may be funded, in whole or in part, by the Federal agencies, in which case, the CONSULTANT agrees that any services performed pursuant to the RFQ and this Agreement will comply with all applicable Federal law, Federal regulations, executive orders, FEMA policies, procedures, and directives and special clauses as provided for in **Exhibit “C”**; and

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

**WHEREAS**, the City finds entering this Agreement with the CONSULTANT serves a valid public purpose.

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

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

**SECTION 2: CONSULTANT’S SERVICES.** The City has awarded the CONSULTANT the non-exclusive right to provide the City with Geotechnical services (“services”).

**SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP.** No relationship of employer or employee is created by this Agreement, it being understood that CONSULTANT will act hereunder as an independent contractor and none of the CONSULTANT’s, officers, directors, employees, independent contractors, representatives or agents performing services for CONSULTANT pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and CONSULTANT is that of independent contractors, and

neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

#### **SECTION 4: TERM, TIME AND TERMINATION.**

(a) Term. This non-exclusive Agreement shall become effective upon approval by the City Commission and execution by the City, and shall have an initial term of three (3) years with three (3) optional, one (1) year renewals. The City Manager is authorized to exercise the optional one (1) year renewals. Each fiscal year of this Agreement and any renewals will be subject to the availability of funds lawfully appropriated for its purpose by the City Commission. Notwithstanding the foregoing, this Agreement may be terminated as stated herein. The term may be extended by written agreement of the parties for further services related to those services identified herein.

(b) Time for Completion. Time is of the essence in the performance of this Agreement. The CONSULTANT shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the project schedule set forth by the City.

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

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

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

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

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

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

#### **SECTION 5: COMPENSATION.**

(a) Fee Schedule. The fee schedule attached as **Exhibit "B"** shall remain firm for the first three (3) years of this Agreement. After the first three (3) years, the CONSULTANT may request a change to the fee schedule. No changes to the fee schedule shall occur unless approved in writing by the City, which may be by an approved amendment signed by the City Manager. The fee schedule shall be the basis for all fees proposed by the CONSULTANT and in any approved task order.

(b) Task Order(s). This non-exclusive Agreement does not guarantee that the City will utilize CONSULTANT in any capacity or for any services identified herein. When the City identifies a need for the CONSULTANT's services, the City will request a proposal from the CONSULTANT to provide the services requested. The CONSULTANT's proposal shall be submitted in the format of the sample task order, attached hereto and incorporated herein as **Exhibit "A"** and shall be based on the CONSULTANT's currently hourly fee set forth in the CONSULTANT's proposal and attached hereto as **Exhibit "B"**. If a sub-consultant(s) is to be utilized for services under a task order, the CONSULTANT shall obtain a written proposal from the sub-consultant(s) and attach the same with to the CONSULTANT's proposal submitted to the City. Upon receipt of the CONSULTANT's proposal, the City shall decide in its sole discretion whether to award the task order to the CONSULTANT. Depending on the lump sum, not to exceed amount of each proposed task order, the task order may be awarded by the City Manager (if within her purchasing authority of \$50,000 or less) or the City Commission. If the task order is awarded to the CONSULTANT, the CONSULTANT shall commence the identified services upon receipt of a Notice to Proceed from the City or upon the CONSULTANT's receipt of a fully executed task order for the services. The City reserves the right to reject any and all proposals submitted by the CONSULTANT.

(c) Invoices. Unless otherwise agreed in an issued Task Order, the CONSULTANT shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will be paid within thirty (30) days following the City's receipt of the CONSULTANT's invoice.

(d) Reimbursable Expenses. The CONSULTANT's reimbursable, out-of-pocket expenses including, but not limited to, travel, per diem and other living expenses, shall be identified in an approved task order. The City shall not be responsible for payment of any such reimbursable, out-of-pocket expenses except as provided for in an approved task order or amendment thereto. Reimbursement for mileage shall only be for travel required outside of Palm Beach County. CONSULTANT shall not be reimbursed for

travel within Palm Beach County and all travel shall be proposed and reimbursed pursuant to section 112.061, Florida Statutes.

(e) Direct Project Expenses. Unless otherwise specifically stated in an approved task order, charges for printing, reproduction, use of computer-aided design equipment, field equipment, and any laboratory analysis performed by the CONSULTANT or its subconsultants or its subcontractors, and the use of the CONSULTANT's and employee's automobiles shall be identified in an approved task order. The City shall not be responsible for payment of any other direct project expenses. All direct project expenses shall be billed at cost to the City and the CONSULTANT shall not mark-up or charge an administrative fee in addition to the direct cost for such expenses.

(f) Additional Services. If the City seeks to utilize the CONSULTANT for any additional services related to the services identified herein, the City and CONSULTANT will meet and negotiate a reasonable fee for such services. The negotiated fee shall be approved by the City in the form of an Amendment prior to said services being provided.

(g) Status Report. The CONSULTANT shall complete and submit a technical summary and budgetary status report with each invoice at no additional cost to the City (format may be provided by City or CONSULTANT for each approved task order).

(h) Fiscal Non-funding. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the CONSULTANT of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without penalty or expense to the City. The CONSULTANT will be paid for all services rendered through the date of termination.

#### **SECTION 6: TERMS OF PERFORMANCE**

(a) Starting Work. The CONSULTANT will not begin any of the services until authorized in writing by a Notice to Proceed from the City or upon the CONSULTANT's receipt of an approved Task Order for the services.

(b) Ownership of Documents. The drawings, specifications, calculations, supporting documents, or other work products which are prepared for the City by the CONSULTANT under this Agreement, a City issued Task Order, or amendments thereto ("Work Product"), shall be and shall become the property of the City upon delivery or completion by the CONSULTANT or receipt of payment from the City for the same. The CONSULTANT may keep copies or samples thereof and shall have the right to use such Work Product. The City accepts sole responsibility for its reuse of any Work Product in a manner other than as initially intended, or for any use of incomplete Work Product unless prior written approval is obtained from the CONSULTANT.

(c) Accounting Records. The CONSULTANT's accounting records, insofar as they pertain to invoicing the City or for disbursements made from the CONSULTANT's account for services under this Agreement, shall be open to City's inspection and audit at the CONSULTANT's office upon reasonable prior notice and during normal business hours. Backup documentation for out-of-pocket expenses exceeding Twenty-Five Dollars (\$25.00) each shall be available at the CONSULTANT's office. These records will be retained by the CONSULTANT for five (5) years after the calendar year in which the services to which they pertain were rendered or the disbursements were made.

(d) Approval of Changes. The City, through the City Manager must approve in writing any changes in the scope of services which result in additional costs or expenses to the City, extension of the schedule or which would change the underlying purpose of the services. Changes include, but are not limited to, issuing additional instructions, requesting additional work, direct omission of work previously ordered, or changes in time of performance.

(e) Authorized Representative. Before starting work, the CONSULTANT shall designate an authorized representative acceptable to the City to represent and act for the CONSULTANT and shall inform the City in writing of the name and address of such representative together with a clear definition of the scope of their authority. The CONSULTANT shall keep the City informed of any subsequent changes in the foregoing. The authorized representative of the City shall be the City Manager or designee.

(f) Design/Construction Phase Services. Visits to construction sites and observations made by the CONSULTANT as part of construction phase services, if any, shall not relieve the construction contractor(s) of obligation to conduct comprehensive inspections of the work sufficient to insure conformance with the intent of the construction contract documents, and shall not relieve the construction contractor(s) of full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work under the construction contract(s) and for all safety precautions incidental thereto. Safety precautions administered by the CONSULTANT, if any, to protect the CONSULTANT's personnel shall meet those policies enacted by the City. Further, CONSULTANT shall endeavor to make reasonable efforts to guard the City against defects and deficiencies in the services of the construction contractor(s) and to help determine if the provisions of the construction contract documents are being fulfilled. This paragraph does not, however, release the CONSULTANT from any liability which might be attributable to its negligent acts, errors, or omissions, including but not limited to design, construction phase services, or other services as defined in this Agreement, of the CONSULTANT.

(g) Personnel. The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The CONSULTANT shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind. All of the CONSULTANT's personnel (and all subconsultants) while on City premises, will comply with all City requirements governing conduct, safety, and security. The City reserves the right to request replacement of any of CONSULTANT's personnel furnished by the CONSULTANT upon written notice by City to CONSULTANT of the cause for such replacement.

(h) Conflict of Interest. The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Section 112.311, Florida Statutes. The CONSULTANT further represents that no person having any such conflicting interest shall be employed for said performance. The CONSULTANT shall promptly notify the City's representative, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the CONSULTANT. The City agrees to notify the CONSULTANT of its opinion within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the City shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by the CONSULTANT under the terms of this Agreement.

(i) News Releases / Publicity. The CONSULTANT shall not make any news releases, publicity releases, or advertisements relating to this Agreement or the services hereunder without prior written City approval.

**SECTION 8: CITY'S RESPONSIBILITIES**

(a) Service of Others. The City shall furnish to the CONSULTANT, if required for performance of the Consultant's services, all available data prepared by or the result of the services of others, including without limitation (as may be appropriate): building plans and related drawings, core borings, probings, and subsurface explorations, hydraulic surveys, laboratory tests, and inspections of samples, materials, and equipment, appropriate professional interpretations of all of the foregoing; environmental assessments and impact statements, appropriate professional interpretations of all of the foregoing; property boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; zoning, deed, and other land use restrictions; and any other special data or consultations relating to the Project.

(b) Examine Work of the Consultant. Within a reasonable time so as not to delay the services of the CONSULTANT, the City shall examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the CONSULTANT, obtain advice of an attorney, insurance counselor, or other consultants, as the City deems appropriate, for such examinations and the rendering, if required, of written opinions pertaining thereto.

**SECTION 9: SUSPENSION BY CITY FOR CONVENIENCE.** The City may, at any time without cause, order CONSULTANT in writing to suspend, delay or interrupt its services in whole or in part for such period of time as City may determine for City's convenience. Such order shall be by written notice to the CONSULTANT providing at least ten (10) days advance notice unless such order is immediately necessary for the protection of the public health, safety or welfare or for the protection of property.

**SECTION 10: INDEMNIFICATION.** The CONSULTANT shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the CONSULTANT, its officers, directors, employees, representatives, and agents employed or utilized by the CONSULTANT in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the CONSULTANT, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

**SECTION 11: COMPLIANCE AND DISQUALIFICATION.** Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

**SECTION 12: SUB-CONSULTANTS.** The City reserves the right to accept the use of a subconsultant or to reject the selection of a particular subconsultant and approve all qualifications of any subconsultant in order to make a determination as to the capability of the subconsultant to perform properly under this Agreement. All subconsultants providing professional services to the CONSULTANT under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement for the CONSULTANT. In the event that a subconsultant does not have insurance or does not meet the insurance limits as stated in this Agreement, the CONSULTANT shall indemnify and hold harmless the City for any claim in excess of the subconsultant's insurance coverage, arising out of the negligent acts, errors or omissions of the subconsultant. Nothing contained herein shall create any contractual relationship between any subconsultant and the City.



**SECTION 13: FEDERAL AND STATE TAX.** The City is exempt from payment of Florida State Sales and Use Tax. The CONSULTANT is not authorized to use the City's Tax Exemption Number.

**SECTION 14: INSURANCE.** Prior to commencing any services, the CONSULTANT shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the CONSULTANT. All such insurance policies may not be modified or terminated without the express written authorization of the City.

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

The commercial general liability and automobile policies will name the City as an additional insured on primary, non-contributory basis and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the CONSULTANT has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve CONSULTANT of its liability and obligations under this Agreement.

Additional Insured status shall be provided pursuant and subject to ISO Form CG 20 10 12 19 (ongoing operations) and, if applicable, CG 20 37 12 19 (completed operations), or equivalent forms for coverages other than Commercial General Liability, to the extent that the loss or claim in question is caused by the CONSULTANT's negligence in its operations in and during the performance of the services, and to no greater extent than is necessary to provide insurance coverage for the covered indemnity obligations expressly assumed by CONSULTANT under this Agreement, it being the express intent and understanding of the Parties that, up to specified limits, additional insured status is provided hereunder as a support to performance of CONSULTANT's expressly assumed, covered indemnity obligations hereunder.

**SECTION 15: SUCCESSORS AND ASSIGNS.** The City and the CONSULTANT each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

**SECTION 16: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.** All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County, Florida. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Venue for any and all legal action necessary to enforce the Agreement or disputes arising out of the Agreement will be held exclusively in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given

hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 17: WAIVER OF JURY TRIAL.** TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**SECTION 18: NONDISCRIMINATION.** The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**SECTION 19: AUTHORITY TO PRACTICE.** The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 20: SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 21: PUBLIC ENTITY CRIMES.** CONSULTANT acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or subcontractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The CONSULTANT will advise the City immediately if it becomes aware of any violation of this statute.

**SECTION 22: NOTICE.** All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the CITY shall be sent to:

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

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

Terracon Consultants, Inc.  
Attn: Michael J. O'Connor, Principal  
1225 Omar Road  
West Palm Beach, Fl 33405

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

**SECTION 23: ENTIRETY OF AGREEMENT AND CONTROLLING PROVISIONS.** This Agreement consists of the terms and conditions set forth in this Agreement (inclusive of all exhibits hereto) and any City issued Task Orders. The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement (inclusive of all exhibits hereto) and a City issued Task Order, the terms and conditions of this Agreement shall prevail with the City issued Task Order next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 24: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 25: PREPARATION AND NON-EXCLUSIVE.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

**SECTION 26: MATERIALITY.** All provisions of the Agreement shall be deemed material. In the event CONSULTANT fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the CONSULTANT to terminate for cause.

**SECTION 27: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved by the City Commission. The Effective Date is the date this Agreement is executed by the City.

**SECTION 28: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS.** Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**SECTION 29: SURVIVABILITY.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**SECTION 30: COUNTERPARTS.** This Agreement may be executed in one or more counterparts electronically or digitally, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all the signatories hereto have signed a counterpart of this Agreement.

**SECTION 31: PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY.** By signing this Agreement, on behalf of the CONSULTANT, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the CONSULTANT for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**SECTION 33: PUBLIC RECORDS.** The CONSULTANT shall comply with Florida’s Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City’s custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the CONSULTANT does not transfer the records to the City.

(d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the CONSULTANT or keep and maintain public records required by the City to perform the service. If the CONSULTANT transfers all public records to the City upon completion of the Agreement, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the Agreement, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City’s custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, [CITYCLERK@LAKEWORTHBEACHFL.GOV](mailto:CITYCLERK@LAKEWORTHBEACHFL.GOV), OR 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

**SECTION 34: CONFIDENTIAL AND PROPRIETARY INFORMATION.** Each party (the “Receiving Party”) will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software (“Confidential Information”) obtained from the other party (the “Disclosing Party”); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party’s Confidential Information, (iv) that is already in the Receiving Party’s possession at the time of disclosure, or (v) that is required to be released by law.

**SECTION 35: EXPORT ADMINISTRATION.** Each party agrees to comply with all export laws and regulations of the United States (“Export Laws”) to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

**SECTION 36: NO THIRD-PARTY BENEFICIARIES.** There are no third party beneficiaries under this Agreement.

**SECTION 37: SCRUTINIZED COMPANIES.**

(a) The CONSULTANT certifies that it and its subconsultants are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the CONSULTANT or any of its subconsultants are found to have submitted a false certification; or if the CONSULTANT or any of its subconsultants, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

(b) If this Agreement is for one million dollars or more, the CONSULTANT certifies that it and its subconsultants are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the CONSULTANT or any of its subconsultants are found to have submitted a false certification; or if the CONSULTANT or any of its subconsultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

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

(d) The CONSULTANT agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

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

(f) As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above stated contracting prohibitions then they shall become inoperative.

**SECTION 38: E-VERIFY.** Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONSULTANT shall:

(a) Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subconsultants (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subconsultants' newly hired employees;

(b) Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subconsultant does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

(c) Maintain copies of all subconsultant affidavits for the duration of this Agreement and provide the same to the City upon request;

(d) Comply fully, and ensure all subconsultant comply fully, with Section 448.095, Florida Statutes;

(e) Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized Aliens; Employment Prohibited) shall be grounds for termination of this Agreement; and,

(f) Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONSULTANT may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Continuing Professional Services Agreement for Geotechnical Services as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Betty Resch, Mayor

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

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

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

CONSULTANT:

**TERRACON CONSULTANTS, INC.**



By: Donald J. Viana  
Donald J. Viana, Treasurer

[Corporate Seal]  
STATE OF Kansas  
COUNTY OF Johnson

THE FOREGOING instrument was acknowledged before me by means of  physical presence or  online notarization on this 1st day of March, 2023, by **Terracon Consultants, Inc.** a Florida Corporation, who is personally known to me or who has produced na as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

Barbara Lynn Boerner  
Notary Public Signature

Notary Seal: **BARBARA LYNN BOERNER**  
Notary Public-State of Kansas  
My Appt. Expires 02-11-25

**EXHIBIT "A"**  
**(Sample Task Order)**

**Note: Task Order Number will be issued by the City, leave the line number empty.**



**TASK ORDER No.**

**CONTINUING PROFESSIONAL SERVICES  
(Geotechnical)**

THIS TASK ORDER FOR CONTINUING PROFESSIONAL SERVICES (“Task Order”) is made on the day of \_\_\_\_\_, between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Terracon Consultants, Inc.** a State of Florida, CORPORATION (“CONSULTANT”).

**1.0 Project Description:**

The City desires the CONSULTANT to provide those services as identified herein for the Project. The Project is described in the CONSULTANT’s Proposal, dated \_\_\_\_\_ and services are generally described as: \_\_\_\_\_ (the “Project”).

**2.0 Scope**

Under this Task Order, the CONSULTANT will provide the City of Lake Worth Beach \_\_\_\_\_ with geotechnical consulting services for the Project as specified in the **CONSULTANT’s proposal attached hereto and incorporated herein as Exhibit “1”**.

**3.0 Schedule**

The services to be provided under this Task Order shall be completed within \_\_\_\_\_ calendar days from the City’s approval of this Task Order or the issuance of a Notice to Proceed.

**4.0 Compensation**

This Task Order is issued for a lump sum, not to exceed amount of \_\_\_\_\_. The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

**5.0 Project Manager**

The Project Manager for the CONSULTANT is \_\_\_\_\_, phone (\_\_\_\_\_; email: \_\_\_\_\_; and, the Project Manager for the City is \_\_\_\_\_, phone: \_\_\_\_\_; email: \_\_\_\_\_.

**6.0 Progress Meetings**

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

**7.0 Authorization**

This Task Order is issued pursuant to the Continuing Professional Services Agreement (Geotechnical) based on RFQ#23-300 between the City of Lake Worth Beach and the CONSULTANT, dated \_\_\_\_\_ (“Agreement” hereafter). If there are any conflicts between the terms and conditions of this Task Order and the Agreement, the terms and conditions of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order No. \_\_\_\_\_ as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

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

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

CONSULTANT: TERRACON CONSULTANTS, INC.

By: DO NOT SIGN – SAMPLE ONLY

[Corporate Seal]

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

THE FOREGOING instrument was acknowledged before me by means of  physical presence or  online notarization on this \_\_\_\_ day of \_\_\_\_\_, 2023, by **Terracon Consultants, Inc.** a Florida Corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

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

Notary Seal:

**Exhibit “B”**

**Consultant’s Rate Schedule**



Exhibit: B

**2023 CMET Fee Schedule**

Bill Code	Description of Work	Unit	Rate
<b>Professional and Administrative Services</b>			
1110	Principal Engineer, per hour	hour	\$200.00
1111	Registered Threshold Inspector	hour	\$200.00
1115	Senior Engineer	hour	\$160.00
1120	Project Engineer	hour	\$145.00
1125	Staff Engineer	hour	\$120.00
1150	Senior Project Manager	hour	\$160.00
1155	Project Manager	hour	\$145.00
1190	Clerical	hour	\$65.00
<b>Field Services</b>			
1201	Engineering Technician (4 hour minimum may be enforced)	hour	\$75.00
1205	Senior Engineering Technician (4 hour minimum may be enforced)	hour	\$85.00
1223	Prestress/PCI Level II Inspector (4 hour minimum may be enforced)	hour	\$80.00
1230	Asphalt Technician (4 hour minimum may be enforced)	hour	\$75.00
1237	Batch Plant Technician (4 hour minimum may be enforced)	hour	\$75.00
1241	Drilled Shaft Technician (4 hour minimum may be enforced)	hour	\$95.00
1255	Certified Welding Inspector (4 hour minimum may be enforced)	hour	\$105.00
1260	Metals NDT Technician (4 hour minimum may be enforced)	hour	\$105.00
1280	Threshold/Special Inspector’s Agent (4 hour minimum may be enforced)	hour	\$95.00
<b>Field Services - CONCRETE</b>			
1662	Pachometer/Reinforcing Steel Locator (equipment only)	day	\$50.00
1666	Calcium Chloride Moisture Emmission Test (kit only)	each	\$45.00
1667	Schmidt Rebound Hammer - Swiss Hammer (equipment only)	day	\$55.00
1668	Windsor Probes (Set of 3 probes)	set	\$55.00
1669	Windsor Probe Device (equipment only)	day	\$75.00
1670	Floor Flatness Testing (All Inclusive, up to 15,000 s.f. of pour area)	each	\$895.00
1700	Relative Humidity (equipment only)	day	\$145.00
1701	Relative Humidity Sensor	each	\$50.00
<b>Field Services -STRUCTURAL STEEL</b>			
1680	UT Machine & Consumables (equipment only)	day	\$200.00
1681	Skidmore (equipment only)	day	\$100.00
1682	Torque Wrench (equipment only)	day	\$75.00
1683	Magnetic Particle (equipment only)	day	\$100.00
1684	Dye Penetrant Equipment (equipment only)	day	\$100.00

Filename: F:\Proposal Documents\2023\PH0231010\2023 Fee Schedule  
Version: 2/20/2023/9:02 AM

Page 1 of 3



## 2023 CMET Fee Schedule

Bill Code	Description of Work	Unit	Rate
<b>Field Services - FIREPROOFING</b>			
3362	SFRM Adhesion/Cohesion	hour	\$95.00
3365	SFRM Density	each	\$95.00
3370	Intumescent Fireproofing (equipment only)	day	\$75.00
<b>Laboratory Services - SOILS</b>			
2001	Atterberg Limit	each	\$125.00
2003	Grain Size Analysis	each	\$125.00
2007	Organic Content	each	\$55.00
2011	Sieve Analysis (Wash through No. 200 sieve)	each	\$55.00
2039	Standard Proctor	each	\$150.00
2046	Modified Proctor	each	\$150.00
2055	Limerock Bearing Ratio	each	\$375.00
2061	Corrosion Series (pH, Resistivity, chloride, sulfate)	each	\$250.00
2090	Soil Cement Compression, 3 pills per set	set	\$150.00
<b>Laboratory Services - ASPHALT</b>			
2501	Extraction & Gradation (Already Mixed)	each	\$225.00
2502	Extraction only (Already Mixed)	each	\$130.00
2504	Marshall Density Stability & Flow (Already Mixed), set of 3 pills	each	\$145.00
2506	Core Density and Thickness	each	\$75.00
2530	Extraction, Gradation, Rice & Gyrotory Compaction, set of 2 pills	each	\$410.00
<b>Laboratory Services - CONCRETE</b>			
3324	Compressive Strength, per cylinder	each	\$20.00
3331	Flexural Strength of beams	each	\$65.00
3335	Shotcrete Panel (set of 3 specimens Cored & Tested)	set	\$225.00
3338	Compressive Strength of Concrete Cylinders - Set of 5	set	\$110.00
3352	Full Petrographic Analysis of Core or Cylinder	each	\$1,800.00
3355	Compressive Strength, Concrete Core	each	\$85.00
3360	Lightweight Insulating Concrete, Compressive Strength (set of 3)	set	\$75.00
3361	Lightweight Insulating Concrete, Dry Density (set of 3)	set	\$75.00
	Concrete Technician	hour	\$75.00



Exhibit: B

## 2023 CMET Fee Schedule

Bill Code	Description of Work	Unit	Rate
<b>Laboratory Services - MASONRY</b>			
4001	CMU Gross & Net Area,Absorption,Density,Moisture Content	each	\$165.00
4002	CMU Compressive Strength; Standard 6" or 8" Block	each	\$165.00
4003	Compressive Strength of Masonry Block Prism (hollow)	each	\$165.00
4005	6" & 8" Block Grouted Prisms	each	\$300.00
4007	Compressive Strength of 3.5" x 3.5" x 7" Grout Prism	each	\$20.00
3338	Compressive Strength of 3.5"x 3.5" x 7" Grout Prism - Set of 4	set	\$110.00
4008	Compressive Strength of 2" x 2" x 2" Mortar Cube or 3" cylinder	each	\$20.00
<b>CORING SERVICES</b>			
1653	Coring Equipment Mobilization	day	\$425.00
<b>TRAVEL EXPENSES</b>			
1610	Per Diem	day	\$75.00
1611	Lodging	Cost + 15%	
1615	Mileage	mile	\$0.95
1620	Trip Charge	trip	\$80.00

**2023 FEE SCHEDULE**
**GEOTECHNICAL**

DESCRIPTION OF WORK	UNIT	RATE
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**TECHNICAL AND PROFESSIONAL STAFF**

A. Chief Engineer/Chief Scientist/Chief Geologist	Per Hour	\$ 250.00
B. Principal Engineer/Principal Scientist/Principal Geologist	Per Hour	\$ 200.00
C. Senior Engineer/Senior Project Manager/Senior Geologist/Senior Scientist	Per Hour	\$ 160.00
D. Project Manager/Project Engineer/Project Geologist/Project Scientist	Per Hour	\$ 145.00
E. Assistant Project Manager/Staff Engineer/Assistant Project Geologist/Assistant Project Scientist	Per Hour	\$ 120.00
F. Chief Field Technician/Chief Engineering Technician/Chief Environmental Technician	Per Hour	\$ 90.00
G. Senior Field Technician/Senior Engineering Technician/Senior Environmental Technician	Per Hour	\$ 85.00
H. Field Technician/Engineering Technician/Environmental Technician	Per Hour	\$ 65.00
I. Engineering Technician	Per Hour	\$ 75.00
J. CADD Operator	Per Hour	\$ 85.00
K. Administrative Assistant	Per Hour	\$ 65.00

**NOTES**

- Hourly rates are portal to portal.
- An overtime multiplier of 1.5 will be applied to the above rates for any work performed between 6:00 p.m. to 7:00 a.m. weekends, holidays and over 8 hours per day.
- Rates for services not listed will be provided as requested.
- Stand-by time and cancellation without prior notice will be invoiced at the appropriate hourly rate.

**TRAVEL EXPENSES**

A. Automobile Travel (non-rental)	Per Mile	\$ 0.95
B. Field Support Vehicle	Per Day	\$ 100.00
C. Lodging, per person (subject to change dependent on geographical area)	Per Day	Cost+15%
D. Per Diem, per person	Per Day	\$ 75.00

**GEOTECHNICAL ENGINEERING SERVICES**
**I. FIELD SERVICES**

A. Mobilization of Crew and Equipment			
1. Truck Mounted Equipment	Each	\$	1,000.00
2. Mudbug Drill Rig	Each	\$	1,500.00
3. CPT Mobilization	Each	\$	1,500.00
B. Standard Penetration Test Borings			
1. Truck/Mudbug			
i. 0 - 50 foot depths	Per L.F.	\$	15.00
ii. 50 - 100 foot depths	Per L.F.	\$	17.00
iii. 100 - 150 foot depths	Per L.F.	\$	21.00
iv. 150 - 200 foot depths	Per L.F.	\$	28.00
C. Cone Soundings			
1. 0 - 50 Foot Depths	Per Foot	\$	15.00
2. 50 - 100 Foot Depths	Per Foot	\$	17.00
3. 100 - 150 Foot Depths	Per Foot	\$	20.00
D. Bentonite Chip Backfill			
1. Truck/Mudbug			
i. 0 - 100 foot depths	Per L.F.	\$	4.00
E. Grout Seal Boreholes (less than 4 inches)			
1. Truck/Mudbug			
i. 0 - 50 foot depths	Per L.F.	\$	6.00
ii. 50 - 100 foot depths	Per L.F.	\$	7.50
iii. 100 - 150 foot depths	Per L.F.	\$	9.00
iv. 150 - 200 foot depths	Per L.F.	\$	12.00
F. Casing Allowance - 3 inch			
1. Truck/Mudbug			
i. 0 - 50 foot depths	Per L.F.	\$	8.00
ii. 50 - 100 foot depths	Per L.F.	\$	10.00
iii. 100 - 150 foot depths	Per L.F.	\$	12.00
iv. 150 - 200 foot depths	Per L.F.	\$	15.00
G. Piezometer (<2 inch diameter PVC)			
1. Truck/Mudbug			
i. 0 - 50 Foot depths	Per L.F.	\$	30.00
H. Auger Borings (Hand and Truck)			
1. 0 - 50 foot depths	Per L.F.	\$	12.00
2. 50 - 100 foot depths	Per L.F.	\$	15.00
I. Field Permeability Tests			
1. 0 - 10 foot depths	Each	\$	500.00
2. 10 - 25 foot depths	Each	\$	650.00
J. Hand Probing/Wash Borings			
1. Two Person Crew	Per Hour	\$	200.00
2. Three Person Crew	Per Hour	\$	300.00
K. Drill Crew Time (drilling and sampling by the hour), Stand-by Time, Clearing, Difficult Access, Etc.			
1. Truck/Mudbug			
i. Two Person Crew	Per Hour	\$	250.00
ii. Three Person Crew	Per Hour	\$	350.00



**TERRACON CONSULTANTS, INC.**  
**2023 FEE SCHEDULE**  
**GEOTECHNICAL**

DESCRIPTION OF WORK	UNIT	RATE
L. Thin-Walled Tube Samples		
1. Truck/Mudbug		
i. 0 - 50 foot depths	Each	\$ 200.00
ii. 50 - 100 foot depths	Each	\$ 250.00
iii. 100 - 150 foot depths	Each	\$ 300.00
iv. 150 - 200 foot depths	Each	\$ 350.00
M. Extra Split Spoon Samples		
1. Truck/Mudbug		
i. 0 - 50 foot depths	Each	\$ 40.00
ii. 50 - 100 foot depths	Each	\$ 55.00
iii. 100 - 150 foot depths	Each	\$ 75.00
iv. 150 - 200 foot depths	Each	\$ 90.00
N. Ground Surface D.R.I.	Each	\$ 750.00
O. Maintenance of Traffic	Per Day	TBD
<b>II. LABORATORY TESTING</b>		
A. Visual Examination Stratify		
1. Staff Engineer	Per Hour	Staff Eng. Rate
B. Natural Moisture	Each	\$ 25.00
C. Grain Size Analysis		
1. Full Gradation	Each	\$ 125.00
2. Single Sieve	Each	\$ 55.00
D. Hydrometer	Each	\$ 400.00
E. Organic Content	Each	\$ 55.00
F. Atterberg Limits	Each	\$ 125.00
G. Consolidation	Each	\$ 1,500.00
H. Permeability		
1. Granular	Each	\$ 450.00
I. FDOT Corrosion Series (pH, Sulfate, Chloride, Resistivity)	Each	\$ 250.00

## Exhibit "C"

### Federal Contract Provisions

The Consultant hereby agrees that the following terms, at a minimum, will be incorporated into any subsequent contract resulting from this RFQ, which is funded in whole or in part with any federal or other funding where the following terms are applicable:

**Equal Employment Opportunity.** During the performance of the resulting contract, the Consultant agrees as follows:

(1) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

(4) The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The



Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Consultant debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

#### **Compliance with the Contract Work Hours and Safety Standards Act.**

(1) Overtime requirements. No Consultant or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Consultant and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. DOJ, the State of Florida, or the CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these

clauses in any lower tier subcontracts. The prime Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

### **Rights to Inventions Made Under a Contract or Agreement**

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

### **Clean Air Act**

- (1) The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Consultant agrees to report each violation to the City, and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

### **Federal Water Pollution Control Act**

- (1) The Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Consultant agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

### **Suspension and Debarment.**

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Consultant is required to verify that none of the Consultant’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification, as laid out in Exhibit I, is a material representation of fact relied upon by the City. If it is later determined that the Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida or the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **Byrd Anti-Lobbying Amendment.**

Consultants who apply or bid for an award of \$100,000 or more shall file the required certification as laid out in Exhibit J. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of

Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

**Procurement of Recovered materials.**

- (i) In the performance of this contract, the Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
- Competitively within a timeframe providing for compliance with the contract performance schedule;
  - Meeting contract performance requirements; or
  - At a reasonable price.
- (ii) Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (iii) The Consultant also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

**Access to Records.**

- (1) The Consultant agrees to provide the State of Florida, the CITY, the DOJ Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Consultant agrees to provide the Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the City and the Consultant acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the DOJ Administrator or the Comptroller General of the United States.

**DHS Seal, Logo, and Flags.**

The Consultant shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific DOJ pre-approval.

**Compliance with Federal Law, Regulations, and Executive Orders.**

By signing this agreement, the Consultant acknowledges that federal financial assistance may be used to fund all or a portion of the contract. The Consultant will comply with all applicable Federal law, regulations, executive orders, federal policies, procedures, and directives.

**No Obligation by Federal Government.**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Consultant, or any other party pertaining to any matter resulting from the contract.

**Program Fraud and False or Fraudulent Statements or Related Acts.** The Consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Consultant’s actions pertaining to this contract.

**Affirmative Steps. Required Affirmative Steps**

If the Consultant intends to subcontract any portion of the work covered by this Contract, the Consultant must take all necessary affirmative steps to assure that small and minority businesses, women’s business enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

**Domestic preferences for procurements.**

(1) As appropriate and to the extent consistent with law, the Consultant should purchase, acquire, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(2) For purposes of this section:

(a) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(b) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Prohibition on certain telecommunications and video surveillance services or equipment.

(1) The Consultant is prohibited from obligating or expending loan or grant funds to:

(a) Procure or obtain;

(b) Extend or renew a contract to procure or obtain; or

(c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(2) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), the City shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

## **CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS - LOWER-TIER COVERED TRANSACTIONS**

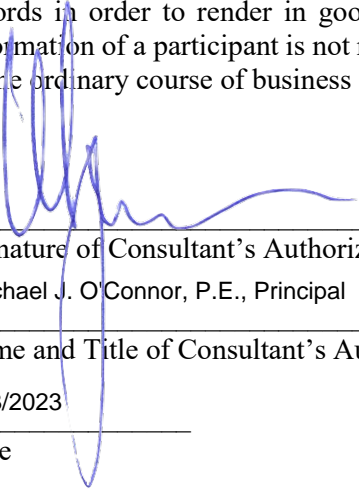
This document is a covered transaction for purposes of the debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 3000 (Non- procurement Debarment and Suspension). As such, Consultant is required to confirm that none of the Consultant, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

### **INSTRUCTIONS FOR CERTIFICATION**

- 1) By signing this Certification, the Consultant, also sometimes referred to herein as a prospective primary participant, is providing the certification set out below.
- 2) The inability of a Consultant to provide the certification required below will not necessarily result in denial of participation in the covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the City's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- 3) The certification in this clause is a material representation of fact upon which reliance was placed when the City determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 4) The prospective primary participant shall provide immediate written notice to the City if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal and voluntarily excluded, as used in this certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- 6) The prospective primary participant agrees by signing the Addendum that it shall not knowingly enter into any lower tier covered transactions with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction. If it is later determined that the prospective primary participant knowingly entered into such a transaction, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 7) The prospective primary participant further agrees by signing this Addendum that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," as available through the United States Department of Homeland Security, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that

the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.



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Signature of Consultant's Authorized Official

Michael J. O'Connor, P.E., Principal

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Name and Title of Consultant's Authorized Official

3/3/2023

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Date

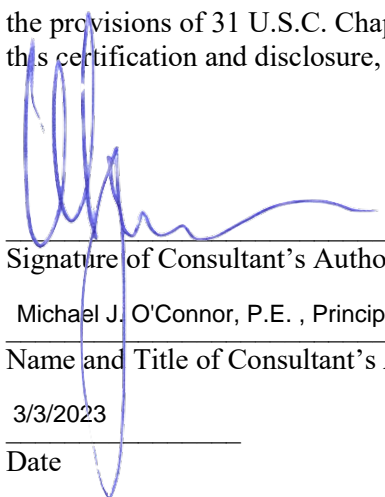
## Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant Terracon certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

  
\_\_\_\_\_  
Signature of Consultant's Authorized Official

Michael J. O'Connor, P.E. , Principal  
\_\_\_\_\_  
Name and Title of Consultant's Authorized Official

3/3/2023  
\_\_\_\_\_  
Date

**PROFESSIONAL SERVICES AGREEMENT**  
**(FY 2023 Comprehensive Integrated Financial Sustainability Analysis)**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on \_\_\_\_\_, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Stantec Consulting Services Inc.**, a corporation authorized to do business in the State of Florida (“Consultant”).

**RECITALS**

**WHEREAS**, the Consultant has provided the City with a written proposal for a FY2023 Comprehensive Integrated Financial Sustainability Analysis; and

**WHEREAS**, the City’s procurement code, section 2-112(c), authorizes the selection of a consultant to provide professional services with a distinctive field of expertise without competitive selection; and

**WHEREAS**, the City’s procurement code, section 2-112(f), similarly authorizes a single source procurement without competition if the single source is the only practicable source or in the best interest of the City; and

**WHEREAS**, based on the Consultant’s past service and experience with the City; the Consultant’s development of its FAMS-XL© model for the City’s Enterprise Funds and General Fund; the Consultant’s distinctive field of expertise and experience in creating comprehensive integrated revenue sufficiency analysis; and, the substantial development delay in seeking similar services from another consultant, the City desires to enter into a direct professional services agreement with the Consultant to perform the FY-2023 comprehensive integrated financial sustainability analysis; and

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

**WHEREAS**, the City finds this Agreement serves a valid public purpose.

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

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

**SECTION 2: CONSULTANT’S SERVICES.** As more specifically set forth in the Consultant’s proposal (dated February 14, 2023) which is attached hereto as **Exhibit “A”** and incorporated herein, the Consultant shall update the source data, assumptions and projections within its FAMS-XL© modeling system for each of the City’s enterprise funds (water, local sewer, stormwater, sanitation, beach and electric) as well as the City’s general fund. The Consultant shall also develop a corresponding revenue sufficiency analysis report reflecting the updated projections and information regarding the City’s enterprise funds and the City’s general fund.

**SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP.** No relationship of employer or employee is created by this Agreement, it being understood that Consultant will act hereunder as an independent contractor and none of the Consultant’s, officers, directors, employees, independent contractors, representatives or agents performing services for Consultant pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and Consultant is that of independent contractors, and neither shall be considered a joint venture, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.



#### **SECTION 4: TERM, TIME AND TERMINATION.**

a. Term. The term of this Agreement shall commence upon the approval of this Agreement by the City Commission and shall be for the term necessary to complete all services as set forth in the Consultant's proposal (Exhibit "A") unless earlier terminated as stated herein. The term may be extended by written agreement of the parties for further services related to those services identified herein.

b. Time for Completion. The Consultant shall at all times carry out its duties and responsibilities as expeditiously as possible in accordance with the applicable professional standard of care and in accordance with the project schedule set forth in Exhibit "A".

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

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

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

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

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

g. Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a municipal corporation and political subdivision of the state of Florida, and as such, this Agreement (and all Exhibits hereto) are subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that

no funds are appropriated or budgeted by the City's governing board in any fiscal year to pay the costs associated with the City's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City's obligations hereunder in any fiscal period, then the City will notify Consultant of such occurrence and either the City or Consultant may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever; however, City shall pay Consultant for all services performed under this Agreement through the date of termination.

**SECTION 5: COMPENSATION.**

a. Payments. The City agrees to compensate the Consultant in accordance with the rate schedule set forth in **Exhibit "A"**; **provided that, the total amount to be paid the Consultant under this Agreement shall not exceed One Hundred Thirty-One Thousand, Four Hundred Sixty-Seven Dollars (\$131,467.00).** The City shall not reimburse the Consultant for any additional costs incurred as a direct or indirect result of the Consultant providing services to the City under this Agreement and not set forth in Exhibit "A".

b. Invoices. The Consultant shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will normally be paid within thirty (30) days following the City's receipt of the Consultant's invoice.

**SECTION 6: INDEMNIFICATION.** The Consultant, its officers, employees and agents shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the Consultant, its officers, directors, employees, representatives and agents employed or utilized by the Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Consultant, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

**SECTION 7: COMPLIANCE AND DISQUALIFICATION.** Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

**SECTION 8: PERSONNEL.** The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and authorized or permitted under federal, state and local law to perform such services.

**SECTION 9: SUB-CONSULTANTS.** The City reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and approve all qualifications of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Agreement. All sub-consultants providing professional services to the Consultant under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement. In the event that a sub-consultant does not have insurance or does not meet the insurance limits as stated in this Agreement,

the Consultant shall indemnify and hold harmless the City for any claim in excess of the sub-consultant's insurance coverage, arising out of the negligent acts, errors or omissions of the sub-consultant.

**SECTION 10: FEDERAL AND STATE TAX.** The City is exempt from payment of Florida State Sales and Use Tax. The Consultant is not authorized to use the City's Tax Exemption Number.

**SECTION 11: INSURANCE.** Prior to commencing any services, the Consultant shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the Consultant. All such insurance policies may not be modified or terminated without the express written authorization of the City.

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

The commercial general liability and automobile policies will name the City as an additional insured and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the Consultant has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Consultant of its liability and obligations under this Agreement.

**SECTION 12: SUCCESSORS AND ASSIGNS.** The City and the Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

**SECTION 13: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.** All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 14: WAIVER OF JURY TRIAL.** TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**SECTION 15: ACCESS AND AUDITS.** The Consultant shall maintain adequate records to justify all payments made by the City under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Consultant's place of business. Notwithstanding the foregoing, the City's right to inspect, copy and audit shall not extend to the composition of the Consultant's rates and fees, percentage mark ups or multipliers but shall apply only to their application to the applicable units. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

**SECTION 16: NONDISCRIMINATION.** The Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**SECTION 17: AUTHORITY TO PRACTICE.** The Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 18: SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 19: PUBLIC ENTITY CRIMES.** Consultant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Consultant will advise the City immediately if it becomes aware of any violation of this statute.

**SECTION 20: NOTICE.** All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the CITY shall be sent to:

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

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

Stantec Consulting Services Inc.  
Attn: David Hyder, Senior Principal – Financial Services  
777 S. Harbor Island Blvd., Suite 600  
Tampa, FL 33602

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

**SECTION 21: ENTIRETY OF AGREEMENT.** The City and the Consultant agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 22: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 23: PREPARATION AND NON-EXCLUSIVE.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

**SECTION 24: MATERIALITY.** All provisions of the Agreement shall be deemed material. In the event Consultant fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the Consultant to terminate for cause.

**SECTION 25: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved by the City. The Effective Date is the date this Agreement is executed by the City.

**SECTION 26: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS.** Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**SECTION 27: SURVIVABILITY.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**SECTION 28: COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, or electronically and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

**SECTION 29: PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**SECTION 30: AGREEMENT DOCUMENTS AND CONTROLLING PROVISIONS.** This Agreement consists of this Agreement and Exhibit "A". The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement and Exhibit "A", the terms and conditions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

**SECTION 31: OWNERSHIP OF DELIVERABLES.** The deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the Consultant in Exhibit "A" to the City ("Work Product") shall become the property of the City. The

Consultant may keep copies or samples thereof and shall have the right to use the same for its own purposes. The City accepts sole responsibility for the reuse of any such deliverables in a manner other than as initially intended or for any use of incomplete documents. **The City shall have no ownership, license to or other right to use the Consultant's FAMS-XL© Model under this Agreement. All rights title and interest in the Consultant's FAMS-XL© Model shall remain with the Consultant.**

**SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY.** By signing this Agreement, on behalf of the Consultant, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the Consultant for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**SECTION 33: PUBLIC RECORDS.** The Consultant shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- a. Keep and maintain public records required by the City to perform the service.
- b. Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Consultant does not transfer the records to the City.
- d. Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

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

**SECTION 34: CONFIDENTIAL AND PROPRIETARY INFORMATION.** Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software ("Confidential Information") obtained from the other party (the "Disclosing Party"); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is

or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.

**SECTION 35: EXPORT ADMINISTRATION.** Each party agrees to comply with all export laws and regulations of the United States ("Export Laws") to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

**SECTION 36: NO THIRD-PARTY BENEFICIARIES.** There are no third-party beneficiaries under this Agreement.

**SECTION 37: SCRUTINIZED COMPANIES.**

a. The Consultant certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the Consultant or any of its subcontractors are found to have submitted a false certification; or if the Consultant or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

b. If this Agreement is for one million dollars or more, the Consultant certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the Consultant, or any of its subcontractors are found to have submitted a false certification; or if the Consultant or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

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

d. The Consultant agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

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

f. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

**SECTION 38: E-VERIFY**

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

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

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

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



IN WITNESS WHEREOF the parties hereto have made and executed this Professional Services Agreement (FY-2023 Comprehensive Integrated Financial Sustainability Analysis) on the day and year first above written.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Mellissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

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

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

CONSULTANT:

**STANTEC CONSULTING SERVICES INC.**

[Corporate Seal]

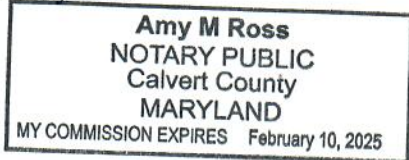
By: \_\_\_\_\_  
Print Name: David Hyder  
Title: Senior Principal

STATE OF Maryland )  
COUNTY OF Calvert County )

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 15 day of march, by David Hyder, as the Senior Principal [title] of Stantec Consulting Services Inc., a Florida Corporation, who is personally known to me or who has produced MD Drivers License as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

\_\_\_\_\_  
Amy M Ross  
Notary Public Signature

Notary Seal:



**EXHIBIT "A"**  
**(Consultant's Proposal)**



February 14, 2023

Mr. Yannick Ngendahayo  
Finance Director  
City of Lake Worth Beach, Florida  
7 North Dixie Highway  
Lake Worth Beach, FL, 33460

Re: FY 2023 Comprehensive Integrated Financial Sustainability Analysis

Dear Mr. Ngendahayo:

As requested, Stantec has prepared this proposed Agreement for the above referenced Project. The following sections present the scope of services included in this proposal and our proposed work plan and fee to accomplish the scope of services.

**Scope of Services**

The proposed scope of services for this proposed Agreement is as follows:

1. Update the source data, assumptions, and projections within our FAMS Modeling System which has been customized for each of the City's Enterprise Funds (Water, Local Sewer, Stormwater, Sanitation, Beach and Electric) as well as the City's General Fund and have been updated annually since 2015.
2. Meet with Staff in interactive online work sessions to review preliminary results for each fund. Make adjustments as necessary and present results to City Commission.
3. Develop a corresponding revenue sufficiency analysis report reflecting the updated projections and information regarding the City's Enterprise Funds and the City's General Fund.

**Meetings**

We will conduct the following conference calls, on-site meetings (if possible and appropriate) and interactive work sessions during the project. Each is described in the Project Work Plan and Cost Estimate Schedule, and a summary of the meetings is presented below. Meetings with City staff will be conducted using online conferences to review data, assumptions, and results.

1. We will conduct (1) one kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions for all seven funds.
2. We will conduct multiple online interactive review session with City staff to review data, assumptions, and preliminary results for each of the seven funds.
3. We will conduct one onsite presentation of the results of the analysis to City Commission during a regularly schedule work session.

**Proposed Work Plan and Consultant’s Compensation**


I have enclosed in the Appendix a Project Work Plan and Fee Estimate Schedule (Schedule) which presents our proposed work plan and fee to conduct the analysis. The above referenced Schedule presents the tasks and sub-tasks that will be required to accomplish the goals of the study as specified in the Scope of Services, and 2) shows that the Study can be completed for a fixed fee of **\$131,467**, inclusive of out-of-pocket expenses. The table below shows a breakdown of the work between funds. We can begin work on this assignment immediately and estimate that it can be completed within approximately 150 days of receipt of all required data.

**City of Lake Worth Beach**

FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS

*Fee Summary by Fund*



 FEE SUMMARY BY FUND	Inclusive of Expenses
WORK ELEMENT 1 GENERAL FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$27,409
WORK ELEMENT 2 ELECTRIC UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$26,736
WORK ELEMENT 3 WATER FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$18,718
WORK ELEMENT 4 LOCAL SEWER FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$18,718
WORK ELEMENT 5 SANITATION UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$13,638
WORK ELEMENT 6 STORMWATER UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$13,458
WORK ELEMENT 7 BEACH FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$12,790
<b>TOTAL ALL FUNDS</b>	<b>\$131,467</b>

We appreciate the opportunity to present this proposal and look forward to working with you on this project. If you have any questions, please do not hesitate to call me at (202) 585-6391.

Very truly yours,

David Hyder  
Senior Principal - Financial Services

If the terms of this proposed Agreement are acceptable, please affix the appropriate signature below and return a copy to us for our files:



**CONSULTANT:** Stantec Consulting Services Inc.  
777 Harbour Island Boulevard, Suite 600, Tampa, FL 33602

**CLIENT:** City of Lake Worth Beach, Florida

**SCOPE OF SERVICES:** FY 2023 Comprehensive Integrated Financial Sustainability Analysis


**COMPENSATION:** A Fixed Fee of \$131,467 as set out in the attached Project Work Plan & Fee Estimate Schedule, billed monthly based upon percentage work complete by task.

**EFFECTIVE DATE:** This Agreement will be effective on the date last executed below. Receipt by CONSULTANT of this executed Agreement from CLIENT will serve as a Notice to Proceed.

The services shall be performed by the Consultant in accordance with the provisions of this Agreement and any attachments. This Agreement supersedes all prior agreements and understandings and may only be changed by written amendment executed by both parties.

**STANTEC CONSULTING SERVICES INC.**

**CITY OF LAKE WORTH BEACH, FLORIDA**

By:   
Name: David Hyder  
Title: Senior Principal  
Date: February 14, 2023

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## **Detailed Task Plan**

This Appendix presents the detailed task plan that we propose to execute to accomplish the scope of this project. The detailed task plan is presented in the Project Work Plan and Fee Estimate Schedule (Schedule) on the following pages.



**City of Lake Worth Beach**  
 FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule



PROJECT TASKS	ESTIMATED MAN-HOURS				Total Project
	Project Principal	Project Manager	Project Consultant	Project Analyst	
	\$315	\$247	\$189	\$158	
<i>Hourly rate-&gt;</i>					
<b>WORK ELEMENT 1</b>	<b>GENERAL FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>				
<b>TASK 1</b>	<b>Initiate the Project</b>				
1.1	1	1	1	1	4
1.2	1	1	1	1	4
1.3	1	1	1	1	4
<b>TASK 2</b>	<b>Populate the model and perform analysis, including evaluation of cost reduction and revenue diversification scenarios.</b>				
2.1	1	2	16	24	43
o	Property data base by parcel				
-	Complete data base of all parcels in the City with relevant information such as taxable value, exemptions, current tax, etc., including adjustment factors for each parcel, or parcels by property classes, for future years.				
-	Above referenced property data base integrated so that changes in assumptions for future years are linked to the calculation algorithms of the model.				
o	Operations and Maintenance (O&M) Budget and projections				
-	O&M budget categories, initial year budget and projections of budget in future years.				
-	Inflation factors for each O&M budget cost category.				
o	Capital Improvements Program (10 year)				
-	Project listing by year (including alternative Master Plan/CIP scenarios)				
-	Identification of funding source by project by year for each scenario				
o	Borrowing Program (for each Master Plan/CIP scenario)				
-	Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.				
-	Timing of bond issue(s)/loan(s) to provide required borrowed funds				
-	Annual debt service of bond issue(s)/loan(s)				
o	Revenue Sufficiency Analysis				
-	Annual revenue projections for all GF revenue sources, including variable annual adjustment factors for each revenue source.				
-	Annual plan to provide sufficient revenues for each scenario evaluated through adjustments to O&M costs, capital costs, millage rates, etc.				
o	Sources and Uses of Funds Analysis				
o	Funds Analysis				
-	Spend down limits (minimum reserve requirements) by fund.				
-	Beginning and ending funds balances by fund by year.				
o	Analysis of prior and current year performance versus performance criteria.				
2.2	0	1	1	2	4
2.3	2	2	4	6	14
2.4	1	1	1	1	4
2.5	0	1	2	4	7
2.6	1	1	1	1	4
2.7	0	1	2	4	7
<b>TASK 3</b>	<b>Present findings to City Management and Commission</b>				
3.1	2	2	2	1	7
3.2	1	1	1	1	4
3.3	1	1	1	1	4
3.4	0	1	2	4	7
3.5	--- At Hourly Rates as Required ---				
3.6	--- At Hourly Rates as Required ---				
<b>TASK 4</b>	<b>Document the results in a Report.</b>				
4.1	1	1	4	8	14
4.2	1	1	1	1	4
4.3	1	1	1	1	4
<b>TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 1</b>					
<b>TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 1</b>					
<b>ESTIMATED EXPENSES - WORK ELEMENT 1</b>					
<b>TOTAL ESTIMATED COST - WORK ELEMENT 1</b>					



**City of Lake Worth Beach**  
 FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule



PROJECT TASKS	Hourly rate->	ESTIMATED MAN-HOURS				Total Project	
		Project Principal	Project Manager	Project Consultant	Project Analyst		
<b>WORK ELEMENT 2 ELECTRIC UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>		\$315	\$247	\$189	\$158		
<b>TASK 1 Project Initiation, Data Collection &amp; Data Review</b>							
1.1 Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.		0	1	1	1	3	
1.2 Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.		1	1	1	1	4	
1.3 Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.		0	1	1	1	3	
<b>TASK 2 Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</b>							
2.1 Obtain, verify and input financial and billing data into Burton & Associates proprietary FAMS XL © model, run the model and produce preliminary output, including a ten year financial		1	1	16	24	42	
o Capital Improvements Program							
- Project listing by year							
- Alternative financing options for capital projects							
- Optimum funding source by project by year							
o Borrowing Program							
- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.							
- Timing of bond issue(s)/loan(s) to provide required borrowed funds							
- Annual debt service of bond issue(s)/loan(s)							
o Revenue Sufficiency Analysis							
- Annual revenue projections							
- Annual operations and maintenance expense projections							
- All other annual revenue requirements such as R&R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.							
- Alternative plans of annual percentage rate adjustments to the electric rates to provide sufficient revenues for each service.							
o Sources and Uses of Funds Analysis							
o Funds Analysis							
- Spend down limits (minimum reserve requirements) by fund							
- Beginning and ending funds balances by fund by year							
2.2 Make adjustments to FAMS to model alternative scenarios for the Fund.		0	1	1	2	4	
2.3 Review results with consulting team, make required adjustments and create alternatives scenarios.		1	3	4	6	14	
2.4 Meet with City staff in interactive online work sessions to review preliminary results.		1	2	1	1	5	
2.5 Make adjustments as required based upon input from City staff in the prior sub-task.		0	1	2	4	7	
2.6 Meet with City staff in a second interactive online work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.		1	1	1	1	4	
2.7 Make adjustments as required based upon input from City staff in the prior sub-task.		0	1	2	4	7	
2.8 Conduct and Compile a Comparative Rate Survey		0	1	1	2	4	
<b>TASK 3 Present findings to City Management and Commission</b>							
3.1 Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.		1	2	2	1	6	
3.2 Review presentation with City Staff & Management and make adjustments to presentation.		1	1	1	1	4	
3.3 Present the results of the analysis to City Commission in a workshop.		1	1	1	1	4	
3.4 Make adjustments based upon input and direction from City Commission.		0	1	2	4	7	
3.5 Conduct a second presentation of the results to City Commission in a workshop.							
3.6 Make adjustments as required based upon the review with City Commission in the prior subtask.							
			— At Hourly Rates as Required —				
			— At Hourly Rates as Required —				
<b>TASK 4 Document the results in a Report.</b>							
4.1 Document the results of the analysis in a Draft Report.		0	1	4	8	13	
4.2 Make adjustments based upon input from City staff and prepare the Final Report.		0	1	1	1	3	
4.3 Present the results of the Final Report to the City Commission.		1	1	1	1	4	
TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 2		9	22	43	64	138	
TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 2		\$2,835	\$5,429	\$8,127	\$10,080	\$26,471	
ESTIMATED EXPENSES - WORK ELEMENT 2	1.00%					\$265	
TOTAL ESTIMATED COST - WORK ELEMENT 2						\$26,736	



**City of Lake Worth Beach**  
 FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule



Project Tasks	Estimated Man-Hours				
	Project Principal \$315	Project Manager \$247	Project Consultant \$189	Project Analyst \$158	Total Project
<b>WORK ELEMENTS 3 &amp; 4 WATER AND LOCAL SEWER FINANCIAL SUSTAINABILITY ANALYSIS</b>					
<b>Task 1 Project Initiation, Data Collection &amp; Data Review</b>					
1.1	1	1	1	1	4
1.2	1	1	1	1	4
1.3	1	2	2	2	7
<b>Task 2 Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</b>					
2.1	1	1	16	24	42
o Capital Improvements Program and Capital Financing Plan					
- Project listing by year, including integration of specific scenarios as required					
- Alternative funding sources for capital projects					
- Development of a capital financing plan, including identification of timing and amount of borrowing requirements					
o Borrowing Program					
- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds, State or other programs or bank loans					
- Timing of bond issue(s)/loan(s) to provide required borrowed funds					
- Annual debt service of bond issue(s)/loan(s)					
o Revenue Sufficiency Analysis					
- Annual revenue projections, include a breakdown of revenues from sale of services, connection fees, and other revenues					
- Annual operations and maintenance expense projections					
- All other annual revenue requirements such as R&R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.					
o Sources and Uses of Funds Analysis					
o Financial Policy Review					
- Reserve Levels (Minimum Fund Balance Policies) for each fund					
- Beginning and ending funds balances by fund by year					
2.2	0	2	4	8	14
2.3	1	2	4	8	15
2.4	2	2	2	2	8
2.5	1	2	3	4	10
2.6	2	2	2	2	8
2.7	0	1	2	4	7
2.8	0	1	2	4	7
<b>TASK 3 Present findings to City Management and Commission</b>					
3.1	1	1	2	4	8
3.2	1	1	1	1	4
3.3	1	1	1	1	4
3.4	1	1	2	4	8
3.5					
3.6					
--- At Hourly Rates as Required ---					
--- At Hourly Rates as Required ---					
<b>TASK 4 Document the results in a Report.</b>					
4.1	1	2	8	12	23
4.2	1	2	4	8	15
4.3	1	1	1	1	4
TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 3 & 4	17	26	58	91	192
TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 3 & 4	\$5,355	\$6,416	\$10,962	\$14,333	\$37,065
ESTIMATED EXPENSES - WORK ELEMENT 3 & 4					\$371
TOTAL ESTIMATED COST - WORK ELEMENT 3 & 4					\$37,436
<b>ALLOCATION TO WATER AND LOCAL SEWER:</b>					
WATER					\$18,718
LOCAL SEWER					\$18,718





City of Lake Worth Beach

FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
Project Work Plan & Cost Estimate Schedule



PROJECT TASKS	ESTIMATED MAN-HOURS				Total Project
	Project Principal \$315	Project Manager \$247	Project Consultant \$189	Project Analyst \$158	
<b>WORK ELEMENT 5 SANITATION UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>					
<b>Task 1</b> <u>Project Initiation, Data Collection &amp; Data Review</u>					
1.1 Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.	0	0	1	1	2
1.2 Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.	1	1	1	1	4
1.3 Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.	0	1	1	1	3
<b>Task 2</b> <u>Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</u>					
2.1 Obtain, verify and input financial and billing data into Burton & Associates proprietary FAMS XL © model, set-up and run the model and produce preliminary output, including a ten year financial management program that will include the following:	0	1	1	4	6
o Capital Improvements Program					
- Project listing by year					
- Alternative financing options for capital projects					
- Optimum funding source by project by year					
o Borrowing Program					
- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.					
- Timing of bond issue(s)/loan(s) to provide required borrowed funds					
- Annual debt service of bond issue(s)/loan(s)					
o Revenue Sufficiency Analysis					
- Annual revenue projections					
- Annual operations and maintenance expense projections					
- All other annual revenue requirements such as R&R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.					
- Alternative plans of annual percentage rate adjustments to the water and wastewater rates to provide sufficient revenues for each service.					
o Sources and Uses of Funds Analysis					
o Funds Analysis					
- Spend down limits (minimum reserve requirements) by fund					
- Beginning and ending funds balances by fund by year					
2.2 Make adjustments to FAMS to model alternative scenarios for the Fund.	0	1	1	2	4
2.3 Review results with consulting team, make required adjustments and create alternatives scenarios.	0	1	1	1	3
2.4 Meet with City staff in interactive online work sessions to review preliminary results.	1	1	1	1	4
2.5 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	2	3
2.6 Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.	0	1	1	1	3
2.7 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	1	2
2.8 Conduct and Compile a Comparative Rate Survey	0	0	1	1	2
<b>TASK 3</b> <u>Present findings to City Management and Commission</u>					
3.1 Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.	1	1	1	1	4
3.2 Review presentation with City Staff & Management and make adjustments to presentation.	1	1	1	1	4
3.3 Present the results of the analysis to City Commission in a workshop.	1	1	1	1	4
3.4 Make adjustments based upon input and direction from City Commission.	0	1	1	2	4
3.5 Conduct a second interactive review session with City Commission as required.					
3.6 Make adjustments as required based upon the review with City Commission in the prior subtask.					
<b>TASK 4</b> <u>Document the results in a Report.</u>					
4.1 Document the results of the analysis in a Draft Report.	0	1	2	6	9
4.2 Make adjustments based upon input from City staff and prepare the Final Report.	0	1	1	1	3
4.3 Present the results of the Final Report to the City Commission.	1	1	1	1	4
TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 5	6	14	19	29	68
TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 5	\$1,890	\$3,455	\$3,591	\$4,568	\$13,503
ESTIMATED EXPENSES - WORK ELEMENT 5 1.00%					\$135
TOTAL ESTIMATED COST - WORK ELEMENT 5					\$13,638



**City of Lake Worth Beach**  
 FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule



PROJECT TASKS	ESTIMATED MAN-HOURS					Total Project
	Project Principal \$315	Project Manager \$247	Project Consultant \$189	Project Analyst \$158		
<b>WORK ELEMENT 6 STORMWATER UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>						
<b>Task 1 Project Initiation, Data Collection &amp; Data Review</b>						
1.1 Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.	1	1	1	1	4	
1.2 Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.	1	1	1	1	4	
1.3 Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.	0	1	1	1	3	
<b>Task 2 Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</b>						
2.1 Obtain, verify and input financial and billing data into Burton & Associates proprietary FAMS XL © model, set-up and run the model and produce preliminary output, including a ten year financial management program that will include the following:	1	1	1	4	7	
o Capital Improvements Program						
- Project listing by year						
- Alternative financing options for capital projects						
- Optimum funding source by project by year						
o Borrowing Program						
- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.						
- Timing of bond issue(s)/loan(s) to provide required borrowed funds						
- Annual debt service of bond issue(s)/loan(s)						
o Revenue Sufficiency Analysis						
- Annual revenue projections						
- Annual operations and maintenance expense projections						
- All other annual revenue requirements such as R&R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.						
- Alternative plans of annual percentage rate adjustments to the water and wastewater rates to provide sufficient revenues for each service.						
o Sources and Uses of Funds Analysis						
o Funds Analysis						
- Spend down limits (minimum reserve requirements) by fund						
- Beginning and ending funds balances by fund by year						
2.2 Make adjustments FAMS to model alternative scenarios for the Fund.	0	0	1	2	3	
2.3 Review results with consulting team, make required adjustments and create alternatives scenarios.	0	1	1	1	3	
2.4 Meet with City staff in interactive online work sessions to review preliminary results.	0	1	1	1	3	
2.5 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	2	3	
2.6 Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.	0	1	1	1	3	
2.7 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	1	2	
2.8 Conduct and Compile a Comparative Rate Survey	0	0	1	1	2	
<b>TASK 3 Present findings to City Management and Commission</b>						
3.1 Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.	1	0	1	1	3	
3.2 Review presentation with City Staff & Management and make adjustments to presentation.	1	1	1	1	4	
3.3 Present the results of the analysis to City Commission in a workshop.	1	1	1	1	4	
3.4 Make adjustments based upon input and direction from City Commission.	0	0	1	2	3	
3.5 Conduct a second interactive review session with City Commission as required.						
3.6 Make adjustments as required based upon the review with City Commission in the prior subtask.						
			--- At Hourly Rates as Required ---			
			--- At Hourly Rates as Required ---			
<b>TASK 4 Document the results in a Report.</b>						
4.1 Document the results of the analysis in a Draft Report.	0	1	2	6	9	
4.2 Make adjustments based upon input from City staff and prepare the Final Report.	0	1	1	1	3	
4.3 Present the results of the Final Report to the City Commission.	1	1	1	1	4	
<b>TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 6</b>	<b>7</b>	<b>12</b>	<b>19</b>	<b>29</b>	<b>67</b>	
<b>TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 6</b>	<b>\$2,205</b>	<b>\$2,961</b>	<b>\$3,591</b>	<b>\$4,568</b>	<b>\$13,325</b>	
<b>ESTIMATED EXPENSES - WORK ELEMENT 6</b> 1.00%					<b>\$133</b>	
<b>TOTAL ESTIMATED COST - WORK ELEMENT 6</b>					<b>\$13,458</b>	



**City of Lake Worth Beach**  
 FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule



PROJECT TASKS	ESTIMATED MAN-HOURS				Total Project
	Project Principal \$315	Project Manager \$247	Project Consultant \$189	Project Analyst \$158	
<b>WORK ELEMENT 7</b> <b>BEACH FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>	<i>Hourly rate-&gt;</i>				
<b>Task 1</b> <u><b>Project Initiation, Data Collection &amp; Data Review</b></u>					
1.1    Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.	0	1	1	1	3
1.2    Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.	1	1	1	1	4
1.3    Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.	0	1	1	1	3
<b>Task 2</b> <u><b>Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</b></u>					
2.1    Obtain, verify and input financial and billing data into Burton & Associates proprietary FAMS XL © model, set-up and run the model and produce preliminary output, including a ten year financial management program that will include the following:	0	0	1	4	5
o    Capital Improvements Program					
- Project listing by year					
- Alternative financing options for capital projects					
- Optimum funding source by project by year					
o    Borrowing Program					
- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.					
- Timing of bond issue(s)/loan(s) to provide required borrowed funds					
- Annual debt service of bond issue(s)/loan(s)					
o    Revenue Sufficiency Analysis					
- Annual revenue projections					
- Annual operations and maintenance expense projections					
- All other annual revenue requirements such as R&R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.					
- Alternative plans of annual percentage rate adjustments to the water and wastewater rates to provide sufficient revenues for each service.					
o    Sources and Uses of Funds Analysis					
o    Funds Analysis					
- Spend down limits (minimum reserve requirements) by fund					
- Beginning and ending funds balances by fund by year					
2.2    Make adjustments to FAMS to model alternative scenarios for the Fund.	0	1	1	2	4
2.3    Review results with consulting team, make required adjustments and create alternatives scenarios.	1	1	1	1	4
2.4    Meet with City staff in interactive online work sessions to review preliminary results.	0	1	1	1	3
2.5    Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	2	3
2.6    Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.	0	1	1	1	3
2.7    Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	1	2
<b>TASK 3</b> <u><b>Present findings to City Management and Commission</b></u>					
3.1    Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.					
3.2    Review presentation with City Staff & Management and make adjustments to presentation.	1	0	1	1	3
3.3    Present the results of the analysis to City Commission in a workshop.	1	1	1	1	4
3.4    Make adjustments based upon input and direction from City Commission.	1	1	1	1	4
3.5    Conduct a second interactive review session with City Commission as required.	0	0	1	2	3
3.6    Make adjustments as required based upon the review with City Commission in the prior subtask.					
	--- At Hourly Rates as Required ---				
	--- At Hourly Rates as Required ---				
<b>TASK 4</b> <u><b>Document the results in a Report.</b></u>					
4.1    Document the results of the analysis in a Draft Report.	0	1	2	6	9
4.2    Make adjustments based upon input from City staff and prepare the Final Report.	0	1	1	1	3
4.3    Present the results of the Final Report to the City Commission.	1	1	1	1	4
<b>TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 7</b>	<b>6</b>	<b>12</b>	<b>18</b>	<b>28</b>	<b>64</b>
TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 7	\$1,890	\$2,961	\$3,402	\$4,410	<b>\$12,663</b>
ESTIMATED EXPENSES - WORK ELEMENT 7                      1.00%					<b>\$127</b>
<b>TOTAL ESTIMATED COST - WORK ELEMENT 7</b>					<b>\$12,790</b>

Attachment

Independent Municipal Advisor Exemption

February 14, 2023

City of Lake Worth Beach, Florida is aware of the “Municipal Advisor Rule” of the Securities and Exchange Commission and the “independent municipal advisor” exemption from the definition of “advice.” City of Lake Worth Beach, Florida hereby notifies Stantec Consulting Services Inc. that it wishes them to continue to provide recommendations on user fees and financial forecasting related to the issuance of municipal securities. City of Lake Worth Beach, Florida is represented by the firm of Davenport & Company, which it has retained to, among other things, assist the City in evaluating any and all of such recommendations. City of Lake Worth Beach, Florida will rely on Davenport & Company for advice. **Therefore, City of Lake Worth Beach, Florida understands that Stantec Consulting Services Inc. is not a municipal advisor and is not subject to the fiduciary duty established in Section 15B(c)(1) of the Securities and Exchange Act.** This certificate may be relied upon until February 14, 2024. Stantec Consulting Services Inc. understands that it must also send a copy of this certificate to Davenport & Company.

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** Financial Services

**TITLE:**

Agreement with Stantec Consulting Services, Inc for Comprehensive Sustainability Analysis for the City for the FY 2024 Budget

**SUMMARY:**

The Agreement will provide an update to the FY2023 Comprehensive Integrated Financial Sustainability Analysis which provided framework for the City's FY 2024 budget and budget projections through FY 2033.

**BACKGROUND AND JUSTIFICATION:**

As demonstrated during the FY 2019, 2020, 2021, 2022 and 2023 budget process, Stantec FAMS-EL© Model provides a dashboard of information and variables for multi-year budgets and plans. The Model plots multiple variables in the City's differing funds and enables the City to obtain real-time information on proposed changes to those funds.

Stantec Consulting Services, Inc has provided the City with a written proposal to provide an updated Revenue Sufficiency Analysis for FY 2024 budget preparation in the amount not to exceed \$131,467.00. The City's Procurement Code, section 2-112 (g) and City Procurement Policy authorize the selection of a consultant to provide professional services with a distinctive field of expertise without competitive selection. The City's procurement code, section 2-112 (e), similarly authorizes a single source procurement without competition if the single source is the only practical source or in the best interest of the City. Based on Stantec's past service and experience with the City and propriety FAMS-XL© Model, the City may enter into a direct professional services agreement with Stantec to provide an update of its Comprehensive Integrated Financial Sustainability Analysis for the City's major funds for FY 2024 budget preparation.

**MOTION:**

Move to approve/disapprove the agreement with Stantec for an updated Comprehensive Integrated Financial Sustainability Analysis for FY 2024 Budget Preparation, not to exceed \$131,467.00.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Stantec Agreement

**FISCAL IMPACT ANALYSIS**

Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
Inflows					
Current Appropriation	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
Outflows					
Operating	131,467.00	0	0	0	0
Capital	0	0	0	0	0
Net Fiscal Impact	131,467.00	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

<b>Contract Award - Existing Appropriation</b>	
	Expenditure
Department	City wide
Division	
GL Description	
GL Account Number	Various from funds: 001, 140, 401, 402, 403, 408 & 410
Project Number	
Requested Funds	\$131,467.00

**PROFESSIONAL SERVICES AGREEMENT**  
**(FY 2023 Comprehensive Integrated Financial Sustainability Analysis)**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on \_\_\_\_\_, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Stantec Consulting Services Inc.**, a corporation authorized to do business in the State of Florida (“Consultant”).

**RECITALS**

**WHEREAS**, the Consultant has provided the City with a written proposal for a FY2023 Comprehensive Integrated Financial Sustainability Analysis; and

**WHEREAS**, the City’s procurement code, section 2-112(c), authorizes the selection of a consultant to provide professional services with a distinctive field of expertise without competitive selection; and

**WHEREAS**, the City’s procurement code, section 2-112(f), similarly authorizes a single source procurement without competition if the single source is the only practicable source or in the best interest of the City; and

**WHEREAS**, based on the Consultant’s past service and experience with the City; the Consultant’s development of its FAMS-XL© model for the City’s Enterprise Funds and General Fund; the Consultant’s distinctive field of expertise and experience in creating comprehensive integrated revenue sufficiency analysis; and, the substantial development delay in seeking similar services from another consultant, the City desires to enter into a direct professional services agreement with the Consultant to perform the FY-2023 comprehensive integrated financial sustainability analysis; and

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

**WHEREAS**, the City finds this Agreement serves a valid public purpose.

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

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

**SECTION 2: CONSULTANT’S SERVICES.** As more specifically set forth in the Consultant’s proposal (dated February 14, 2023) which is attached hereto as **Exhibit “A”** and incorporated herein, the Consultant shall update the source data, assumptions and projections within its FAMS-XL© modeling system for each of the City’s enterprise funds (water, local sewer, stormwater, sanitation, beach and electric) as well as the City’s general fund. The Consultant shall also develop a corresponding revenue sufficiency analysis report reflecting the updated projections and information regarding the City’s enterprise funds and the City’s general fund.

**SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP.** No relationship of employer or employee is created by this Agreement, it being understood that Consultant will act hereunder as an independent contractor and none of the Consultant’s, officers, directors, employees, independent contractors, representatives or agents performing services for Consultant pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and Consultant is that of independent contractors, and neither shall be considered a joint venture, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

#### **SECTION 4: TERM, TIME AND TERMINATION.**

a. Term. The term of this Agreement shall commence upon the approval of this Agreement by the City Commission and shall be for the term necessary to complete all services as set forth in the Consultant's proposal (Exhibit "A") unless earlier terminated as stated herein. The term may be extended by written agreement of the parties for further services related to those services identified herein.

b. Time for Completion. The Consultant shall at all times carry out its duties and responsibilities as expeditiously as possible in accordance with the applicable professional standard of care and in accordance with the project schedule set forth in Exhibit "A".

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

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

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

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

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

g. Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a municipal corporation and political subdivision of the state of Florida, and as such, this Agreement (and all Exhibits hereto) are subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that



no funds are appropriated or budgeted by the City's governing board in any fiscal year to pay the costs associated with the City's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City's obligations hereunder in any fiscal period, then the City will notify Consultant of such occurrence and either the City or Consultant may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever; however, City shall pay Consultant for all services performed under this Agreement through the date of termination.

**SECTION 5: COMPENSATION.**

a. Payments. The City agrees to compensate the Consultant in accordance with the rate schedule set forth in **Exhibit "A"**; **provided that, the total amount to be paid the Consultant under this Agreement shall not exceed One Hundred Thirty-One Thousand, Four Hundred Sixty-Seven Dollars (\$131,467.00).** The City shall not reimburse the Consultant for any additional costs incurred as a direct or indirect result of the Consultant providing services to the City under this Agreement and not set forth in Exhibit "A".

b. Invoices. The Consultant shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will normally be paid within thirty (30) days following the City's receipt of the Consultant's invoice.

**SECTION 6: INDEMNIFICATION.** The Consultant, its officers, employees and agents shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the Consultant, its officers, directors, employees, representatives and agents employed or utilized by the Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Consultant, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

**SECTION 7: COMPLIANCE AND DISQUALIFICATION.** Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

**SECTION 8: PERSONNEL.** The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and authorized or permitted under federal, state and local law to perform such services.

**SECTION 9: SUB-CONSULTANTS.** The City reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and approve all qualifications of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Agreement. All sub-consultants providing professional services to the Consultant under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement. In the event that a sub-consultant does not have insurance or does not meet the insurance limits as stated in this Agreement,

the Consultant shall indemnify and hold harmless the City for any claim in excess of the sub-consultant's insurance coverage, arising out of the negligent acts, errors or omissions of the sub-consultant.

**SECTION 10: FEDERAL AND STATE TAX.** The City is exempt from payment of Florida State Sales and Use Tax. The Consultant is not authorized to use the City's Tax Exemption Number.

**SECTION 11: INSURANCE.** Prior to commencing any services, the Consultant shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the Consultant. All such insurance policies may not be modified or terminated without the express written authorization of the City.

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

The commercial general liability and automobile policies will name the City as an additional insured and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the Consultant has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Consultant of its liability and obligations under this Agreement.

**SECTION 12: SUCCESSORS AND ASSIGNS.** The City and the Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

**SECTION 13: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.** All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 14: WAIVER OF JURY TRIAL.** TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**SECTION 15: ACCESS AND AUDITS.** The Consultant shall maintain adequate records to justify all payments made by the City under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Consultant's place of business. Notwithstanding the foregoing, the City's right to inspect, copy and audit shall not extend to the composition of the Consultant's rates and fees, percentage mark ups or multipliers but shall apply only to their application to the applicable units. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

**SECTION 16: NONDISCRIMINATION.** The Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**SECTION 17: AUTHORITY TO PRACTICE.** The Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 18: SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 19: PUBLIC ENTITY CRIMES.** Consultant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Consultant will advise the City immediately if it becomes aware of any violation of this statute.

**SECTION 20: NOTICE.** All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the CITY shall be sent to:

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

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

Stantec Consulting Services Inc.  
Attn: David Hyder, Senior Principal – Financial Services  
777 S. Harbor Island Blvd., Suite 600  
Tampa, FL 33602

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

**SECTION 21: ENTIRETY OF AGREEMENT.** The City and the Consultant agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 22: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 23: PREPARATION AND NON-EXCLUSIVE.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

**SECTION 24: MATERIALITY.** All provisions of the Agreement shall be deemed material. In the event Consultant fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the Consultant to terminate for cause.

**SECTION 25: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved by the City. The Effective Date is the date this Agreement is executed by the City.

**SECTION 26: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS.** Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**SECTION 27: SURVIVABILITY.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**SECTION 28: COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, or electronically and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

**SECTION 29: PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**SECTION 30: AGREEMENT DOCUMENTS AND CONTROLLING PROVISIONS.** This Agreement consists of this Agreement and Exhibit "A". The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement and Exhibit "A", the terms and conditions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

**SECTION 31: OWNERSHIP OF DELIVERABLES.** The deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the Consultant in Exhibit "A" to the City ("Work Product") shall become the property of the City. The

Consultant may keep copies or samples thereof and shall have the right to use the same for its own purposes. The City accepts sole responsibility for the reuse of any such deliverables in a manner other than as initially intended or for any use of incomplete documents. **The City shall have no ownership, license to or other right to use the Consultant's FAMS-XL© Model under this Agreement. All rights title and interest in the Consultant's FAMS-XL© Model shall remain with the Consultant.**

**SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY.** By signing this Agreement, on behalf of the Consultant, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the Consultant for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**SECTION 33: PUBLIC RECORDS.** The Consultant shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- a. Keep and maintain public records required by the City to perform the service.
- b. Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Consultant does not transfer the records to the City.
- d. Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

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

**SECTION 34: CONFIDENTIAL AND PROPRIETARY INFORMATION.** Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software ("Confidential Information") obtained from the other party (the "Disclosing Party"); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is

or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.

**SECTION 35: EXPORT ADMINISTRATION.** Each party agrees to comply with all export laws and regulations of the United States ("Export Laws") to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

**SECTION 36: NO THIRD-PARTY BENEFICIARIES.** There are no third-party beneficiaries under this Agreement.

**SECTION 37: SCRUTINIZED COMPANIES.**

a. The Consultant certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the Consultant or any of its subcontractors are found to have submitted a false certification; or if the Consultant or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

b. If this Agreement is for one million dollars or more, the Consultant certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the Consultant, or any of its subcontractors are found to have submitted a false certification; or if the Consultant or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

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

d. The Consultant agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

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

f. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

**SECTION 38: E-VERIFY**

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

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

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

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

IN WITNESS WHEREOF the parties hereto have made and executed this Professional Services Agreement (FY-2023 Comprehensive Integrated Financial Sustainability Analysis) on the day and year first above written.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Mellissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

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

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

CONSULTANT:

**STANTEC CONSULTING SERVICES INC.**

By: \_\_\_\_\_  
*David Hyder*

Print Name: David Hyder

Title: Senior Principal

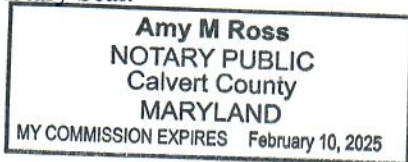
[Corporate Seal]

STATE OF Maryland )  
COUNTY OF Calvert County )

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 15 day of march, by David Hyder, as the Senior Principal [title] of Stantec Consulting Services Inc., a Florida Corporation, who is personally known to me or who has produced MD Drivers License as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

*Amy M Ross*  
Notary Public Signature

Notary Seal:





**EXHIBIT "A"**

**(Consultant's Proposal)**



February 14, 2023

Mr. Yannick Ngendahayo  
Finance Director  
City of Lake Worth Beach, Florida  
7 North Dixie Highway  
Lake Worth Beach, FL, 33460

Re: FY 2023 Comprehensive Integrated Financial Sustainability Analysis

Dear Mr. Ngendahayo:

As requested, Stantec has prepared this proposed Agreement for the above referenced Project. The following sections present the scope of services included in this proposal and our proposed work plan and fee to accomplish the scope of services.

### **Scope of Services**

The proposed scope of services for this proposed Agreement is as follows:

1. Update the source data, assumptions, and projections within our FAMS Modeling System which has been customized for each of the City's Enterprise Funds (Water, Local Sewer, Stormwater, Sanitation, Beach and Electric) as well as the City's General Fund and have been updated annually since 2015.
2. Meet with Staff in interactive online work sessions to review preliminary results for each fund. Make adjustments as necessary and present results to City Commission.
3. Develop a corresponding revenue sufficiency analysis report reflecting the updated projections and information regarding the City's Enterprise Funds and the City's General Fund.

### **Meetings**

We will conduct the following conference calls, on-site meetings (if possible and appropriate) and interactive work sessions during the project. Each is described in the Project Work Plan and Cost Estimate Schedule, and a summary of the meetings is presented below. Meetings with City staff will be conducted using online conferences to review data, assumptions, and results.

1. We will conduct (1) one kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions for all seven funds.
2. We will conduct multiple online interactive review session with City staff to review data, assumptions, and preliminary results for each of the seven funds.
3. We will conduct one onsite presentation of the results of the analysis to City Commission during a regularly schedule work session.



**Proposed Work Plan and Consultant’s Compensation**


I have enclosed in the Appendix a Project Work Plan and Fee Estimate Schedule (Schedule) which presents our proposed work plan and fee to conduct the analysis. The above referenced Schedule presents the tasks and sub-tasks that will be required to accomplish the goals of the study as specified in the Scope of Services, and 2) shows that the Study can be completed for a fixed fee of **\$131,467**, inclusive of out-of-pocket expenses. The table below shows a breakdown of the work between funds. We can begin work on this assignment immediately and estimate that it can be completed within approximately 150 days of receipt of all required data.

**City of Lake Worth Beach**

FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS

*Fee Summary by Fund*



 FEE SUMMARY BY FUND	Inclusive of Expenses
WORK ELEMENT 1 GENERAL FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$27,409
WORK ELEMENT 2 ELECTRIC UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$26,736
WORK ELEMENT 3 WATER FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$18,718
WORK ELEMENT 4 LOCAL SEWER FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$18,718
WORK ELEMENT 5 SANITATION UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$13,638
WORK ELEMENT 6 STORMWATER UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$13,458
WORK ELEMENT 7 BEACH FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$12,790
<b>TOTAL ALL FUNDS</b>	<b>\$131,467</b>

We appreciate the opportunity to present this proposal and look forward to working with you on this project. If you have any questions, please do not hesitate to call me at (202) 585-6391.

Very truly yours,

David Hyder  
Senior Principal - Financial Services

If the terms of this proposed Agreement are acceptable, please affix the appropriate signature below and return a copy to us for our files:



**CONSULTANT:** Stantec Consulting Services Inc.  
777 Harbour Island Boulevard, Suite 600, Tampa, FL 33602

**CLIENT:** City of Lake Worth Beach, Florida

**SCOPE OF SERVICES:** FY 2023 Comprehensive Integrated Financial Sustainability Analysis

**COMPENSATION:** A Fixed Fee of \$131,467 as set out in the attached Project Work Plan & Fee Estimate Schedule, billed monthly based upon percentage work complete by task.

**EFFECTIVE DATE:** This Agreement will be effective on the date last executed below. Receipt by CONSULTANT of this executed Agreement from CLIENT will serve as a Notice to Proceed.

The services shall be performed by the Consultant in accordance with the provisions of this Agreement and any attachments. This Agreement supersedes all prior agreements and understandings and may only be changed by written amendment executed by both parties.

**STANTEC CONSULTING SERVICES INC.**

**CITY OF LAKE WORTH BEACH, FLORIDA**

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

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

Name: David Hyder \_\_\_\_\_

Name: \_\_\_\_\_

Title: Senior Principal \_\_\_\_\_

Title: \_\_\_\_\_

Date: February 14, 2023 \_\_\_\_\_

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

## **Detailed Task Plan**

This Appendix presents the detailed task plan that we propose to execute to accomplish the scope of this project. The detailed task plan is presented in the Project Work Plan and Fee Estimate Schedule (Schedule) on the following pages.



**City of Lake Worth Beach**  
 FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule



PROJECT TASKS	ESTIMATED MAN-HOURS				Total Project	
	Project Principal	Project Manager	Project Consultant	Project Analyst		
	Hourly rate->	\$315	\$247	\$189	\$158	
<b>WORK ELEMENT 1 GENERAL FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>						
<b>TASK 1 Initiate the Project</b>						
1.1	Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.	1	1	1	1	4
1.2	Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.	1	1	1	1	4
1.3	Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.	1	1	1	1	4
<b>TASK 2 Populate the model and perform analysis, including evaluation of cost reduction and revenue diversification scenarios.</b>						
2.1	Obtain, verify and input financial, property, and other data into Burton & Associates' proprietary FAMS XL® General Fund Sustainability Model, project year end results for the current year and run the model and produce preliminary output for identified scenarios, including a ten year financial management plan that will include the following:	1	2	16	24	43
	o Property data base by parcel					
	- Complete data base of all parcels in the City with relevant information such as taxable value, exemptions, current tax, etc., including adjustment factors for each parcel, or parcels by property classes, for future years.					
	- Above referenced property data base integrated so that changes in assumptions for future years are linked to the calculation algorithms of the model.					
	o Operations and Maintenance (O&M) Budget and projections					
	- O&M budget categories, initial year budget and projections of budget in future years.					
	- Inflation factors for each O&M budget cost category.					
	o Capital Improvements Program (10 year)					
	- Project listing by year (including alternative Master Plan/CIP scenarios)					
	- Identification of funding source by project by year for each scenario					
	o Borrowing Program (for each Master Plan/CIP scenario)					
	- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.					
	- Timing of bond issue(s)/loan(s) to provide required borrowed funds					
	- Annual debt service of bond issue(s)/loan(s)					
	o Revenue Sufficiency Analysis					
	- Annual revenue projections for all GF revenue sources, including variable annual adjustment factors for each revenue source.					
	- Annual plan to provide sufficient revenues for each scenario evaluated through adjustments to O&M costs, capital costs, millage rates, etc.					
	o Sources and Uses of Funds Analysis					
	o Funds Analysis					
	- Spend down limits (minimum reserve requirements) by fund.					
	- Beginning and ending funds balances by fund by year.					
	o Analysis of prior and current year performance versus performance criteria.					
2.2	Make adjustments to FAMS to model alternative scenarios for the Fund.	0	1	1	2	4
2.3	Review results with consulting team, make required adjustments and create alternatives scenarios.	2	2	4	6	14
2.4	Meet with City staff in online interactive work sessions to review preliminary results.	1	1	1	1	4
2.5	Make adjustments as required based upon input from City staff in the prior sub-task.	0	1	2	4	7
2.6	Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.	1	1	1	1	4
2.7	Make adjustments as required based upon input from City staff in the prior sub-task.	0	1	2	4	7
<b>TASK 3 Present findings to City Management and Commission</b>						
3.1	Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.	2	2	2	1	7
3.2	Review presentation with City Staff & Management and make adjustments to presentation.	1	1	1	1	4
3.3	Present the results of the analysis to City Commission in a workshop.	1	1	1	1	4
3.4	Make adjustments based upon input and direction from City Commission.	0	1	2	4	7
3.5	Conduct a second presentation of the results to City Commission in a workshop.					
3.6	Make adjustments as required based upon the review with City Commission in the prior subtask.					
--- At Hourly Rates as Required ---						
--- At Hourly Rates as Required ---						
<b>TASK 4 Document the results in a Report.</b>						
4.1	Document the results of the analysis in a Draft Report.	1	1	4	8	14
4.2	Make adjustments based upon input from City staff and prepare the Final Report.	1	1	1	1	4
4.3	Present the results of the Final Report to the City Commission.	1	1	1	1	4
<b>TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 1</b>		<b>15</b>	<b>20</b>	<b>42</b>	<b>62</b>	<b>139</b>
<b>TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 1</b>		<b>\$4,500</b>	<b>\$4,935</b>	<b>\$7,938</b>	<b>\$9,765</b>	<b>\$27,138</b>
<b>ESTIMATED EXPENSES - WORK ELEMENT 1</b>						<b>\$271</b>
<b>TOTAL ESTIMATED COST - WORK ELEMENT 1</b>						<b>\$27,409</b>





**City of Lake Worth Beach**  
 FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule



Project Tasks		Project Principal \$315	Project Manager \$247	Project Consultant \$189	Project Analyst \$158	Total Project
Rates ---->						
<b>WORK ELEMENTS 3 &amp; 4 WATER AND LOCAL SEWER FINANCIAL SUSTAINABILITY ANALYSIS</b>						
<b>Task 1</b>	<b>Project Initiation, Data Collection &amp; Data Review</b>					
1.1	Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.	1	1	1	1	4
1.2	Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.	1	1	1	1	4
1.3	Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.	1	2	2	2	7
<b>Task 2</b>	<b>Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</b>					
2.1	Input financial and billing data into 2 separate versions of our FAMS-XL© financial planning module, run the modules, and produce preliminary output, including ten-year financial management plans for the Water and Local Sewer Funds that will include the following:	1	1	16	24	42
	o Capital Improvements Program and Capital Financing Plan					
	- Project listing by year, including integration of specific scenarios as required					
	- Alternative funding sources for capital projects					
	- Development of a capital financing plan, including identification of timing and amount of borrowing requirements					
	o Borrowing Program					
	- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds, State or other programs or bank loans					
	- Timing of bond issue(s)/loan(s) to provide required borrowed funds					
	- Annual debt service of bond issue(s)/loan(s)					
	o Revenue Sufficiency Analysis					
	- Annual revenue projections, include a breakdown of revenues from sale of services, connection fees, and other revenues					
	- Annual operations and maintenance expense projections					
	- All other annual revenue requirements such as R&R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.					
	o Sources and Uses of Funds Analysis					
	o Financial Policy Review					
	- Reserve Levels (Minimum Fund Balance Policies) for each fund					
	- Beginning and ending funds balances by fund by year					
2.2	Make adjustments to FAMS to model alternative scenarios for the Fund.	0	2	4	8	14
2.3	Review results with consulting team, make required adjustments and create alternatives scenarios.	1	2	4	8	15
2.4	Meet with City staff in interactive online work sessions to review preliminary results.	2	2	2	2	8
2.5	Make adjustments as required based upon input from City staff in the prior sub-task.	1	2	3	4	10
2.6	Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.	2	2	2	2	8
2.7	Make adjustments as required based upon input from City staff in the prior sub-task.	0	1	2	4	7
2.8	Conduct and Compile a Comparative Rate Survey	0	1	2	4	7
<b>TASK 3</b>	<b>Present findings to City Management and Commission</b>					
3.1	Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.	1	1	2	4	8
3.2	Review presentation with City Staff & Management and make adjustments to presentation.	1	1	1	1	4
3.3	Present the results of the analysis to City Commission in a workshop.	1	1	1	1	4
3.4	Make adjustments based upon input and direction from City Commission.	1	1	2	4	8
3.5	Conduct a second presentation of the results to City Commission in a workshop.					
3.6	Make adjustments as required based upon the review with City Commission in the prior subtask.					
				--- At Hourly Rates as Required ---		
				--- At Hourly Rates as Required ---		
<b>TASK 4</b>	<b>Document the results in a Report.</b>					
4.1	Document the results of the analysis in a Draft Report.	1	2	8	12	23
4.2	Make adjustments based upon input from City staff and prepare the Final Report.	1	2	4	8	15
4.3	Present the results of the Final Report to the City Commission.	1	1	1	1	4
TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 3 & 4		17	26	58	91	192
TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 3 & 4		\$5,355	\$6,416	\$10,962	\$14,333	\$37,065
ESTIMATED EXPENSES - WORK ELEMENT 3 & 4						\$371
TOTAL ESTIMATED COST - WORK ELEMENT 3 & 4						\$37,436
<b>ALLOCATION TO WATER AND LOCAL SEWER:</b>						
WATER						\$18,718
LOCAL SEWER						\$18,718





PROJECT TASKS	ESTIMATED MAN-HOURS				Total Project
	Project Principal \$315	Project Manager \$247	Project Consultant \$189	Project Analyst \$158	
<b>WORK ELEMENT 5 SANITATION UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>	<i>Hourly rate -&gt;</i>				
<b>Task 1 Project Initiation, Data Collection &amp; Data Review</b>					
1.1 Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.	0	0	1	1	2
1.2 Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.	1	1	1	1	4
1.3 Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.	0	1	1	1	3
<b>Task 2 Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</b>					
2.1 Obtain, verify and input financial and billing data into Burton & Associates proprietary FAMS XL © model, set-up and run the model and produce preliminary output, including a ten year financial management program that will include the following:	0	1	1	4	6
o Capital Improvements Program					
- Project listing by year					
- Alternative financing options for capital projects					
- Optimum funding source by project by year					
o Borrowing Program					
- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.					
- Timing of bond issue(s)/loan(s) to provide required borrowed funds					
- Annual debt service of bond issue(s)/loan(s)					
o Revenue Sufficiency Analysis					
- Annual revenue projections					
- Annual operations and maintenance expense projections					
- All other annual revenue requirements such as R&R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.					
- Alternative plans of annual percentage rate adjustments to the water and wastewater rates to provide sufficient revenues for each service.					
o Sources and Uses of Funds Analysis					
o Funds Analysis					
- Spend down limits (minimum reserve requirements) by fund					
- Beginning and ending funds balances by fund by year					
2.2 Make adjustments to FAMS to model alternative scenarios for the Fund.	0	1	1	2	4
2.3 Review results with consulting team, make required adjustments and create alternatives scenarios.	0	1	1	1	3
2.4 Meet with City staff in interactive online work sessions to review preliminary results.	1	1	1	1	4
2.5 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	2	3
2.6 Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.	0	1	1	1	3
2.7 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	1	2
2.8 Conduct and Compile a Comparative Rate Survey	0	0	1	1	2
<b>TASK 3 Present findings to City Management and Commission</b>					
3.1 Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.	1	1	1	1	4
3.2 Review presentation with City Staff & Management and make adjustments to presentation.	1	1	1	1	4
3.3 Present the results of the analysis to City Commission in a workshop.	1	1	1	1	4
3.4 Make adjustments based upon input and direction from City Commission.	0	1	1	2	4
3.5 Conduct a second interactive review session with City Commission as required.					
3.6 Make adjustments as required based upon the review with City Commission in the prior subtask.					
					--- At Hourly Rates as Required --- --- At Hourly Rates as Required ---
<b>TASK 4 Document the results in a Report.</b>					
4.1 Document the results of the analysis in a Draft Report.	0	1	2	6	9
4.2 Make adjustments based upon input from City staff and prepare the Final Report.	0	1	1	1	3
4.3 Present the results of the Final Report to the City Commission.	1	1	1	1	4
<b>TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 5</b>	<b>6</b>	<b>14</b>	<b>19</b>	<b>29</b>	<b>68</b>
<b>TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 5</b>	<b>\$1,890</b>	<b>\$3,455</b>	<b>\$3,591</b>	<b>\$4,568</b>	<b>\$13,503</b>
<b>ESTIMATED EXPENSES - WORK ELEMENT 5</b> 1.00%					<b>\$135</b>
<b>TOTAL ESTIMATED COST - WORK ELEMENT 5</b>					<b>\$13,638</b>



**City of Lake Worth Beach**  
 FY 2023 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule



PROJECT TASKS	ESTIMATED MAN-HOURS					Total Project
	Project Principal \$315	Project Manager \$247	Project Consultant \$189	Project Analyst \$158		
<b>WORK ELEMENT 6 STORMWATER UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>						
<b>Task 1 Project Initiation, Data Collection &amp; Data Review</b>						
1.1 Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.	1	1	1	1	4	
1.2 Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.	1	1	1	1	4	
1.3 Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.	0	1	1	1	3	
<b>Task 2 Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</b>						
2.1 Obtain, verify and input financial and billing data into Burton & Associates proprietary FAMS XL © model, set-up and run the model and produce preliminary output, including a ten year financial management program that will include the following:	1	1	1	4	7	
o Capital Improvements Program						
- Project listing by year						
- Alternative financing options for capital projects						
- Optimum funding source by project by year						
o Borrowing Program						
- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.						
- Timing of bond issue(s)/loan(s) to provide required borrowed funds						
- Annual debt service of bond issue(s)/loan(s)						
o Revenue Sufficiency Analysis						
- Annual revenue projections						
- Annual operations and maintenance expense projections						
- All other annual revenue requirements such as R&R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.						
- Alternative plans of annual percentage rate adjustments to the water and wastewater rates to provide sufficient revenues for each service.						
o Sources and Uses of Funds Analysis						
o Funds Analysis						
- Spend down limits (minimum reserve requirements) by fund						
- Beginning and ending funds balances by fund by year						
2.2 Make adjustments FAMS to model alternative scenarios for the Fund.	0	0	1	2	3	
2.3 Review results with consulting team, make required adjustments and create alternatives scenarios.	0	1	1	1	3	
2.4 Meet with City staff in interactive online work sessions to review preliminary results.	0	1	1	1	3	
2.5 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	2	3	
2.6 Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.	0	1	1	1	3	
2.7 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	1	2	
2.8 Conduct and Compile a Comparative Rate Survey	0	0	1	1	2	
<b>TASK 3 Present findings to City Management and Commission</b>						
3.1 Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.	1	0	1	1	3	
3.2 Review presentation with City Staff & Management and make adjustments to presentation.	1	1	1	1	4	
3.3 Present the results of the analysis to City Commission in a workshop.	1	1	1	1	4	
3.4 Make adjustments based upon input and direction from City Commission.	0	0	1	2	3	
3.5 Conduct a second interactive review session with City Commission as required.						
3.6 Make adjustments as required based upon the review with City Commission in the prior subtask.						
						--- At Hourly Rates as Required --- --- At Hourly Rates as Required ---
<b>TASK 4 Document the results in a Report.</b>						
4.1 Document the results of the analysis in a Draft Report.	0	1	2	6	9	
4.2 Make adjustments based upon input from City staff and prepare the Final Report.	0	1	1	1	3	
4.3 Present the results of the Final Report to the City Commission.	1	1	1	1	4	
<b>TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 6</b>	<b>7</b>	<b>12</b>	<b>19</b>	<b>29</b>	<b>67</b>	
<b>TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 6</b>	<b>\$2,205</b>	<b>\$2,961</b>	<b>\$3,591</b>	<b>\$4,568</b>	<b>\$13,325</b>	
<b>ESTIMATED EXPENSES - WORK ELEMENT 6</b> 1.00%					<b>\$133</b>	
<b>TOTAL ESTIMATED COST - WORK ELEMENT 6</b>					<b>\$13,458</b>	



Attachment

Independent Municipal Advisor Exemption

February 14, 2023

City of Lake Worth Beach, Florida is aware of the “Municipal Advisor Rule” of the Securities and Exchange Commission and the “independent municipal advisor” exemption from the definition of “advice.” City of Lake Worth Beach, Florida hereby notifies Stantec Consulting Services Inc. that it wishes them to continue to provide recommendations on user fees and financial forecasting related to the issuance of municipal securities. City of Lake Worth Beach, Florida is represented by the firm of Davenport & Company, which it has retained to, among other things, assist the City in evaluating any and all of such recommendations. City of Lake Worth Beach, Florida will rely on Davenport & Company for advice. **Therefore, City of Lake Worth Beach, Florida understands that Stantec Consulting Services Inc. is not a municipal advisor and is not subject to the fiduciary duty established in Section 15B(c)(1) of the Securities and Exchange Act.** This certificate may be relied upon until February 14, 2024. Stantec Consulting Services Inc. understands that it must also send a copy of this certificate to Davenport & Company.

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** Public Works

**TITLE:**

Resolution No. 08-2023 - FDOT Local Agency Program Agreement – ADA Improvements

**SUMMARY:**

The City successfully submitted an ADA (Americans with Disabilities Act) project to the Palm Beach Transportation Planning Agency (TPA) for funding under their Transportation Alternatives grant reimbursement program. As with all Florida Department of Transportation (FDOT) Local Agency Program (LAP) projects, an agreement is required. This Resolution approves and authorizes that agreement.

**BACKGROUND AND JUSTIFICATION:**

Back in 2020, Public Works submitted an application for the Palm Beach TPA's Transportation Alternatives program totaling \$914,305.43. The scope of this project, FDOT FPN #448301-1-58-01, consists of the addition and improvement of ADA ramps throughout the entire City. The total project cost is an estimated \$1,277,066, but in working closely with FDOT they were able to increase their participation amount to \$1,107,854 of the total estimated cost. Reimbursement from FDOT back to the City shall occur on a quarterly basis for the duration of the project.

Voters approved a four-year infrastructure bond back in November of 2016, but there are still numerous City infrastructure needs in excess of available funding. While the bond program provided a much needed boost, it only addressed about a third of the City. This proposed project will help address ADA issues in areas that weren't covered under the bond by providing the installation of new curb ramps in locations where they are currently damaged or missing all together.

**MOTION:**

Move to approve/disapprove Resolution No. 08-2023 for the Local Agency Program Agreement with FDOT for the Lake Worth Beach ADA Improvements project.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Resolution No. 08-2023  
FDOT LAP Agreement  
Plans - 100% Initial Phase Submittal

**FISCAL IMPACT ANALYSIS**

Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
<b>Inflows</b>					
Current Appropriation	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	\$1,107,854	0	0	0	0
In Kind	0	0	0	0	0
<b>Outflows</b>					
Current Appropriation	0	0	0	0	0
Operating	0	0	0	0	0
Capital	\$1,107,854	0	0	0	0
<b>Net Fiscal Impact</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>No. of Addn'l Full-Time Employee Positions</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>Contract Award - Existing Appropriation</b>	
	Expenditure
Department	Public Services
Division	Street Maintenance
GL Description	Improvement Other than Building/ Infrastructure
GL Account Number	170-5020-519.63-15
Project Number	FG2300 Roads/ADA Improv.
Requested Funds	\$1,107,854 (Increase of <b>\$237,854</b> from \$870K FY23 CIP Budget)

**RESOLUTION NO. 08-2023 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, APPROVING THE LOCAL AGENCY PROGRAM AGREEMENT 448301-1-58-01 BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY IN THE AMOUNT NOT TO EXCEED \$1,107,854 IN FEDERAL-AID GRANT FUNDS FROM THE FEDERAL HIGHWAY ADMINISTRATION TRANSPORTATION ALTERNATIVES PROGRAM FOR THE LAKE WORTH BEACH CITY WIDE ADA IMPROVEMENTS PROJECT; 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 City wide ADA infrastructure improvements to enhance safe use by pedestrians; and

**WHEREAS**, the City desires to make City wide ADA infrastructure improvements to enhance safe use by pedestrians; and

**WHEREAS**, the City has been awarded a Federal-aid grant in an amount not to exceed \$1,107,854 under the Federal Highway Administration Transportation Alternatives Program made available through the Florida Department of Transportation: and

**WHEREAS**, this grant funding amount was based on engineer estimates of eligible participating and non-participating costs for the project scope of work; and

**WHEREAS**, the Florida Department of Transportation and the City shall enter into a Local Agency Agreement 448301-1-58-01 that set forth the terms and conditions for the use of these Federal Aid funds in the estimated amount of \$1,107,854 for participating costs and for an estimated local cost share of \$169,212 in non-participating costs included in the project scope of work based on the engineer estimate; and

**WHEREAS**, the Florida Department of Transportation has prepared a Local Agency Program Agreement 448301-1-58-1 that sets forth the terms and conditions for the use of Federal aid funds in the amount of \$1,107,854 for participating costs and a local cost share of \$169,212 for non-participating costs for improvements included in the approved 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 BEACH, FLORIDA, that:

Section 1: The City Commission of the City of Lake Worth Beach, Florida, hereby approves the Local Agency Program Agreement 448301-1-58-01 between the Florida Department of Transportation and the City in an amount not to exceed \$1,107,854 in Federal Highway Administration Transportation Alternatives Program funding for the Lake Worth Beach city-wide ADA improvements project.

Section 2. The City Commission of the City of Lake Worth Beach, Florida, hereby authorizes the Mayor to execute the original of the Local Agency Program Agreement 448301-1-58-01 between the Florida Department of Transportation and the City and all related documents for this stated purpose.

Section 3. Upon execution of the resolution, one original shall be forwarded to the Florida Department of Transportation and one copy shall be forwarded to the Works Director. One fully executed original shall be maintained by the City Clerk as a public record of the City.

Section 4. This resolution shall become effective upon its adoption.

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

Mayor Betty Resch  
Vice Mayor Christopher McVoy  
Commissioner Sarah Malega  
Commissioner Kimberly Stokes  
Commissioner Reinaldo Diaz

The Mayor thereupon declared this resolution duly passed and adopted on the 4<sup>th</sup> day of April, 2023.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, CMC, City Clerk



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

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FPN: <u>448301-1-58-01</u>	FPN: _____	FPN: _____
Federal No (FAIN): <u>D422-088-B</u>	Federal No (FAIN): _____	Federal No (FAIN): _____
Federal Award Date: _____	Federal Award Date: _____	Federal Award Date: _____
Fund: <u>LF/TA</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: F96000358002 Recipient Unique Entity ID SAM No: GKQ1QGJPEVC7

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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 City of Lake Worth Beach Various Locations, 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 June 30th, 2025. 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 \$ 1,277,066.00. 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 \$ 1,107,854.00 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 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,

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

- 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.

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

- 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).
- 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. If lane or road closures are required by the LA to ensure the life, health, and safety of the travelling public, the LA must notify the District Construction Engineer and District Traffic Operations Engineer immediately once the travelling public are not at imminent risk. The Department expects professional engineering judgment be applied in all aspects of locally delivered projects. Defect management and supervision of LAP project structures components must be



proactively managed, monitored, and inspected by department prequalified structures engineer(s). The District Construction Engineer must be notified immediately of defect monitoring that occurs in LAP project construction, whether or not the defects are considered an imminent risk to life, health, or safety of the travelling public. When defects, including but not limited to, structural cracks, are initially detected during bridge construction, the engineer of record, construction engineering inspector, design-build firm, or local agency that owns or is responsible for the bridge construction has the authority to immediately close the bridge to construction personnel and close the road underneath. The LA shall also ensure compliance with the CPAM, Section 9.1.8 regarding actions for maintenance of traffic and safety concerns.

**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 the Department's or Recipient's 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].

The foregoing indemnification shall not constitute a waiver of the Department's or [RECIPIENT]'s 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.
- 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:
  - 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, Florida Statutes, for construction services and 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.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM 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

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: Francine Steelman

\_\_\_\_\_

**EXHIBIT A****PROJECT DESCRIPTION AND RESPONSIBILITIES**FPN: 448301-1-58-01

This exhibit forms an integral part of the 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: 23.143 MI****Mile Posts:**

93000031 0.269 - 0.48	93900274 0.078 - 0.185	93900290 0 - 0.247	93900308 0 - 0.077
93000031 1.097 - 2.687	93900277 0 - 0.443	93900292 0 - 0.247	93900309 0 - 0.399
93000032 0.168 - 0.414	93900278 0 - 0.480	93900293 0.752 - 0.914	93900310 0 - 0.325
93000033 0 - 2.303	93900279 0 - 0.006	93900294 0 - 0.507	93900329 0 - 0.579
93000098 0.497 - 0.984	93900280 0 - 0.006	93900295 0 - 0.505	93900330 0.028 - 0.495
93000098 1.319 - 1.422	93900281 0 - 0.005	93900296 0 - 0.506	
93017000 0 - 0.338	93900282 0 - 0.005	93900298 0 - 1.518	
93900241 0.168 - 0.336	93900283 0.107 - 0.446	93900299 0 - 1.535	
93900242 0 - 0.419	93900284 0.114 - 0.299	93900300 0 - 1.000	
93900244 0.095 - 0.397	93900286 0.165 - 1.183	93900301 0 - 0.266	
93900245 0 - 0.581	93900287 0 - 0.755	93900305 0 - 0.084	
93900246 0 - 0.649	93900288 0 - 0.246	93900306 0 - 0.085	
93900247 0 - 0.647	93900289 0 - 0.755	93900307 0 - 0.212	

**PROJECT DESCRIPTION:** Construction of this project includes ADA improvements throughout the City of Lake Worth Beach which includes sidewalks, curb ramps and crosswalks.

**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 2.28.2023.
- e) Construction contract to be let by 6.7.2023.
- f) Construction to be completed by 12.31.2024.



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:**

Issuance of the Notice to Proceed (NTP) to the City of Lake Worth Beach is subject to the submittal and approval of the LAP Certification Package and complete Production Package which includes 100% Signed and Sealed plans, signed and sealed cost estimate, technical specifications, executed construction contracts checklist, right of way certification and environmental certification.

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

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

RECIPIENT NAME & BILLING ADDRESS: Jamie Brown 1749 3 <sup>rd</sup> Avenue South Lake Worth Beach, FL, 33460	FINANCIAL PROJECT NUMBER: 448301-1-58-01
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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: 2023 (Transportation Alternative)	\$ 1,277,066.00	\$ 169,212.00	\$ _____	\$ 1,107,854.00
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Construction Cost	\$ 1,277,066.00	\$ 169,212.00	\$ 0.00	\$ 1,107,854.00
<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>	\$ 1,277,066.00	\$ 169,212.00	\$ 0.00	\$ 1,107,854.00

**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.

Mya Gray  
 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

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).

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

**EXHIBIT D**

**RECIPIENT RESOLUTION**

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

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LOCAL AGENCY PROGRAM AGREEMENT****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 [https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfda&is\\_active=true&page=1](https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfda&is_active=true&page=1)  
Site: [https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfda&is\\_active=true&page=1](https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfda&is_active=true&page=1)  
Award Amount: \$1,107,854.00  
Awarding Agency: Florida Department of Transportation  
Award is for: No  
R&D:  
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/cgi-bin/text-idx?node=2:1.1.2.2.1>

**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>

Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”)

<https://www.congress.gov/117/bills/hr3684/BILLS-117hr3684enr.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:

**Salaries:** Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. 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.

**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.

**Travel:** Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

**Other direct costs:** Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). 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 DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

**Indirect costs:** If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

**Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which 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 <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.



**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.

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

**II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)**

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

#### **6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

#### **10. Assurances Required:**

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages (29 CFR 5.5)

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **2. Withholding (29 CFR 5.5)**

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## **3. Payrolls and basic records (29 CFR 5.5)**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or

subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees (29 CFR 5.5)

##### a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor

set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### **10. Certification of eligibility (29 CFR 5.5)**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

\* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).



### **3. Withholding for unpaid wages and liquidated damages.**

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

## **VI. SUBLETTING OR ASSIGNING THE CONTRACT**

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or

equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on longstanding interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

## **VII. SAFETY: ACCIDENT PREVENTION**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance

with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

### **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)**

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

### **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

#### **1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant

who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

\* \* \* \* \*

## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

## **3. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is

submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

\*\*\*\*\*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

\*\*\*\*\*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier

subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

## **XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

# CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS

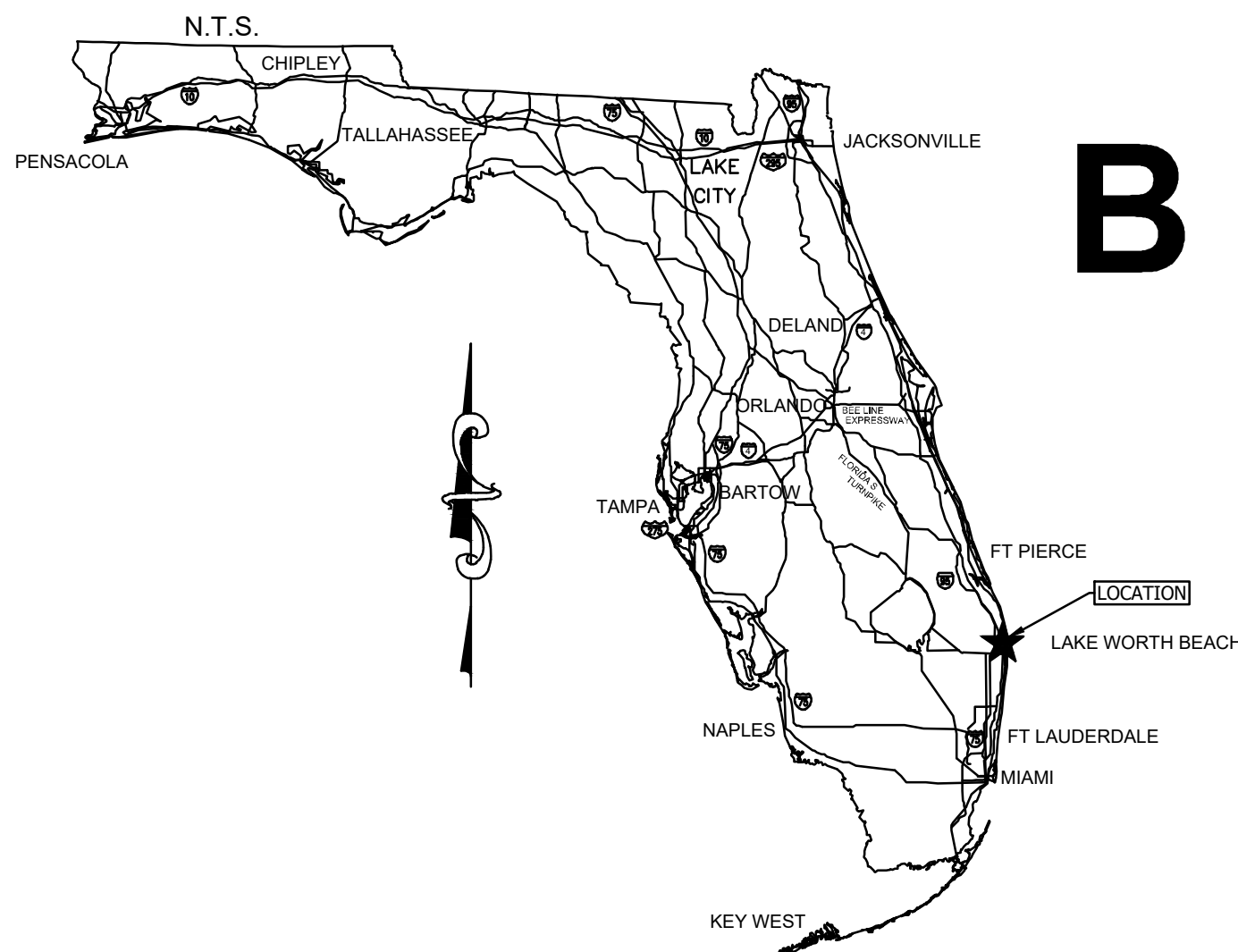
FM: 448301-1-58-01  
(FEDERAL FUNDS)

100% INITIAL PHASE SUBMITTAL

CONSULTANTS:

PROJECT TITLE:

CITY OF LAKE WORTH  
BEACH VARIOUS LOCATIONS  
LAKE WORTH BEACH  
PALM BEACH, FL

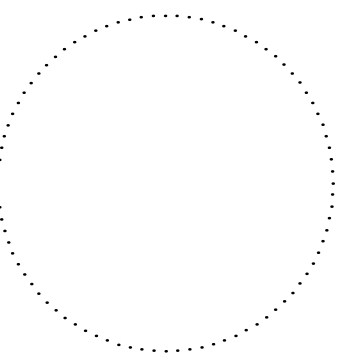


PREPARED FOR:  
CITY OF LAKE WORTH BEACH  
1749 3RD AVE SOUTH, LAKE WORTH BEACH, FL 33460



Sheet Number	Sheet Description	Sheet Title
1	C000	COVER
2	C001	GENERAL NOTES
3	C002	MASTER KEY MAP
4	C100	DISTRICT 1 KEY MAP
5	C101	DISTRICT 1 KEY MAP
6	C102	DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 1 - 6
7	C103	DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 7 - 12
8	C104	DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 13 - 18
9	C105	DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 19 - 24
10	C106	DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 25 - 31
11	C107	DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 32 - 37
12	C108	DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 38 - 43
13	C109	DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 44 - 49
14	C110	DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 50 - 53
15	C200	DISTRICT 2 KEY MAP
16	C201	DISTRICT 2 ADA IMPROVEMENTS @ INTERSECTIONS 1 - 6
17	C202	DISTRICT 2 ADA IMPROVEMENTS @ INTERSECTIONS 7 - 12
18	C203	DISTRICT 2 ADA IMPROVEMENTS @ INTERSECTIONS 13 - 16
19	C300	DISTRICT 3 KEY MAP
20	C301	DISTRICT 3 KEY MAP
21	C302	DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 1 - 6
22	C303	DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 7 - 12
23	C304	DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 13 - 17 & 20
24	C305	DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 21, 22 - 25, 27 & 29
25	C306	DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 30 - 34 & 37
26	C307	DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 38 - 39 & 41 - 44
27	C308	DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 46-48, 50-51 & 53
28	C309	DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 54 - 59
29	C310	DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 60 - 61
30	C400	DISTRICT 4 KEY MAP
31	C401	DISTRICT 4 KEY MAP
32	C402	DISTRICT 4 ADA IMPROVEMENTS @ INTERSECTIONS 1 - 6
33	C403	DISTRICT 4 ADA IMPROVEMENTS @ INTERSECTIONS 7 - 12
34	C404	DISTRICT 4 ADA IMPROVEMENTS @ INTERSECTIONS 13 - 18
35	C405	DISTRICT 4 ADA IMPROVEMENTS @ INTERSECTIONS 19 - 20
36	C500	CITY OF LAKE WORTH DETAILS 1
37	C501	CITY OF LAKE WORTH 2 & FDOT DETAILS 1
38	C502	FDOT DETAILS 2
39	C503	FDOT DETAILS 3
40	C504	FDOT DETAILS 4
41	C505	TRAFFIC CONTROL PLAN

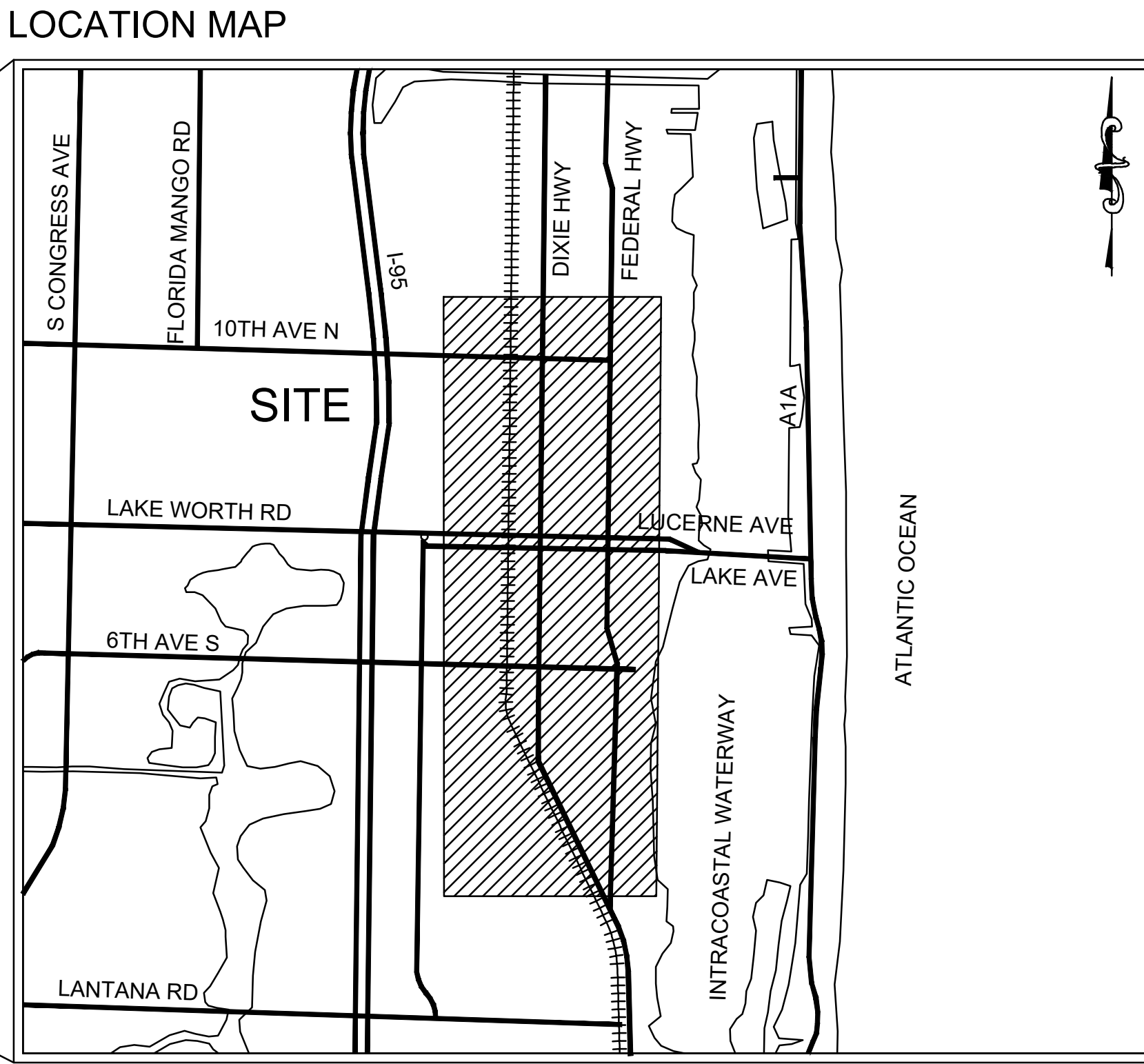
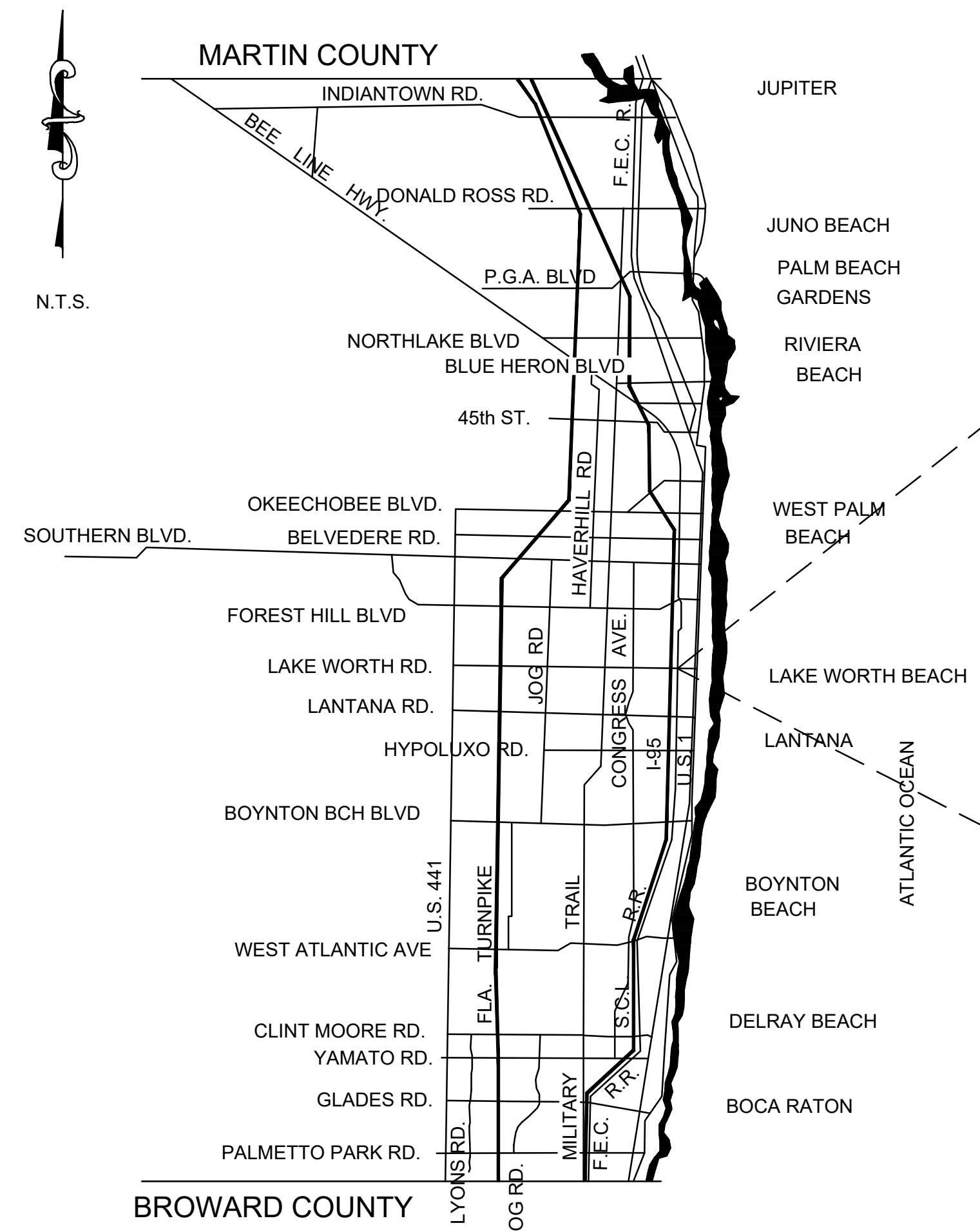
ENGINEER OF RECORD  
STEPHEN C. CHERRY, PE  
PE# 83268  
October 6, 2022



NO.	DATE	DESCRIPTION
1		

DRAWN DATE: 2022-03-19  
DRAWN BY: CTR  
CHECKED BY: SCC  
PROJECT #: 2974.30

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PROJECT LOCATED IN  
SECTION 16 / TOWNSHIP 44 SOUTH / RANGE 43 EAST  
SECTION 15 / TOWNSHIP 44 SOUTH / RANGE 43 EAST  
SECTION 21 / TOWNSHIP 44 SOUTH / RANGE 43 EAST  
SECTION 22 / TOWNSHIP 44 SOUTH / RANGE 43 EAST

HORIZONTAL DATUM: NORTH AMERICAN  
DATUM OF 1983, FLORIDA STATE  
PLANES, EAST ZONE, U.S. FEET (NAD83)



GENERAL NOTES:

- 1. THESE GENERAL NOTES APPLY TO WORK IN THIS SET OF DRAWINGS.
2. WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, 2022 EDITION, AND FDOT STANDARD PLANS FY2022-23 OR LATEST EDITION. ALL FDOT INDEXES ARE INCORPORATED AS PLAN REFERENCED HEREIN. CONTRACTOR IS RESPONSIBLE FOR OBTAINING COMPLETE COPIES OF APPLICABLE FDOT INDEXES.
3. PRIOR TO COMMENCEMENT OF ANY EXCAVATION, THE CONTRACTOR SHALL COMPLY WITH FLORIDA STATUTE 556- UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY ACT.
4. NO CONSTRUCTION SHALL COMMENCE UNTIL ALL REQUIRED PERMITS AND APPROVALS HAVE BEEN SECURED AND THE CONTRACTOR IS ISSUED A NOTICE TO PROCEED. CONTRACTOR SHALL ABIDE BY ALL PERMIT CONDITIONS.
5. ALL STATIONS AND OFFSETS REFER TO CENTERLINE OF CONSTRUCTION. ALL STATIONS, OFFSETS, AND RADII ARE FROM THE EDGE OF PAVEMENT UNLESS OTHERWISE SHOWN ON THE DRAWINGS.
6. THE CONTRACTOR SHALL MAINTAIN SAFE VEHICULAR ACCESS TO ALL ADJACENT PROPERTY AT ALL TIMES AND SHALL MAINTAIN ACCOMMODATIONS FOR INTERSECTING CROSSING TRAFFIC. NO ROAD OR STREET CROSSING SHALL BE BLOCKED OR UNDULY RESTRICTED.
7. THE CONTRACTOR SHALL PROVIDE SAFE PEDESTRIAN ACCESS AND PROTECTION ADJACENT TO CONSTRUCTION THROUGHOUT THE PROJECT.
8. THE CONTRACTOR SHALL BE RESPONSIBLE TO MAINTAIN THE EXISTING LEVEL OF ILLUMINATION THROUGHOUT THE PROJECT LIMITS DURING CONSTRUCTION.
9. TWO (2) LANES OF ROAD MUST BE OPEN TO TRAFFIC DURING AN EVACUATION NOTICE OF HURRICANE OR OTHER CATASTROPHIC EVENT AND SHALL REMAIN OPEN FOR THE DURATION OF THE EVENT AND UNTIL NOTIFIED OTHERWISE BY THE ENGINEER.
10. EXISTING DRAINAGE STRUCTURES WITHIN CONSTRUCTION LIMITS SHALL REMAIN UNLESS OTHERWISE NOTED. ALL DRAINAGE STRUCTURES SHALL BE PROTECTED FROM THE SEDIMENTATION DURING CONSTRUCTION OPERATIONS ACCORDING TO DEP FLORIDA STORMWATER, EROSION, AND SEDIMENTATION INSPECTOR MANUAL, SECTION 4.08 STORM DRAIN INLET PROTECTION.
11. NO EXISTING MATERIAL SHALL BE USED IN NEW CONSTRUCTION UNLESS APPROVED DURING THE SHOP DRAWING REVIEW PROCESS.
12. CONTRACTOR SHALL UTILIZE CONSTRUCTION METHODS AND DEVICES AS INDICATED, AT A MINIMUM, IN FDOT STANDARD INDEXES 100.101, 102, 103, 104, 105 WHERE NECESSARY IN ORDER TO COMPLY WITH ALL STATE AND LOCAL WATER QUALITY STANDARDS.
13. THE CONTRACTOR IS RESPONSIBLE FOR KEEPING INLETS CLEAN OF PAVING MATERIAL, SILT, ROCK, AND DEBRIS DURING THE CONSTRUCTION AT NO ADDITIONAL COST.
14. ALL MILLED MATERIAL SHALL BE REMOVED AND DISPOSED OF PROPERLY AT THE END OF EACH DAILY MILLING OPERATION.
15. ALL AREAS DESIGNATED FOR PAVEMENT REMOVAL SHALL BE SAW-CUT AT THE LIMITS OF REMOVAL WHERE EXISTING PAVEMENT IS TO REMAIN. ALL AREAS DESIGNATED AS THE LIMITS OF MILLING & RESURFACING SHALL BE SAW-CUT WHERE EXISTING PAVEMENT IS TO REMAIN.
16. CROSS SLOPES SHALL MATCH EXISTING ADJACENT PAVEMENT UNLESS OTHERWISE SHOWN IN THE DRAWINGS.
17. CONTRACTOR SHALL BE EXERCISE EXTREME CAUTION WHILE REMOVING AND/OR RELOCATING EXISTING SIGNS IN ORDER TO PREVENT ANY UNNECESSARY DAMAGE TO THE SIGNS. SIGNS WHICH ARE DAMAGED BEYOND USE, AS DETERMINED BY THE ENGINEER SHALL BE REPLACED BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE CITY.
18. PROPOSED SIDEWALK IS TO BE CONNECTED TO EXISTING SIDEWALK WHERE APPLICABLE.
19. CONTRACTOR SHALL BE EXTREMELY CAUTIOUS WHEN WORKING NEAR TREES WHICH ARE TO BE SAVED, WHETHER SHOWN ON THE DRAWINGS OR DESIGNATED IN THE FIELD.
20. THE CONTRACTOR SHALL PROTECT ADJACENT WATER BODIES, WETLANDS AND PROPERTIES FROM SEDIMENTATION OR OTHER POTENTIAL CONSTRUCTION RELATED CAUSES.
21. ALL RECOMMENDATIONS AND REQUIREMENTS OF THE INSPECTION PERSONNEL OTHER THAN THE OWNER'S SHALL BE REPORTED TO THE ENGINEER PRIOR TO IMPLEMENTATION. COMPENSATION WILL NOT BE ALLOWED FOR WORK WHICH IS NOT AUTHORIZED BY THE ENGINEER OR OWNER.
22. ALL WORK SHALL BE OPEN AND SUBJECT TO INSPECTION BY AUTHORIZED PERSONNEL OF THE CITY, INVOLVED UTILITY COMPANIES, PROJECT ENGINEER, AND EACH APPLICABLE REGULATORY AGENCY.
23. ANY DIFFERING SITE CONDITIONS FROM THAT WHICH IS REPRESENTED HEREON, WHETHER ABOVE, ON OR BELOW THE SURFACE OF THE GROUND, SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE ENGINEER AND THE CITY OF LAKE WORTH BEACH IN WRITING. NO CLAIM FOR EXPENSES INCURRED BY THE CONTRACTOR DUE TO DIFFERING SITE CONDITIONS WILL BE ALLOWED IF THE CONTRACTOR FAILS TO PROVIDE THE REQUIRED WRITTEN NOTIFICATION OF SUCH CONDITIONS FOR REVIEW BY THE ENGINEER AND THE CITY OF LAKE WORTH BEACH.
24. ALL EXISTING CITY OF LAKE WORTH SIGNS WITHIN THE LIMITS OF CONSTRUCTION WHICH ARE TO BE RELOCATED OR REMOVED SHALL BE REMOVED BY THE CONTRACTOR AND STOCKPILE AT A LOCATION DESIGNATED BY THE ENGINEER.
25. ALL VEGETATION, DEBRIS, CONCRETE OR OTHER UNSUITABLE MATERIAL SHALL BE DISPOSED OF LEGALLY OFFSITE BY THE CONTRACTOR AT HIS EXPENSE.
26. CONTRACTOR SHALL BE RESPONSIBLE FOR FURNISHING DETAILED TRAFFIC MAINTENANCE AND CONTROL DRAWINGS ACCORDANCE WITH REGULATORY STANDARDS AND CURRENT FLORIDA DEPARTMENT OF TRANSPORTATION STANDARDS (FDOT INDEX 600 SERIES) AND THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, REVISIONS 1 AND 2. THESE DRAWINGS SHALL INCLUDE A CLEAR SEQUENCE OF CONSTRUCTION. TWO (2) LANES OF TRAFFIC SHALL BE ACCOMMODATED AT ALL TIMES ON 7TH AVE NORTH. THE CONTRACTOR SHALL PREPARE AND SUBMIT TO THE ENGINEER AT THE PRE-CONSTRUCTION CONFERENCE THE MAINTENANCE OF TRAFFIC PLAN FOR APPROVAL BY ALL APPLICABLE REGULATORY AGENCIES.
27. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING THE NECESSARY TESTING TO ASSURE THAT THE PROPER COMPACTION HAS BEEN ACHIEVED IN THE SUBGRADE, BASE MATERIAL, CONCRETE, ASPHALT, PIPE BASE MATERIAL AND ALL OTHER PERTINENT AREAS THAT HAVE BEEN COMPLETED. THE CONTRACTOR IS RESPONSIBLE FOR SCHEDULING THE TESTS AND COORDINATING WITH THE CITY OF LAKE WORTH REPRESENTATIVE. THE CITY OF LAKE WORTH WILL PAY FOR INITIAL TESTS. THE CONTRACTOR SHALL BEAR ALL COSTS ASSOCIATED WITH RETESTING OF FAILED TESTS. THE CONTRACTOR SHALL PROVIDE THE CITY AND THE ENGINEER COPIES OF ALL TEST RESULTS. ALL REPORTS ARE TO BE SIGNED AND SEALED BY A REGISTERED GEOTECHNICAL ENGINEER IN THE STATE OF FLORIDA.
28. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR VERIFYING ALL QUANTITIES, TAKE-OFF MEASUREMENTS, MATERIALS, ETC. DURING THE BID PROCESS. WHEN DISCREPANCIES OCCUR, THE PHYSICAL PLAN TAKES PRECEDENCE. THE ENGINEER, LANDSCAPE ARCHITECT, CITY OR PROJECT MANAGERS ARE NOT TO BE HELD RESPONSIBLE FOR DISCREPANCIES TO THE SPECIFICATIONS OR DRAWINGS. QUANTITIES PROVIDED ARE PROVIDED FOR REFERENCE ONLY; IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL QUANTITIES PRIOR TO BID SUBMITTAL.
29. SPECIAL ATTENTION IS DIRECTED TO THE FACT THAT PORTIONS OF SOME DRAINAGE STRUCTURES AND CULVERTS MAY EXTEND INTO THE STABILIZED PORTION OF THE ROAD BED AND EXTREME CAUTION WILL BE NECESSARY DURING STABILIZATION OPERATIONS AT THESE LOCATIONS.
30. THE CONTRACTOR IS TO USE EXTREME CAUTION WHEN WORKING IN OR AROUND AREAS OF EXISTING LOOP AND LEAD-IN WIRES; TRANSMISSION LINES, UNDERGROUND UTILITIES AND OVERHEAD UTILITIES.
31. ALL TRENCHING OR EXCAVATION WITHIN THE PAVEMENT AREA SHALL BE PERFORMED PRIOR TO PLACEMENT OF BASE AND ASPHALT.
32. THE CONTRACTOR SHALL NOTIFY THE PALM BEACH COUNTY TRAFFIC DIVISION, PHONE (561) 684-4030, TWO WORKING DAYS PRIOR TO ANY MODIFICATION OF AN EXISTING TRAFFIC SIGNAL SYSTEM. THE CONTRACTOR SHALL TAKE FULL RESPONSIBILITY FOR THE MAINTENANCE OF THE EXISTING TRAFFIC SIGNAL(S) WITHIN THE PROJECT LIMITS.

GENERAL NOTES (CONTINUED):

- 33. THE CONTRACTOR SHALL COORDINATE WITH CITY OF LAKE WORTH AND PALM BEACH COUNTY TRAFFIC DIVISION PRIOR TO INSTALLATION OF LOOP ASSEMBLIES AND THEIR CONNECTION TO CONTROLLERS AT SIGNALIZED INTERSECTIONS WITHIN THE PROJECT LIMITS. INSTALLATION OF LOOP ASSEMBLIES SHALL BE PERFORMED AFTER MILLING AND RESURFACING.
34. THE CONTRACTOR SHALL COORDINATE SELECTION AND REVIEW OF ANY PROPOSED STAGING AREAS ASSOCIATED WITH THIS PROJECT WITH JAMIE BROWN, THE CITY OF LAKE WORTH DIRECTOR OF PUBLIC WORKS DEPARTMENT AT (561) 586-1720.
35. NO STAGING OR OPERATING OF EQUIPMENT WILL BE PERMITTED WITHIN THE FOLLOWING PUBLICLY OWNED LANDS: LANTANA SCRUB NATURAL AREA, LAKE WORTH GOLF COURSE, SUNSET RIDGE PARK, HAROLD GRIMES MEMORIAL PARK, HOWARD PARK LAKE WORTH, LAKE WORTH MUNICIPAL GYMNASIUM, BRYANT PARK & BOAT RAMP, LAKE WORTH COMMUNITY DEVELOPMENT CORPORATION, OSBORNE COMMUNITY CENTER AND LAKE WORTH HIGH SCHOOL PROPERTY.

UTILITIES:

- 1. THE LOCATION OF THE EXISTING UTILITIES SHOWN OR COVERED IN UTILITY NOTE 'U.H.' IN THE DRAWINGS ARE ONLY APPROXIMATE. THE EXISTING UTILITIES SHOWN IN THE DRAWINGS WERE PLOTTED FROM THE BEST AVAILABLE INFORMATION. HOWEVER, NO ASSURANCES ARE MADE BY THE ENGINEER OR CITY AS TO THEIR ACCURACY. THE CONTRACTOR SHALL NOTIFY THE UTILITY COMPANIES IN THE AREA OF WORK BEFORE BEGINNING CONSTRUCTION.
2. THE LOCATION(S) OF THE UTILITIES SHOWN IN THE DRAWINGS (INCLUDING THOSE DESIGNATED Vh) ARE BASED ON LIMITED INVESTIGATION TECHNIQUES AND SHOULD BE CONSIDERED APPROXIMATE ONLY. THE VERIFIED LOCATIONS/ELEVATIONS APPLY ONLY AT THE POINTS SHOWN. INTERPOLATIONS BETWEEN THESE POINTS HAVE NOT BEEN VERIFIED.
3. UPON RECEIPT OF NOTICE OF AWARD, THE CONTRACTOR SHALL ATTEND A PRE CONSTRUCTION CONFERENCE TO INCLUDE ALL INVOLVED GOVERNMENTAL AGENCIES, ALL AFFECTED UTILITY OWNERS, THE CITY, AND THE ENGINEER.
4. PRIOR TO EXCAVATION, THE CONTRACTOR SHALL CONTACT SUNSHINE 811 AND THE UTILITY OWNER AND REQUEST UTILITY LOCATIONS. A CONTRACTOR'S REPRESENTATIVE MUST BE PRESENT WHEN UTILITY COMPANIES LOCATE THEIR FACILITIES.
5. UTILITY COMPANIES:
BRIAN SHIELDS
CITY OF LAKE WORTH WATER AND SEWER UTILITY
(561)586-1610
EDWARD LIBERTY
CITY OF LAKE WORTH ELECTRIC UTILITY
(561) 586-1665
ROD FRIEDEL
PALM BEACH COUNTY TRAFFIC DIVISION
(561) 681-4371
HENRY PATINO
COMCAST - PALM BEACH COUNTY
(561) 436-9031
CHRIS CANINO
FLORIDA PUBLIC UTILITIES COMPANY
(561) 832-1773
GARTH BEDWARD
AT&T
(561) 357-6553
SCOTT PHILBRICK
PALM BEACH COUNTY TRAFFIC OPERATIONS
(561) 233-3908
6. IT SHALL BE THE CONTRACTOR'S SOLE RESPONSIBILITY TO TAKE THE NECESSARY PRECAUTIONS TO ENSURE PROPER SAFETY AND WORKMANSHIP WHEN WORKING IN THE VICINITY OF EXISTING UNDERGROUND AND OVERHEAD UTILITY LINES. PRIOR TO BEGINNING CONSTRUCTION, THE CONTRACTOR SHALL VERIFY THE SIZE, LOCATION, ELEVATION, AND MATERIAL OF ALL EXISTING UTILITIES WITHIN THE AREA OF CONSTRUCTION.
7. THE CONTRACTOR SHALL BE RESPONSIBLE TO VERIFY IF "OTHER" UTILITIES (NOT SHOWN IN THE DRAWINGS) EXIST WITHIN THE AREA OF CONSTRUCTION. SHOULD THERE BE UTILITY CONFLICTS, THE CONTRACTOR SHALL INFORM THE ENGINEER AND NOTIFY THE RESPECTIVE UTILITY OWNER(S) TO RESOLVE UTILITY CONFLICTS AND PERFORM UTILITY ADJUSTMENTS, AS REQUIRED.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DAMAGE TO ANY EXISTING UTILITIES FOR WHICH IT FAILS TO REQUEST LOCATIONS FROM THE UTILITY OWNER. THE CONTRACTOR IS ALSO RESPONSIBLE FOR DAMAGE TO ANY EXISTING UTILITIES WHICH ARE PROPERLY LOCATED.
9. IF UPON EXCAVATION, AN EXISTING UTILITY IS FOUND TO BE IN CONFLICT WITH THE PROPOSED CONSTRUCTION OR TO BE OF A SIZE OR MATERIALLY DIFFERENT FROM THAT SHOWN ON THE DRAWINGS; THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER.
10. THE LOCATIONS OF EXISTING UTILITIES AND STORM DRAINAGE SHOWN ON THE DRAWINGS HAVE BEEN DETERMINED FROM THE BEST INFORMATION AVAILABLE AND ARE GIVEN FOR THE CONVENIENCE OF THE CONTRACTOR. ENGINEER ASSUMES NO RESPONSIBILITY FOR INACCURACY. PRIOR TO THE START OF ANY CONSTRUCTION ACTIVITY, IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO MAKE ARRANGEMENTS FOR THE FIELD LOCATIONS AND FOR ANY RELOCATIONS OF THE VARIOUS EXISTING UTILITIES WITH THE UTILITY OWNERS, WHICH SHALL BE DONE IN A TIMELY MANNER TO MINIMIZE IMPACT ON THE CONSTRUCTION SCHEDULE. ANY DELAY CAUSED BY THE CONTRACTOR BY THE RELOCATION OF UTILITIES SHALL BE INCIDENTAL TO THE CONTRACT AND NO EXTRA COMPENSATION WILL BE ALLOWED.

CONSTRUCTION SAFETY:

- 1. ALL CONSTRUCTION SHALL BE PERFORMED IN A SAFE MANNER, SPECIFICALLY, THE RULES AND REGULATIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA).
2. CONSTRUCTION SHALL BE SOLELY RESPONSIBLE FOR COMPLIANCE WITH THE STATE OF FLORIDA TRENCH SAFETY ACT.
3. WHERE EXCAVATIONS TO A DEPTH IN EXCESS OF FIVE FEET (5') ARE REQUIRED, THE CONTRACTOR SHALL INCLUDE THE FOLLOWING IN THE BID:
3.1. REFERENCE TO THE TRENCH SAFETY STANDARDS THAT WILL BE IN EFFECT DURING THE PERIOD OF CONSTRUCTION OF THE PROJECT.
3.2. WRITTEN ASSURANCES BY THE CONTRACTOR PERFORMING THE TRENCH EXCAVATION THAT SUCH CONTRACTOR WILL COMPLY WITH THE FLORIDA TRENCH SAFETY ACT.
3.3. A SEPARATE ITEM IDENTIFYING THE COST OF COMPLIANCE WITH THE APPLICABLE TRENCH SAFETY STANDARDS.

R/W:

- 1. ALL WORK SHALL BE COMPLETED FROM AND WITHIN EXISTING RIGHT OF WAY.

ENVIRONMENTAL:

- 1. WHEN ENCOUNTERING OR EXPOSING ANY ABNORMAL CONDITION INDICATING THE PRESENCE OF A HAZARDOUS OR TOXIC WASTE, OR CONTAMINANTS, CEASE OPERATIONS IMMEDIATELY IN THE VICINITY AND NOTIFY THE LAP CITY OF LAKE WORTH BEACH ENGINEER (JAMIE BROWN, 561-586-1720). THE PRESENCE OF TANKS OR BARRELS; DISCOLORED EARTH, METAL, WOOD, GROUND WATER, ETC.; VISIBLE FUMES; ABNORMAL ODORS; EXCESSIVELY HOT EARTH; SMOKE; OR OTHER CONDITIONS THAT APPEAR ABNORMAL MAY INDICATE HAZARDOUS OR TOXIC WASTES OR CONTAMINANTS AND MUST BE TREATED WITH EXTREME CAUTION.
2. MAKE EVERY EFFORT TO MINIMIZE THE SPREAD OF CONTAMINATION INTO UNCONTAMINATED AREAS. IMMEDIATELY PROVIDE FOR THE HEALTH AND SAFETY OF ALL WORKERS AT THE JOB SITE AND MAKE PROVISIONS NECESSARY FOR THE HEALTH AND SAFETY OF THE PUBLIC THAT MAY BE EXPOSED TO ANY POTENTIALLY HAZARDOUS CONDITIONS. PROVISIONS SHALL MEET ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAWS, RULES, REGULATIONS OR CODES COVERING HAZARDOUS CONDITIONS AND WILL BE IN A MANNER COMMENSURATE WITH THE GRAVITY OF THE CONDITIONS.
3. THE LAP CITY OF LAKE WORTH BEACH ENGINEER (JAMIE BROWN, 561-586-1720) WILL COORDINATE AND MOBILIZE A QUALIFIED CONTAMINATION ASSESSMENT/REMEDIATION (CAR) CONTRACTOR. QUALIFICATIONS OF SUCH CAR CONTRACTOR SHALL INCLUDE, BUT NOT BE LIMITED TO: EXPERIENCE AND PERSONNEL TO PREPARE CONTAMINATION ASSESSMENT PLANS, CONDUCT CONTAMINATION ASSESSMENTS, PREPARE SITE ASSESSMENT REPORTS, REMEDIATION PLANS, IMPLEMENT REMEDIAL ACTION PLANS, RISK BASED CORRECTIVE ACTIONS, STORAGE TANKS SYSTEM REMOVAL, HIGHWAY SPILL RESPONSE AS WELL AS EXPERIENCE WITH INFRASTRUCTURE/CONSTRUCTION ACTIVITIES WITHIN (POTENTIALLY) CONTAMINATED AREAS SPECIFIC TO TRANSPORTATION SYSTEMS.

ENVIRONMENTAL (CONTINUED):

- 4. ALL THE WORK PERFORMED BY THE CAR CONTRACTOR SHALL BE PERFORMED IN COMPLIANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS GOVERNING WORKER SAFETY AND ENVIRONMENTAL REGULATIONS. THIS IS TO INCLUDE OCCUPATIONAL EXPOSURE TO CONTAMINATED SOILS, GROUNDWATER, WASTES AND ATMOSPHERE DURING THE CONSTRUCTION OF ALL FEATURES INCLUDED IN THE CONSTRUCTION PLANS. IN ADDITION, THE CAR CONTRACTOR MUST BE STAFFED WITH FLORIDA LICENSED TECHNICAL PROFESSIONALS (GEOLOGISTS AND ENGINEERS) WHO WILL BE INVOLVED WITH THE PROJECT AND KNOWLEDGEABLE OF THE WORK ACTIVITIES CONDUCTED WITHIN THE IDENTIFIED CONTAMINATED AREAS AND WHO WOULD SIGN AND SEAL PROJECT REPORTS AS REQUIRED FOR SUBMITTAL TO THE APPROPRIATE ENVIRONMENTAL REGULATORY AGENCIES.
5. THE LAP CITY OF LAKE WORTH BEACH ENGINEER, (JAMIE BROWN, 561-586-1720) WILL IMMEDIATELY NOTIFY THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) DISTRICT IV CONTAMINATION IMPACT COORDINATOR (DCIC) AT (954)777-4286 AFTER ENCOUNTERING THE UNIDENTIFIED AREAS OF CONTAMINATION. PRELIMINARY INVESTIGATION BY THE CAR CONTRACTOR WILL DETERMINE THE COURSE OF ACTION NECESSARY FOR SITE SECURITY AND THE STEPS NECESSARY UNDER APPLICABLE LAWS, RULES, AND REGULATIONS FOR ADDITIONAL ASSESSMENT AND/OR REMEDIATION WORK TO RESOLVE THE CONTAMINATION ISSUES.
6. FOLLOWING COMPLETION OF THE PROJECT, THE CAR CONTRACTOR SHALL BE REQUIRED TO PROVIDE COPIES OF ALL REPORTS SUBMITTED TO REGULATORY AGENCIES, WASTE MATERIAL PROFILES, MANIFESTS AND/OR DISPOSAL RECEIPTS FOR THE HANDLING OF ALL CONTAMINATED MEDIA INCLUDING BUT NOT LIMITED TO GROUND WATER, WASTE WATER, SOILS, SOLID WASTES, SLUDGE, HAZARDOUS WASTES, AIR MONITORING RECORDS AND SAMPLE RESULTS FOR ALL MATERIALS TESTED AND ANALYZED TO THE LAP CITY OF LAKE WORTH BEACH ENGINEER (JAMIE BROWN, 561-586-1720) AND THE FDOT DCIC.



Know what's below. Call before you dig.

FM: 448301-1-158-01

CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS

FM448301-58-01 LAKE WORTH BEACH, PALM BEACH, FL

GENERAL NOTES

SHEET C001 2 OF 41 2974.30

CERT NO.: 6091

561.687.2220

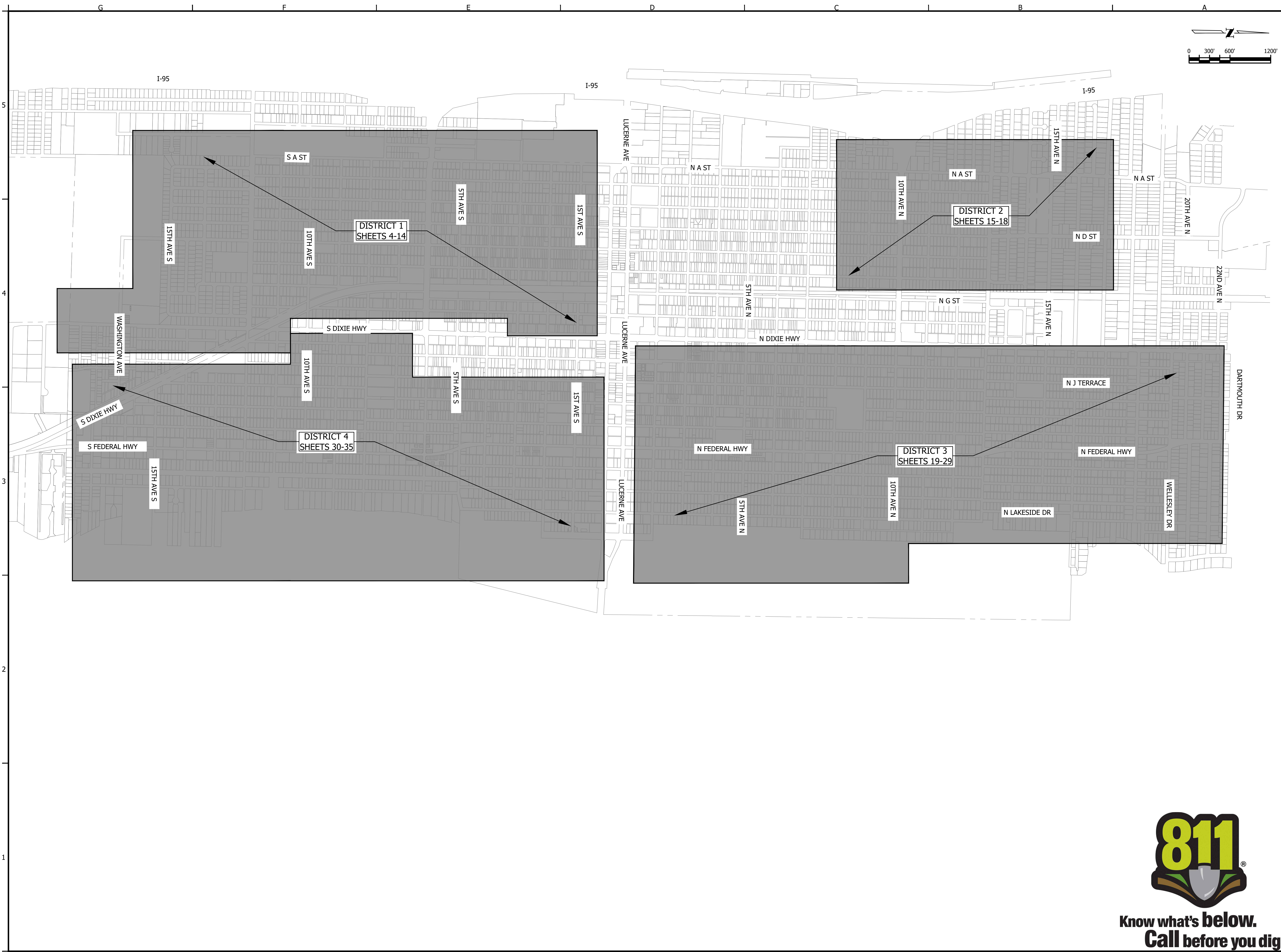
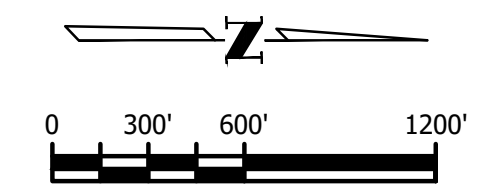


PRELIMINARY

NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES.

PREPARED UNDER THE SUPERVISION OF STEPHEN CRAWFORD CHERRY, P.E. #83268 ON 2022-10-06





BY	
REVISION	
DATE	
No.	

CERT NO: 6091  
 951.687.2220  
  
**WGI**  
 WGIinc.com  
 2035 VISTA PARKWAY, WEST PALM BEACH, FLORIDA 33411

**PRELIMINARY**  
 NOT FOR CONSTRUCTION,  
 BIDDING, OR PERMIT  
 PURPOSES.  
 PREPARED UNDER THE  
 SUPERVISION OF  
 STEPHEN CRAWFORD CHERRY  
 P.E. #83268  
 ON 2022-10-06

CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
 FM448301-58-01  
 LAKE WORTH BEACH, PALM BEACH, FL  
 MASTER KEY MAP

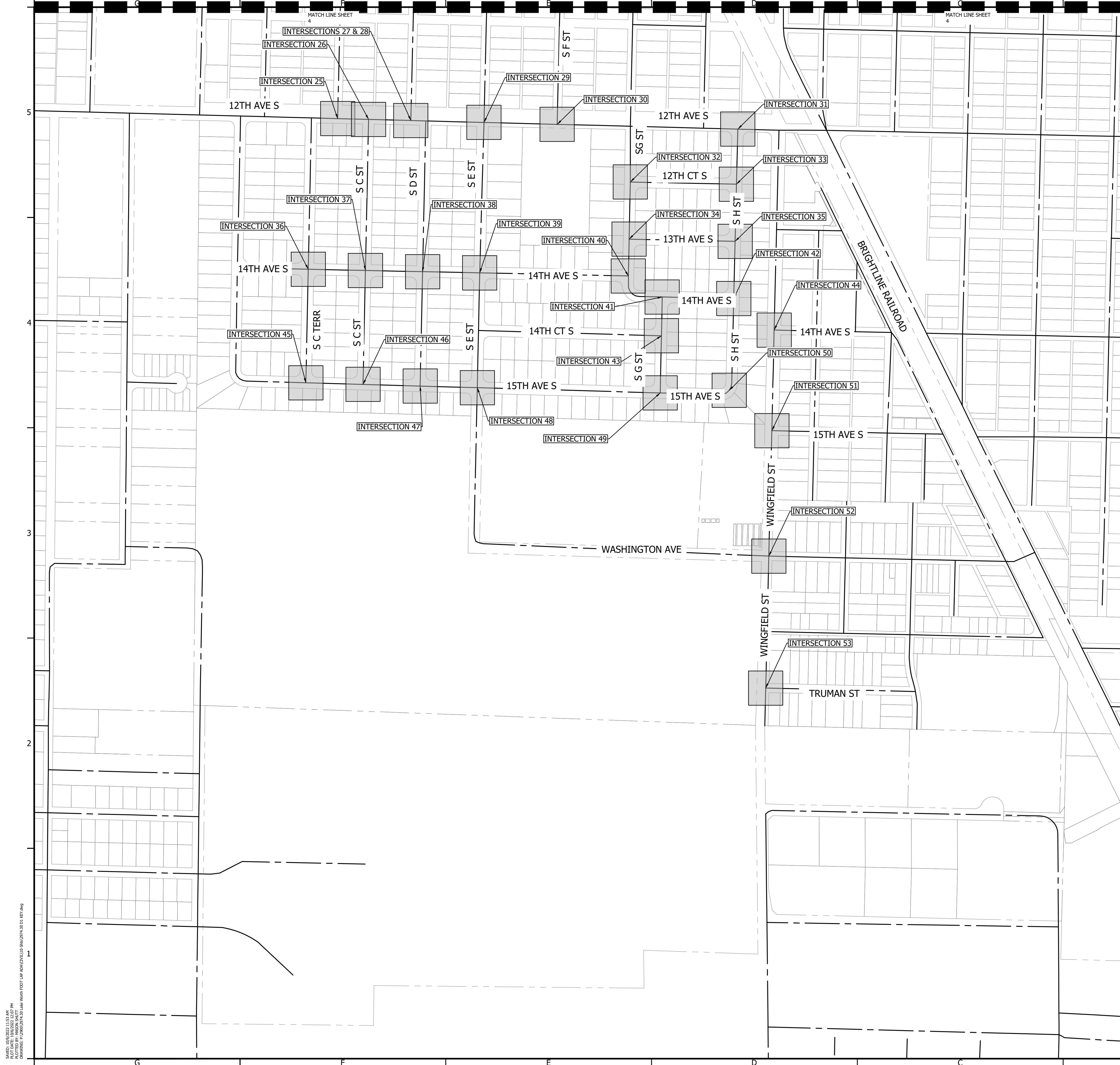
448301-1-58-01  
 SHEET  
**C002**  
 3 OF 41  
 2974.30



**Know what's below.  
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 PLOTTED BY MASON SKOTT  
 DATE: 10/20/2022 11:17 AM  
 DRAWING: P:\DWG\2022\211747.dwg





KEY SHEET	SHEET DESCRIPTION	INTERSECTION	NW	NE	SW	SE
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	102	2	1-3			
	102	3	1-5		1-4	
	102	4	1-8	1-6		1-7
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106	25	1-54	1-53			
106	26			1-56	1-55	
106	27	1-58	1-57			
106	28			1-60	1-59	
106	29	1-62	1-61	1-64	1-63	
106	30	1-66	1-65			
106	31			1-68	1-67	
107	32		1-71		1-72	
107	33	1-70		1-69		
107	34		1-73		1-74	
107	35	1-75		1-76		
107	36		1-93		1-94	
107	37	1-90	1-89	1-91	1-92	
108	38	1-88	1-87	1-86	1-85	
108	39	1-82	1-81	1-84	1-83	
108	40	1-79		1-80		
108	41			1-111A	1-111	
108	42	1-78		1-77		
108	43	1-109		1-110		
109	44		1-122			
109	45	1-95	1-96			
109	46	1-97	1-98			
109	47	1-99	1-100			
109	48	1-104	1-103	1-102	1-101	
109	49	1-106	1-105			
110	50	1-108		1-107		
110	51		1-120		1-121	
110	52	1-116	1-117	1-118	1-119	
110	53	1-112	1-113	1-115	1-114	

CERT NO: 6091

951.687.2220

PRELIMINARY

NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES.

PREPARED UNDER THE SUPERVISION OF THE SUPERVISOR OF CHIEF ENGINEER STEPHEN CRAWFORD CHERRY, P.E. #83268 ON 2022-10-06

CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL

DISTRICT 1 KEY MAP

448301-1-58-01



**Know what's below.  
Call before you dig.**

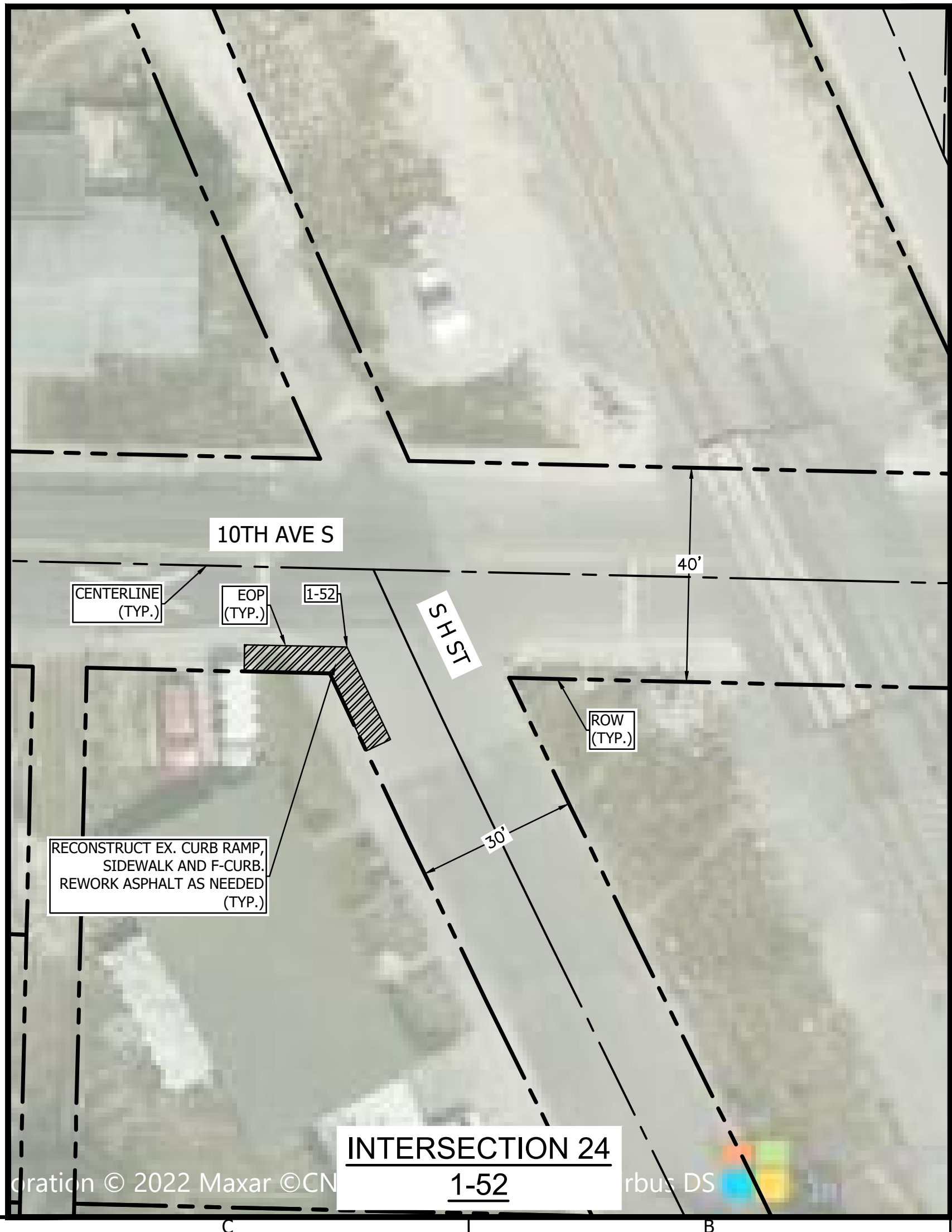
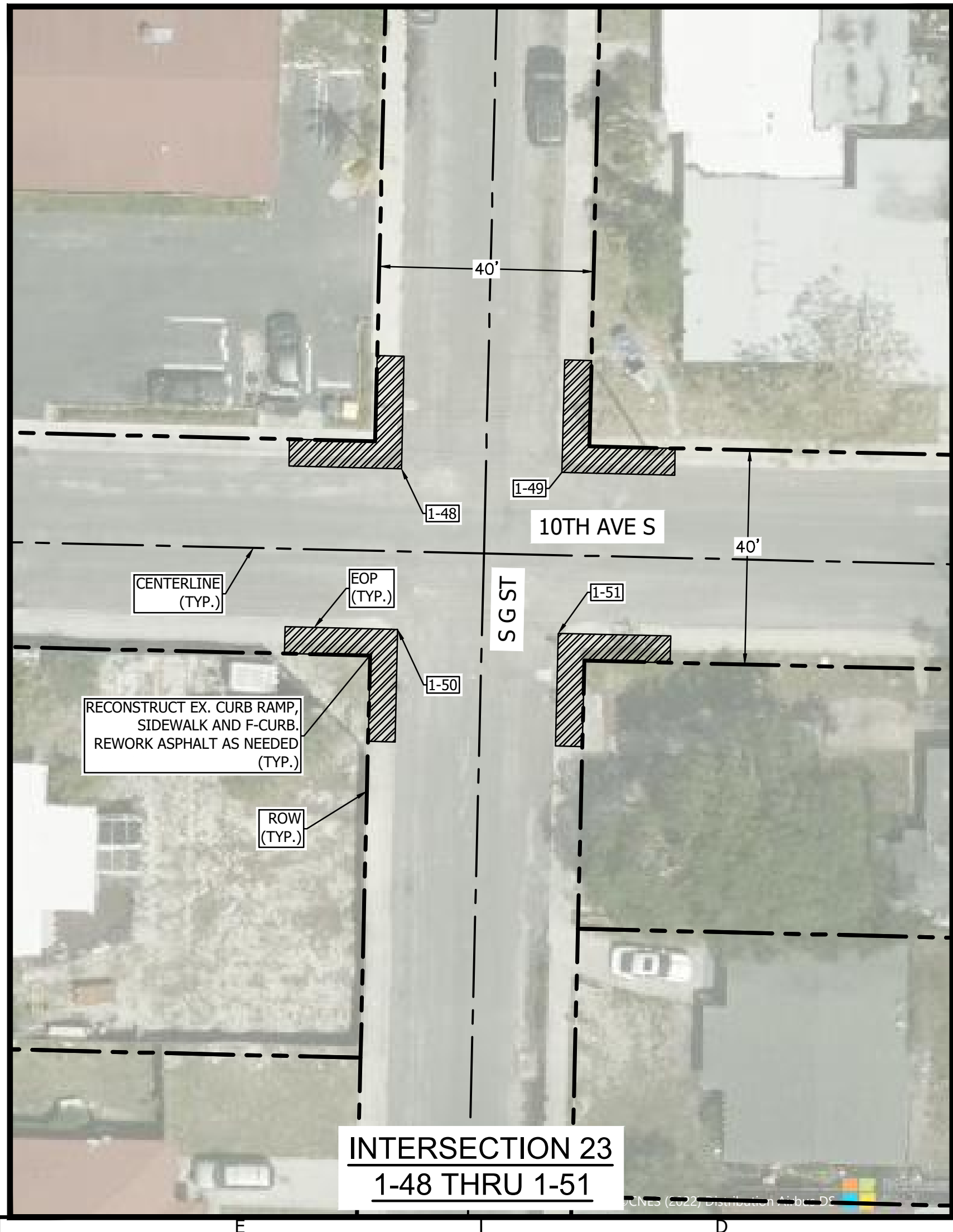
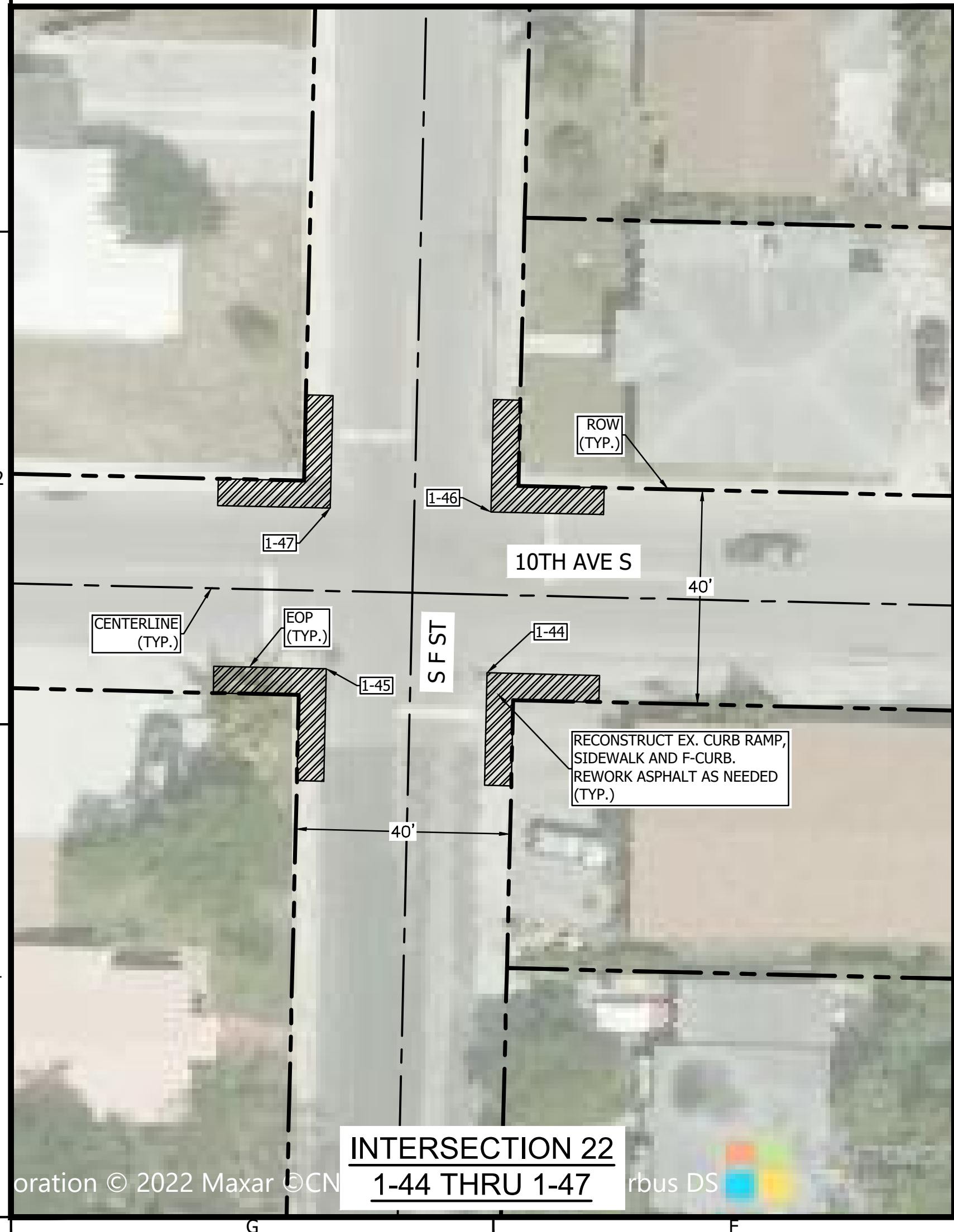
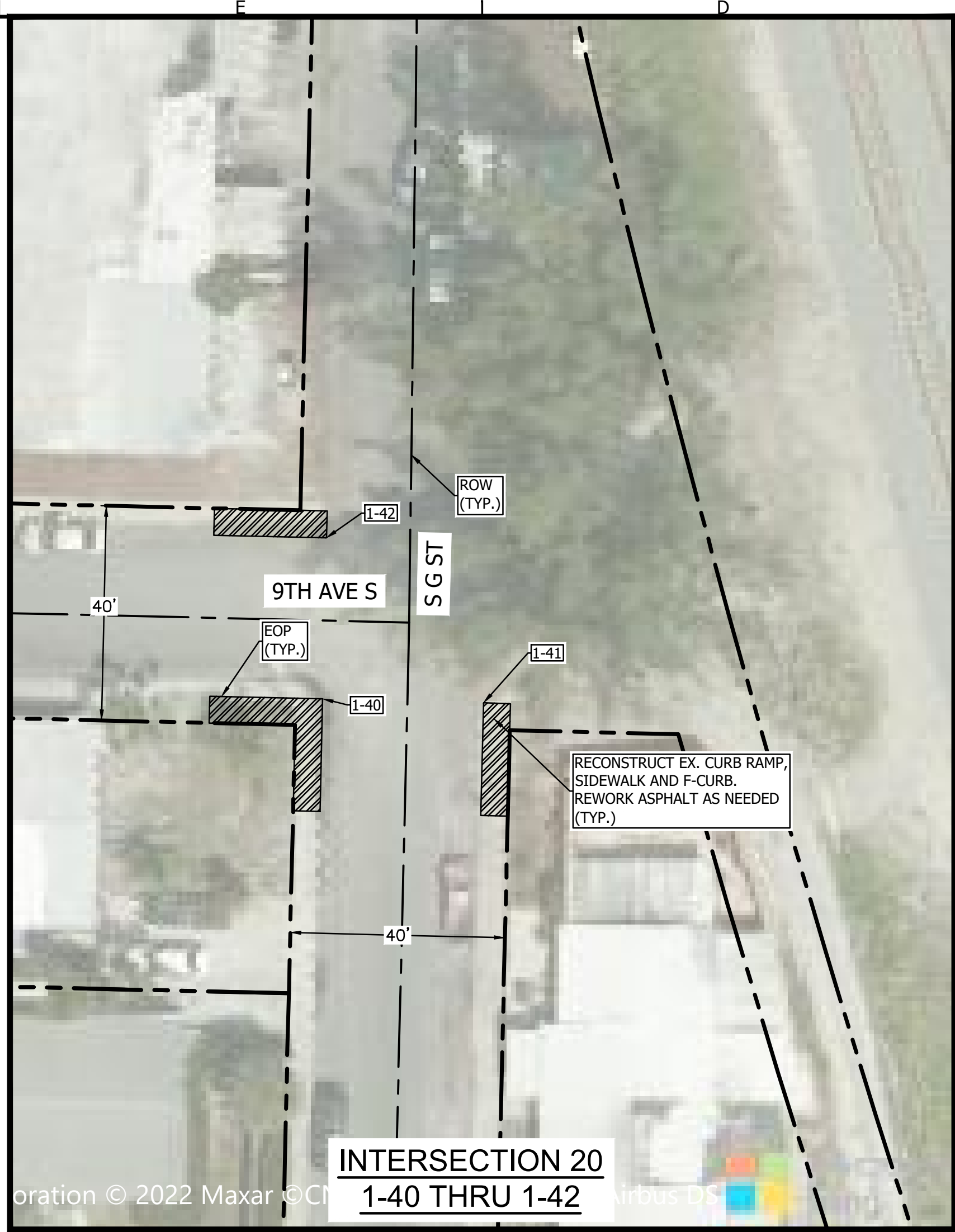
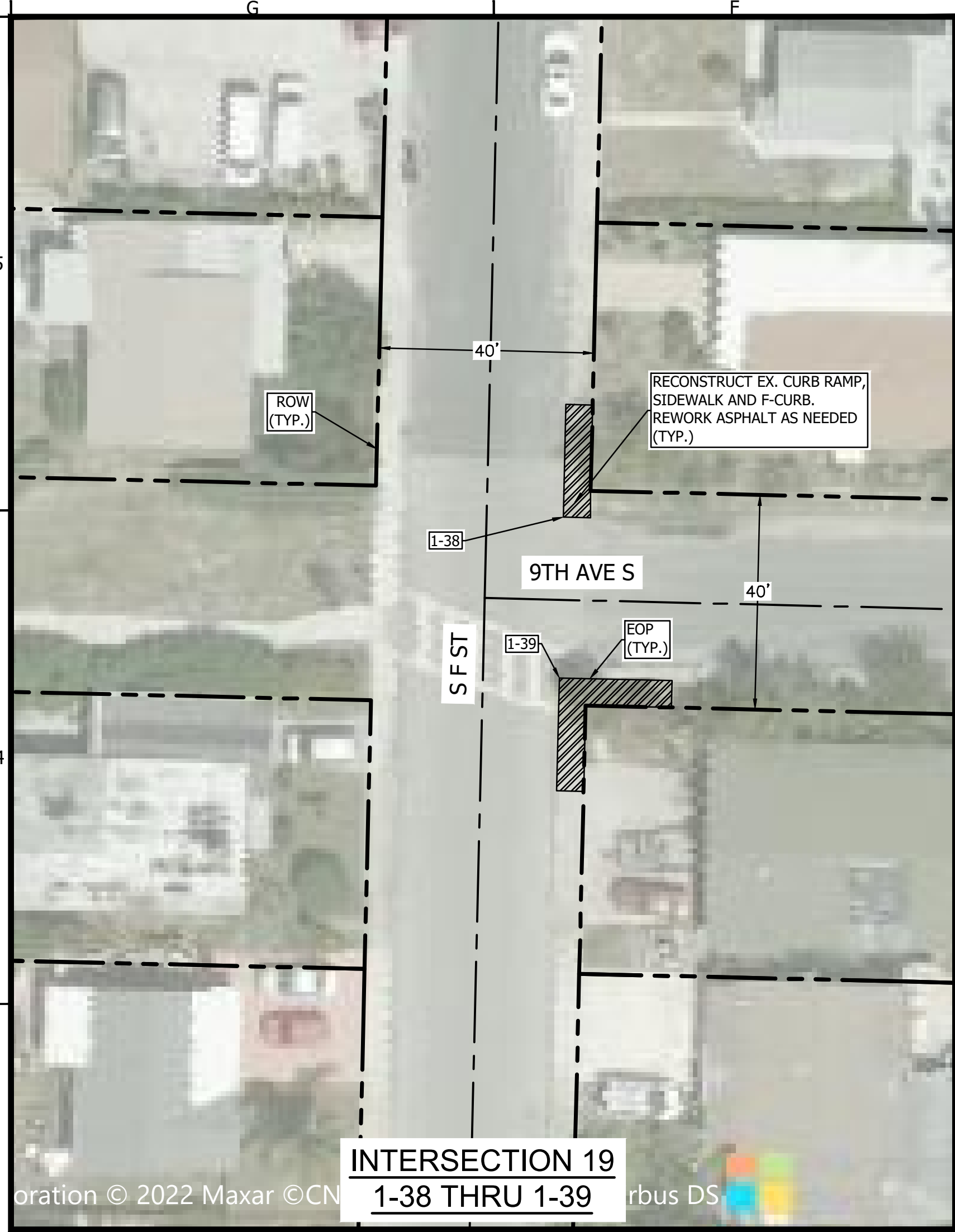
SHEET  
**C101**  
5 OF 41  
2974.30

DRAWN: P:\30202\1153.dwg  
DATE: 10/20/22 11:53 AM  
ROUTED BY: MASON SAKIT  
CHECKED BY: MASON SAKIT









**LEGEND**  
LIMITS OF RECONSTRUCTION

NO.	DATE	REVISION

CERT. NO. 6901  
  
**WGI.**  
 WGIinc.com  
 2035 VISTA PARKWAY, WEST PALM BEACH, FLORIDA 33411  
 PRELIMINARY  
 NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES.  
 PREPARED UNDER THE SUPERVISION OF  
 STEPHEN CRAWFORD CHERRY  
 P.E. #83268  
 ON 2022-10-06

CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
 FM448301-58-01  
 LAKE WORTH BEACH, PALM BEACH, FL  
 DISTRICT 1 ADA IMPROVEMENTS @ INTERSECTIONS 19 - 24  
 SHEET  
**C105**  
 9 OF 41  
 2974.30

**Know what's below.**  
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FM: 448301-1-58-01

SWAYD, 10/10/2022 10:10 AM  
 ROUTED BY MAXON SKITTI  
 DRAWING: P:\2022\24\Lake Worth Foot Lap\BAC\GIS\24-58-01-100.dwg

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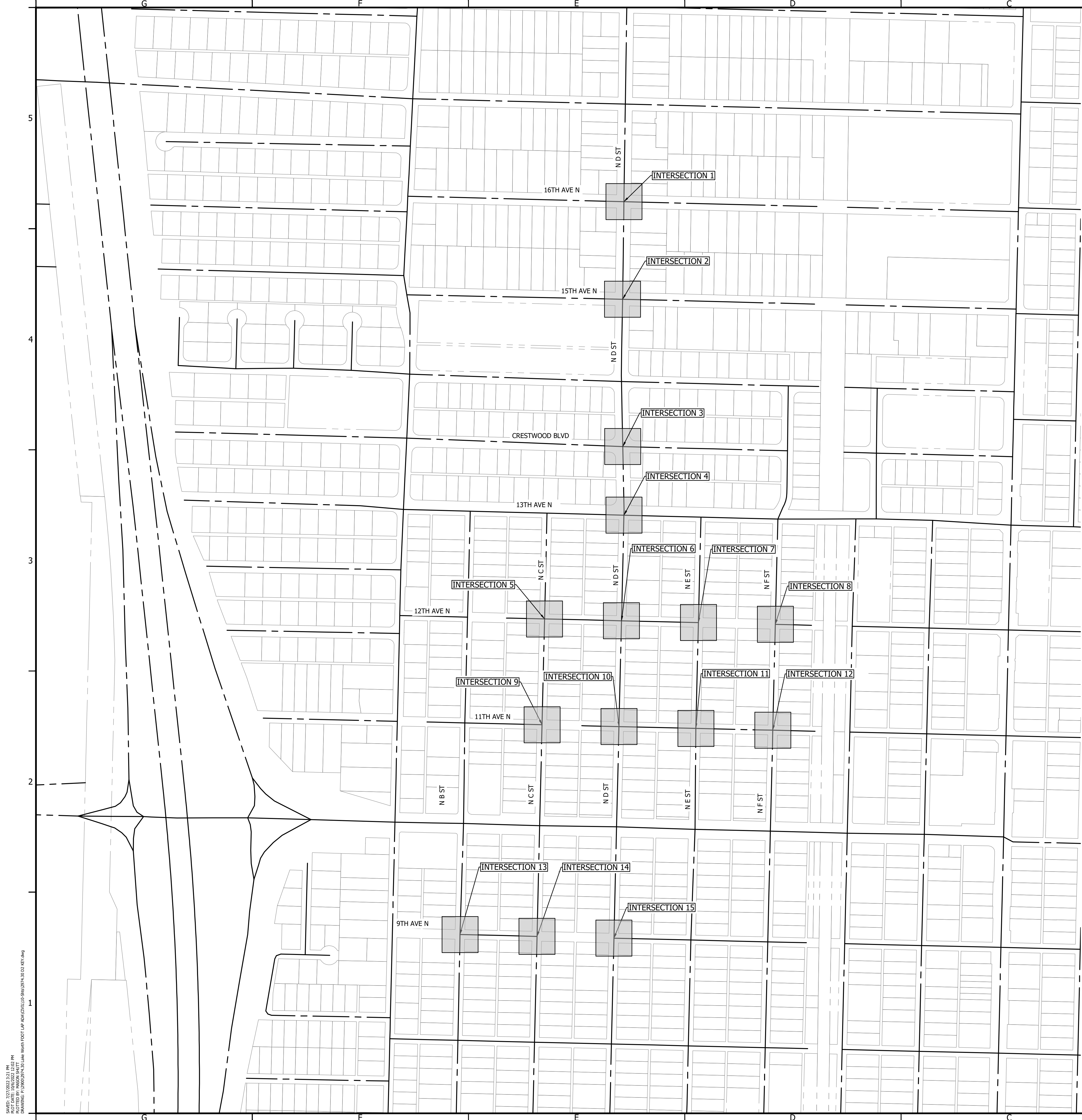












KEY SHEET	SHEET DESCRIPTION	INTERSECTION	NW	NE	SW	SE
C200	201	1			2-36	
	201	2		2-34		2-35
	201	3			2-33	
	201	4	2-31	2-30		2-32
	201	5	2-16	2-15	2-17	
	201	6	2-27	2-26	2-29	2-28
	202	7	2-41		2-42	
	202	8	2-47	2-46	2-49	2-48
	202	9			2-14	2-13
	202	10	2-23	2-22	2-25	2-24
	202	11	2-38	2-37	2-39	2-40
	202	12	2-45A	2-43	2-45	2-44
	203	13	2-5	2-7	2-6	2-8
	203	14	2-9	2-11	2-10	2-12
	203	15	2-19	2-18	2-20	2-21
	203	16	2-1	2-3	2-2	2-4

CERT NO: 6901  
951.687.2220



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STEPHEN CRAWFORD CHERRY  
P.E. #83268  
ON 2022-10-06

**CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS**  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL  
DISTRICT 2 KEY MAP



**Know what's below.  
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FM: 448301-1-58-01

SHEET  
**C200**  
15 OF 41  
2974.30

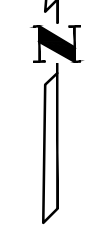
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PLOTTED BY: MASON SAKITT  
DRAWING: P:\30000\30156\Lake Worth Foot Lap\848301-58-01-KEY.dwg











KEY SHEET	SHEET DESCRIPTION	INTERSECTION	NW	NE	SW	SE
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		2	3-163	3-162	3-165	3-164
		3		3-160		3-161
		4	3-153	3-152		
		5				3-151
		6			3-141	3-140
		7	3-143	3-142	3-145	3-144
		8			3-149	3-148
		10	3-137	3-136	3-139	3-138
		11	3-133	3-132	3-135	3-134
		12	3-129	3-128	3-131	3-130
		13	3-156	3-157		
		14	3-119	3-118	3-121	3-120
		15		3-122		3-123
		16	3-125	3-124	3-127	3-126
		17	3-154		3-155	
	C301		20		3-115A	3-115
		21		3-116		3-117
		23	3-102	3-100	3-103	3-101
		24	3-99	3-98	3-98A	
		25			3-97	
		27		3-92		
		29	3-80	3-79		
		30	3-82	3-81		3-82A
		31	3-83			
		32	3-85	3-84	3-87	3-86
		33		3-88A	3-89	3-88
		34	3-90		3-91	
		37	3-66	3-64	3-65A	3-65
		38				3-63
		39	3-62			
		41	3-51			
		42		3-53	3-52	3-54
		43		3-58	3-57	3-59
		44	3-60		3-61	
		46	3-37	3-39	3-38	3-40
		47	3-42	3-41		
	48	3-43		3-44		
	50	3-25	3-27	3-26	3-28	
	51	3-29	3-31	3-30	3-32	
	53	3-18	3-20	3-19	3-21	
	54	3-46B	3-45	3-46A	3-46	
	55				3-1	
	56		3-2	3-4	3-3	
	57			3-5		
	58		3-6	3-8	3-7	
	59	3-10	3-12	3-11	3-13	
	60		3-14	3-16	3-15	
	61			3-17		

CERT NO. 6091



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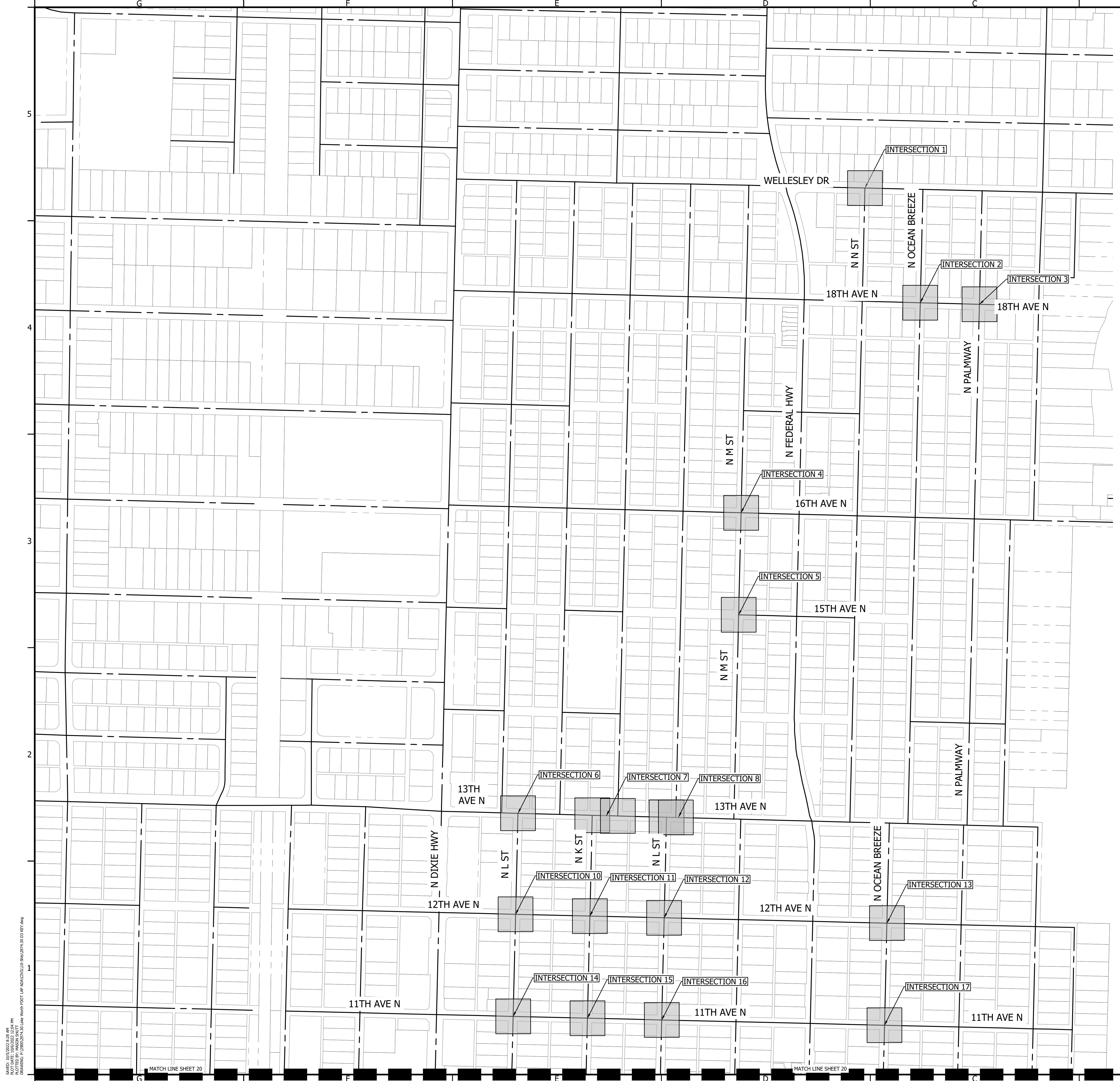
CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
 FM448301-58-01  
 LAKE WORTH BEACH, PALM BEACH, FL  
 DISTRICT 3 KEY MAP



Know what's below.  
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448301-1-58-01

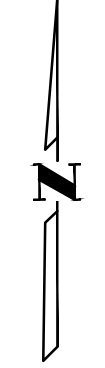
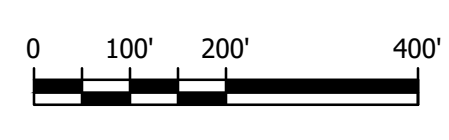
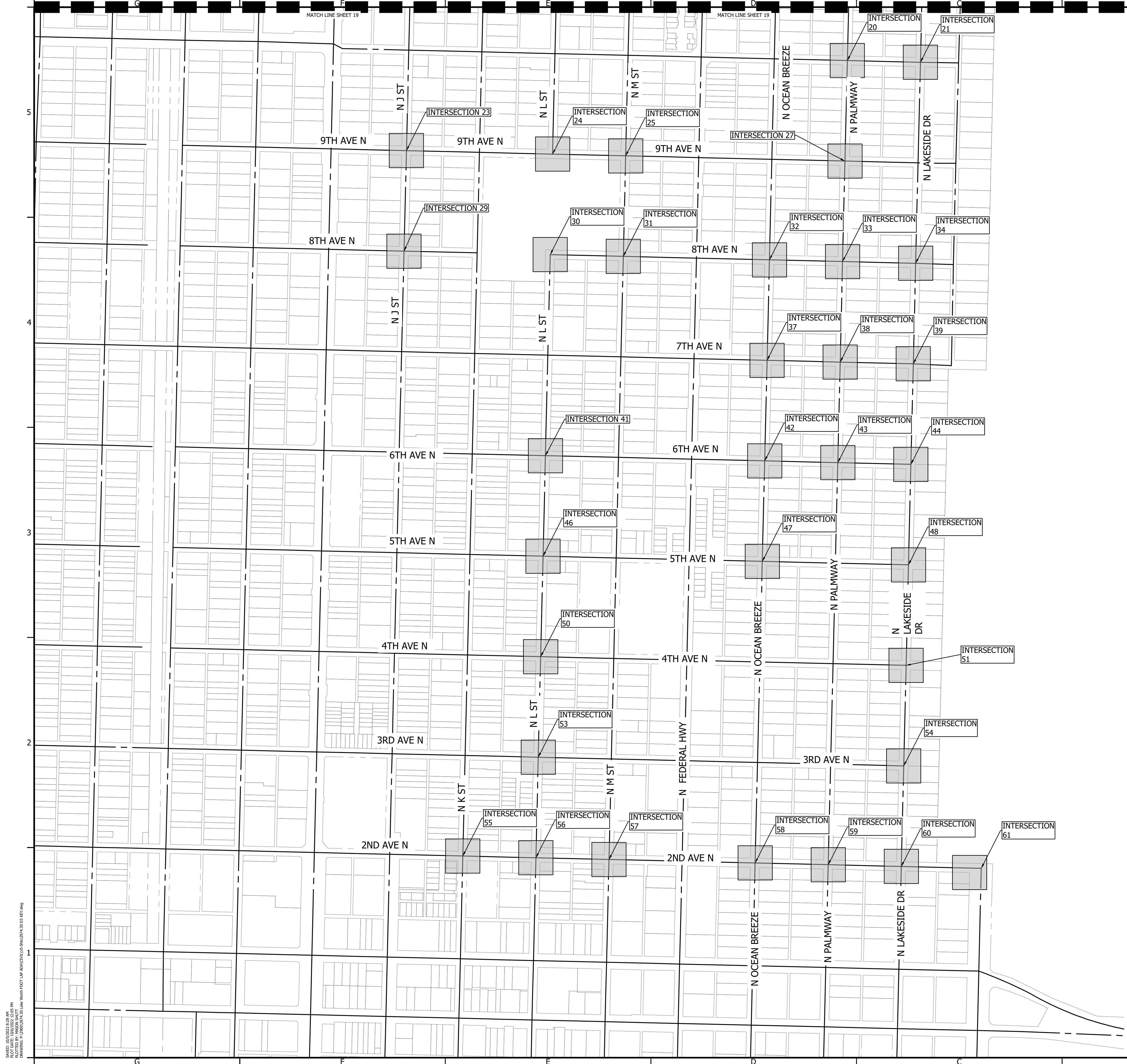
SHEET  
**C300**  
 19 OF 41  
 2974.30



SWMT: 10/10/22 8:28 AM  
 PLOTTED BY: MASON SKITT  
 DRAWING: P:\3000\301\58\1-58-01.dwg

MATCH LINE SHEET 20

MATCH LINE SHEET 20



KEY SHEET	SHEET DESCRIPTION	INTERSECTION	NW	NE	SW	SE
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	302	2	3-163	3-162	3-165	3-164
	302	3		3-160		3-161
	302	4	3-153	3-152		
	302	5				3-151
	302	6			3-141	3-140
	303	7	3-143	3-142	3-145	3-144
	303	8			3-149	3-148
	303	10	3-137	3-136	3-139	3-138
	303	11	3-133	3-132	3-135	3-134
	303	12	3-129	3-128	3-131	3-130
	304	13	3-156	3-157		
	304	14	3-119	3-118	3-121	3-120
	304	15		3-122		3-123
	304	16	3-125	3-124	3-127	3-126
	304	17	3-154		3-155	
	304	20		3-115A	3-115	3-114
	305	21		3-116		3-117
	305	23	3-102	3-100	3-103	3-101
	305	24	3-99	3-98	3-98A	
305	25			3-97		
305	27		3-92			
305	29	3-80	3-79			
306	30	3-82	3-81		3-82A	
306	31	3-83				
306	32	3-85	3-84	3-87	3-86	
306	33		3-88A	3-89	3-88	
306	34	3-90		3-91		
306	37	3-66	3-64	3-65A	3-65	
307	38				3-63	
307	39	3-62				
307	41	3-51				
307	42		3-53	3-52	3-54	
307	43		3-58	3-57	3-59	
307	44	3-60		3-61		
308	46	3-37	3-39	3-38	3-40	
308	47	3-42	3-41			
308	48	3-43		3-44		
308	50	3-25	3-27	3-26	3-28	
308	51	3-29	3-31	3-30	3-32	
308	53	3-18	3-20	3-19	3-21	
309	54	3-46B	3-45	3-46A	3-46	
309	55				3-1	
309	56		3-2	3-4	3-3	
309	57			3-5		
309	58	3-6	3-8	3-7	3-9	
309	59	3-10	3-12	3-11	3-13	
310	60		3-14	3-16	3-15	
310	61			3-17		

CERT NO: 6091  
951.687.2220



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STEPHEN CRAWFORD CHERRY  
P.E. #83268  
ON 2022-10-06

**CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS**  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL  
**DISTRICT 3 KEY MAP**

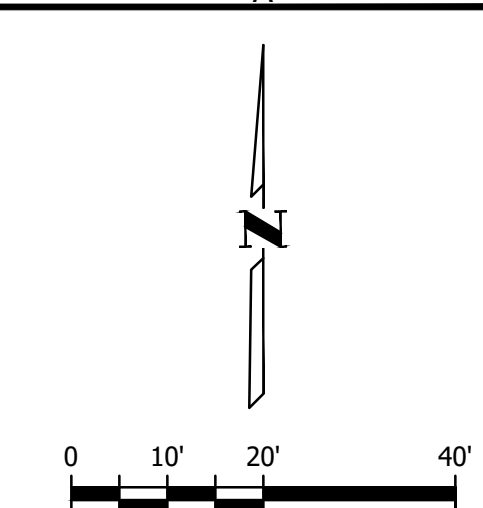
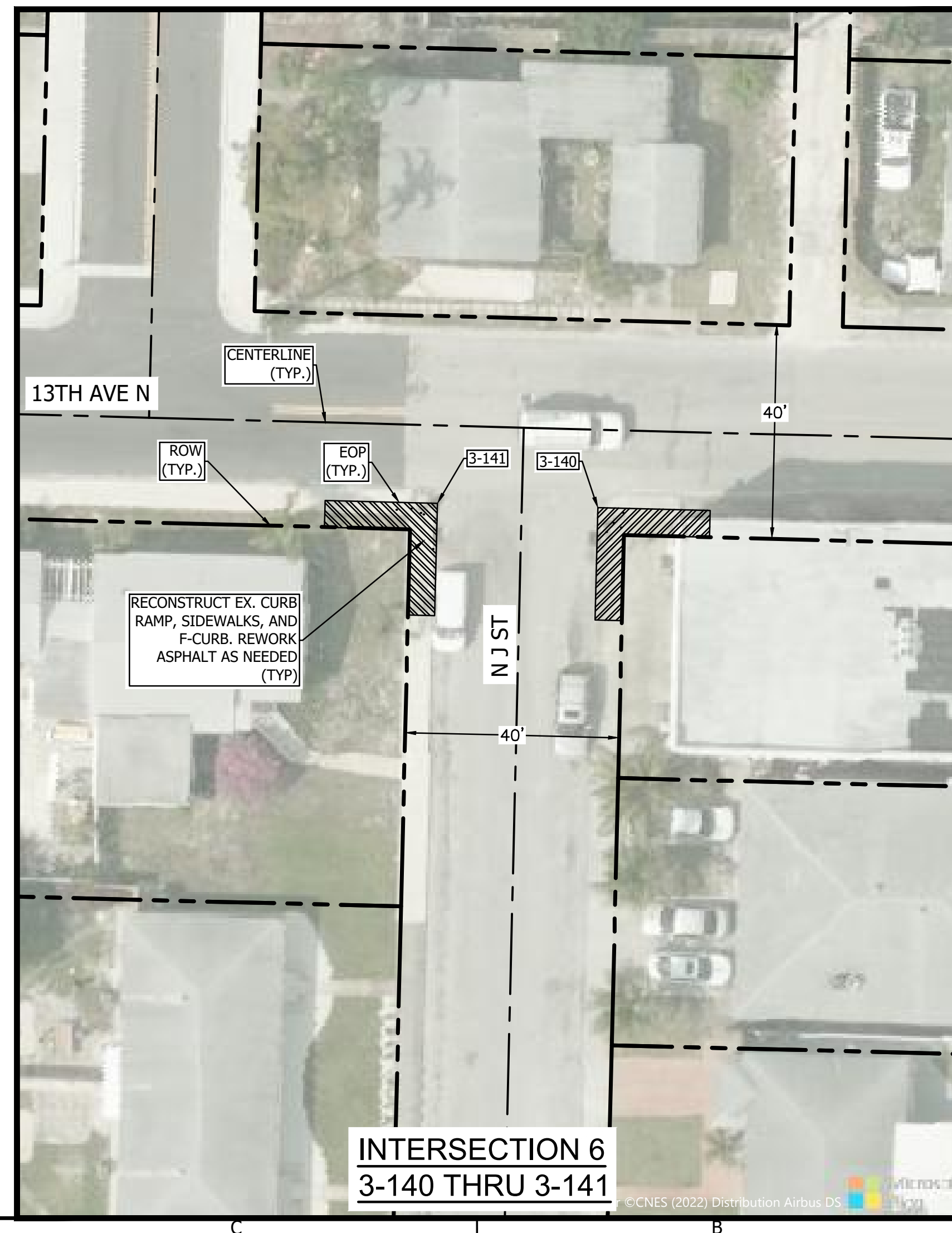
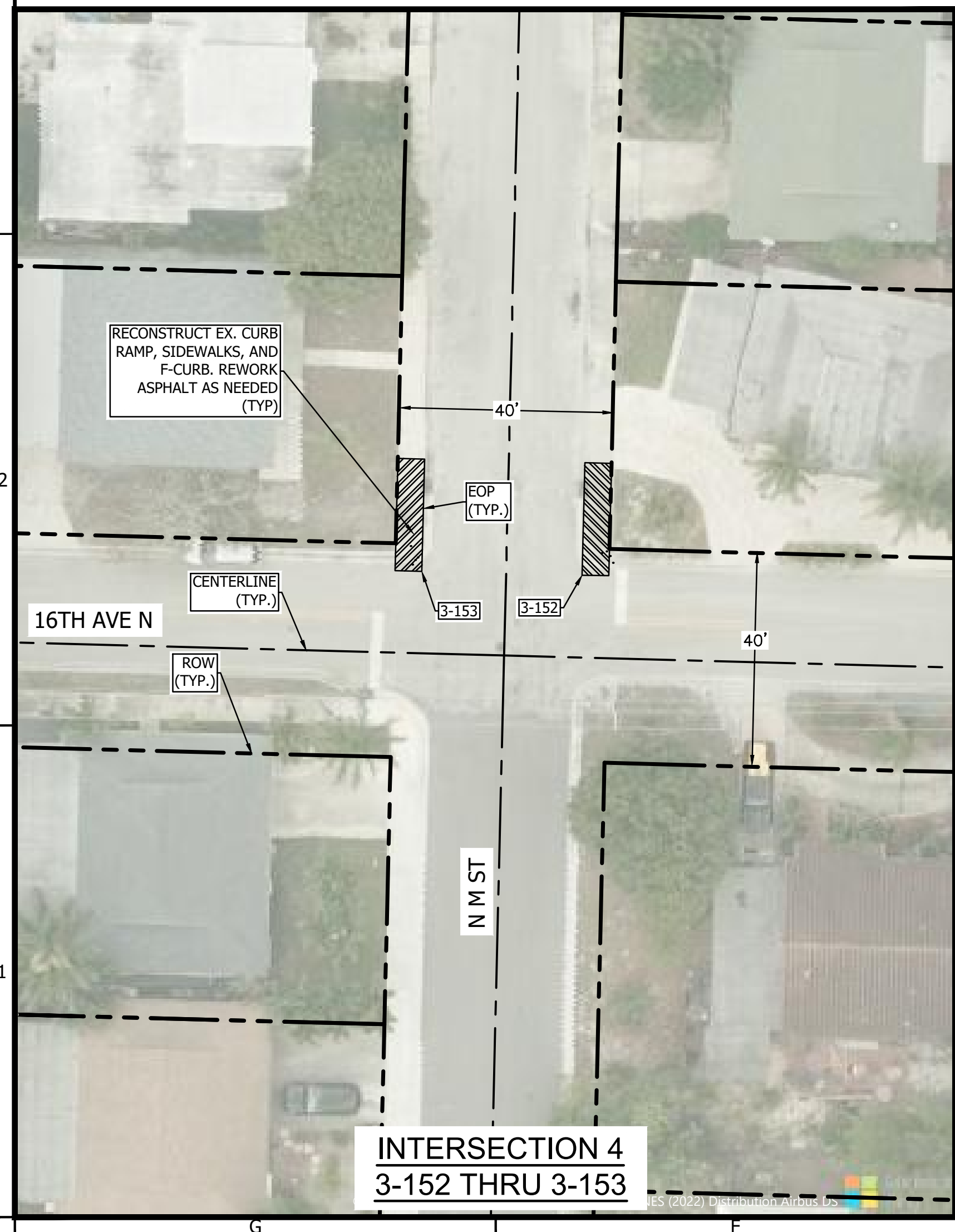
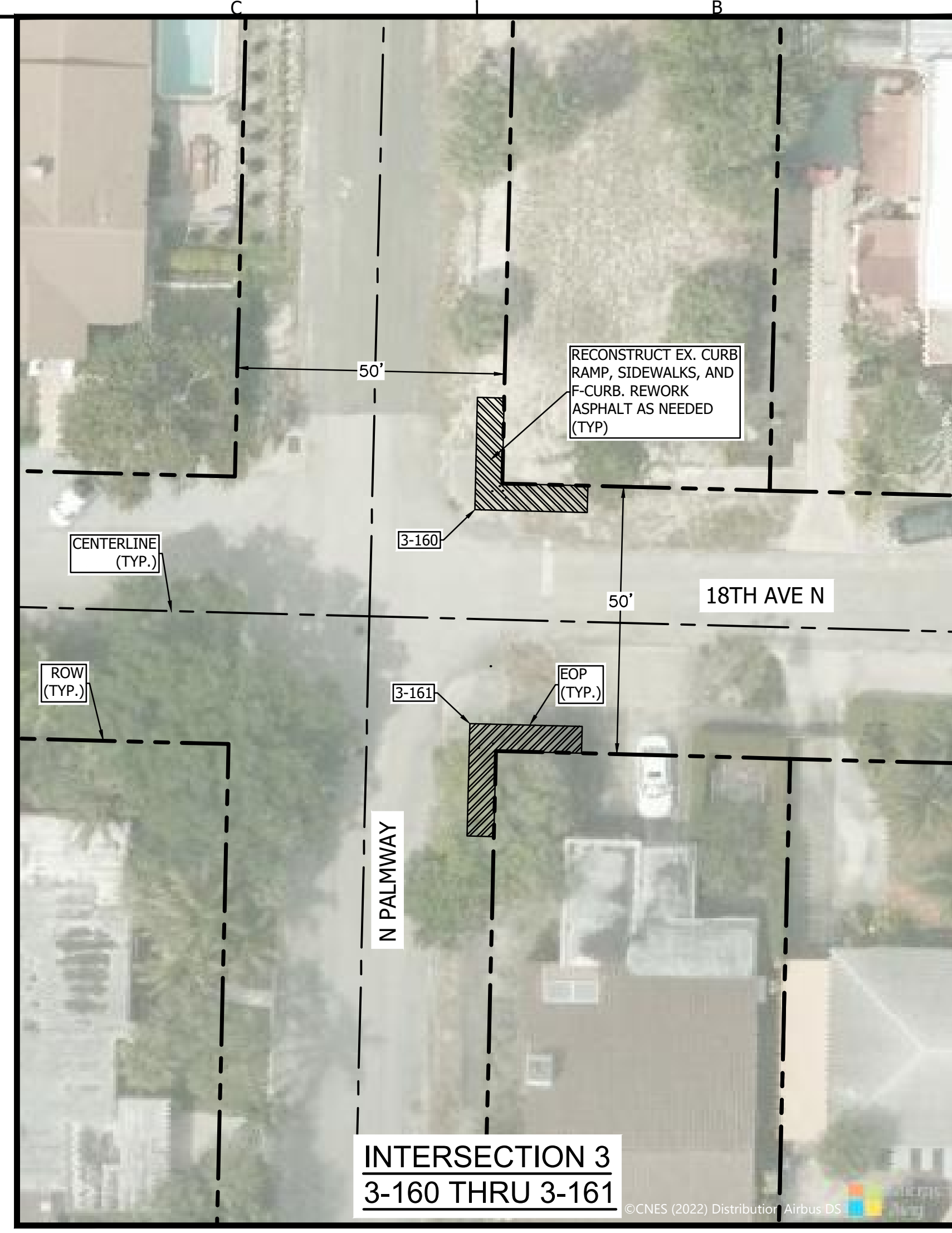
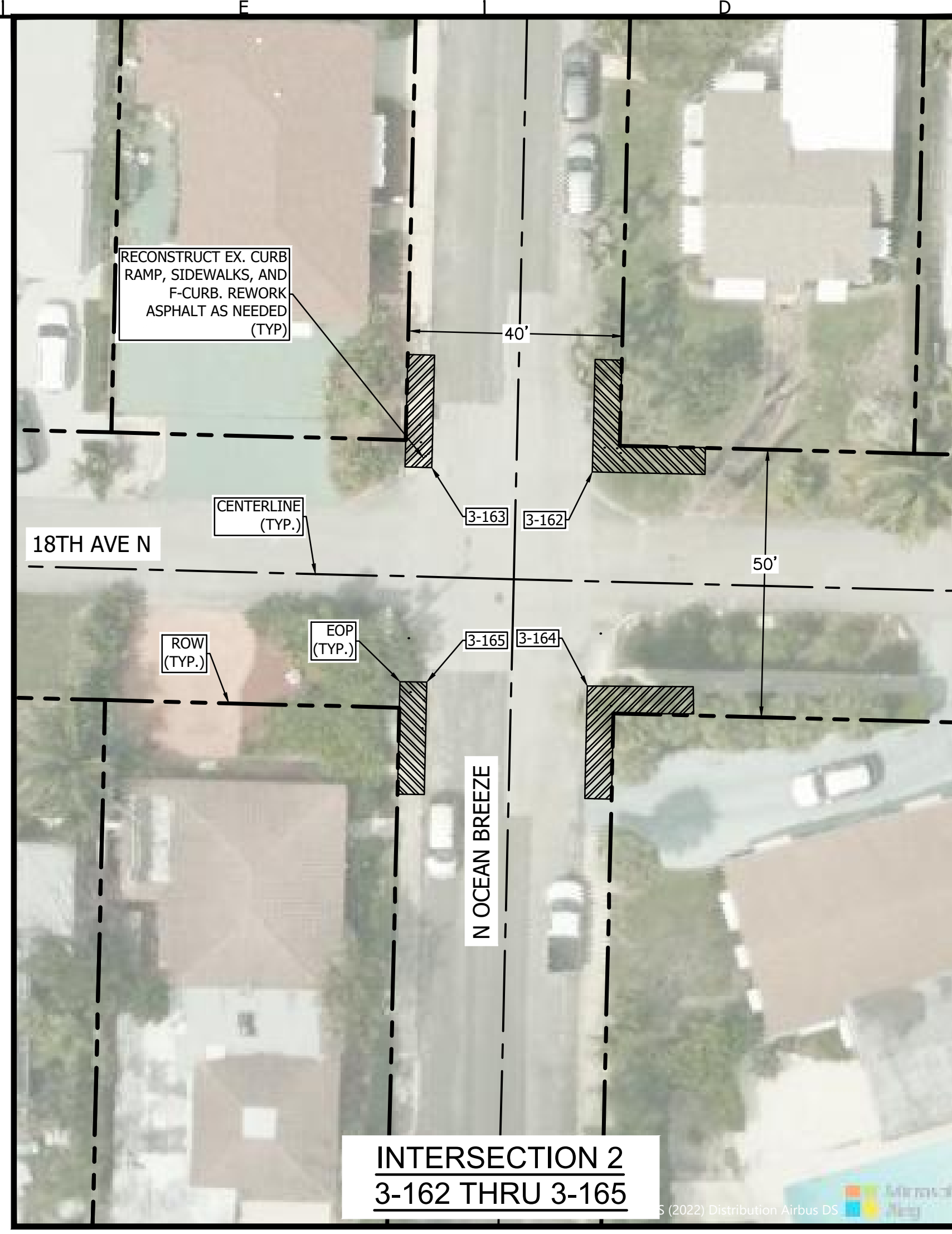
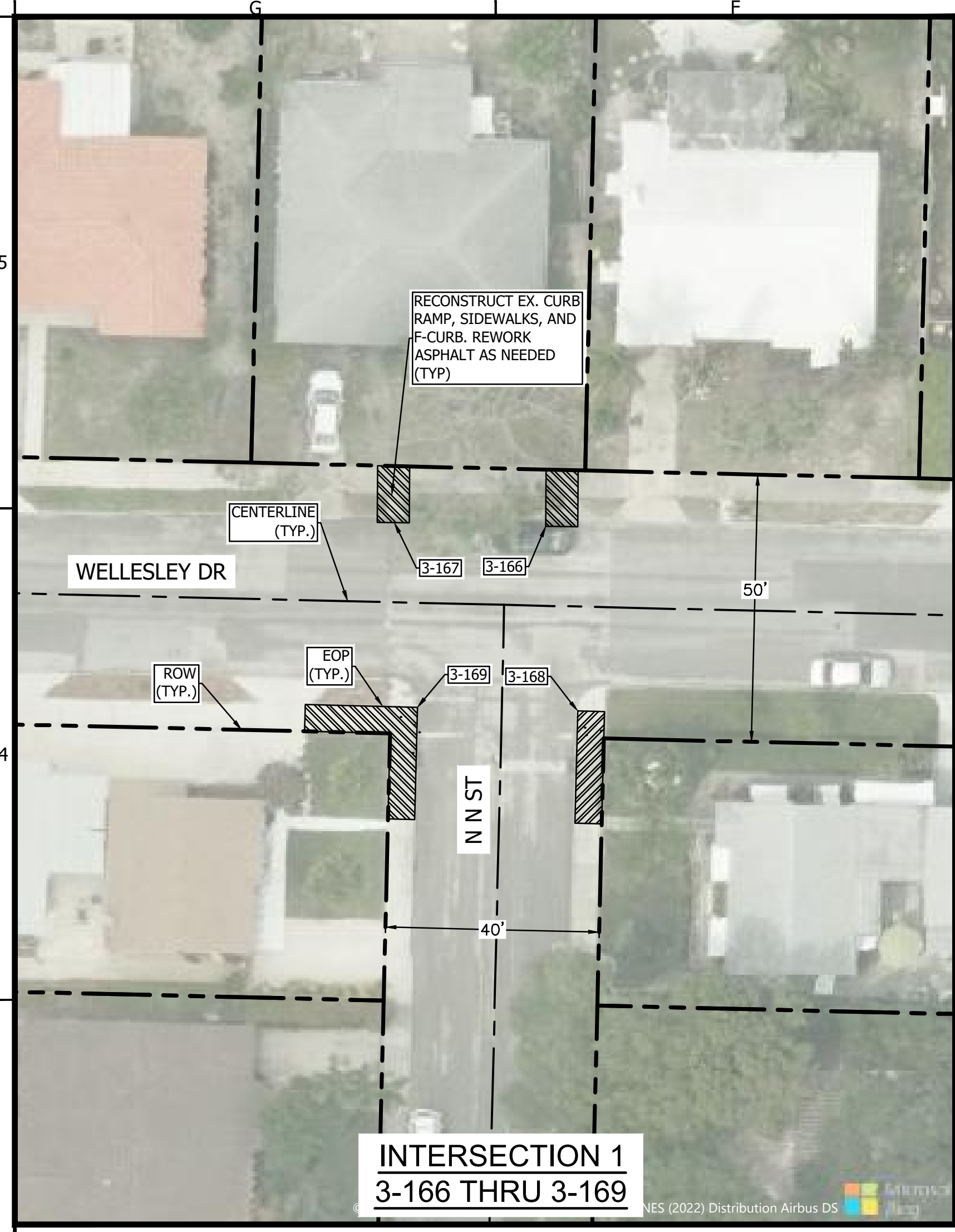


**Know what's below.  
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448301-1-58-01

SHEET  
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20 OF 41  
2974.30

SWMTD: 10/10/2022 8:52 AM  
 PLOTTED BY: MASON SAUTER  
 DRAWING: P:\3000\015\Lake Worth Foot Lap\BACKGROUNDS\015\015.DWG



**LEGEND**  
LIMITS OF RECONSTRUCTION

NO.	DATE	REVISION	BY

CERT NO. 6091  
  
 WGI Inc.  
 2035 VISTA PARKWAY, WEST PALM BEACH, FLORIDA 33411  
 561.687.2220

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 PURPOSES.  
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 SUPERVISION OF  
 STEPHEN CRAWFORD CHERRY  
 P.E. #83268  
 ON 2022-10-06

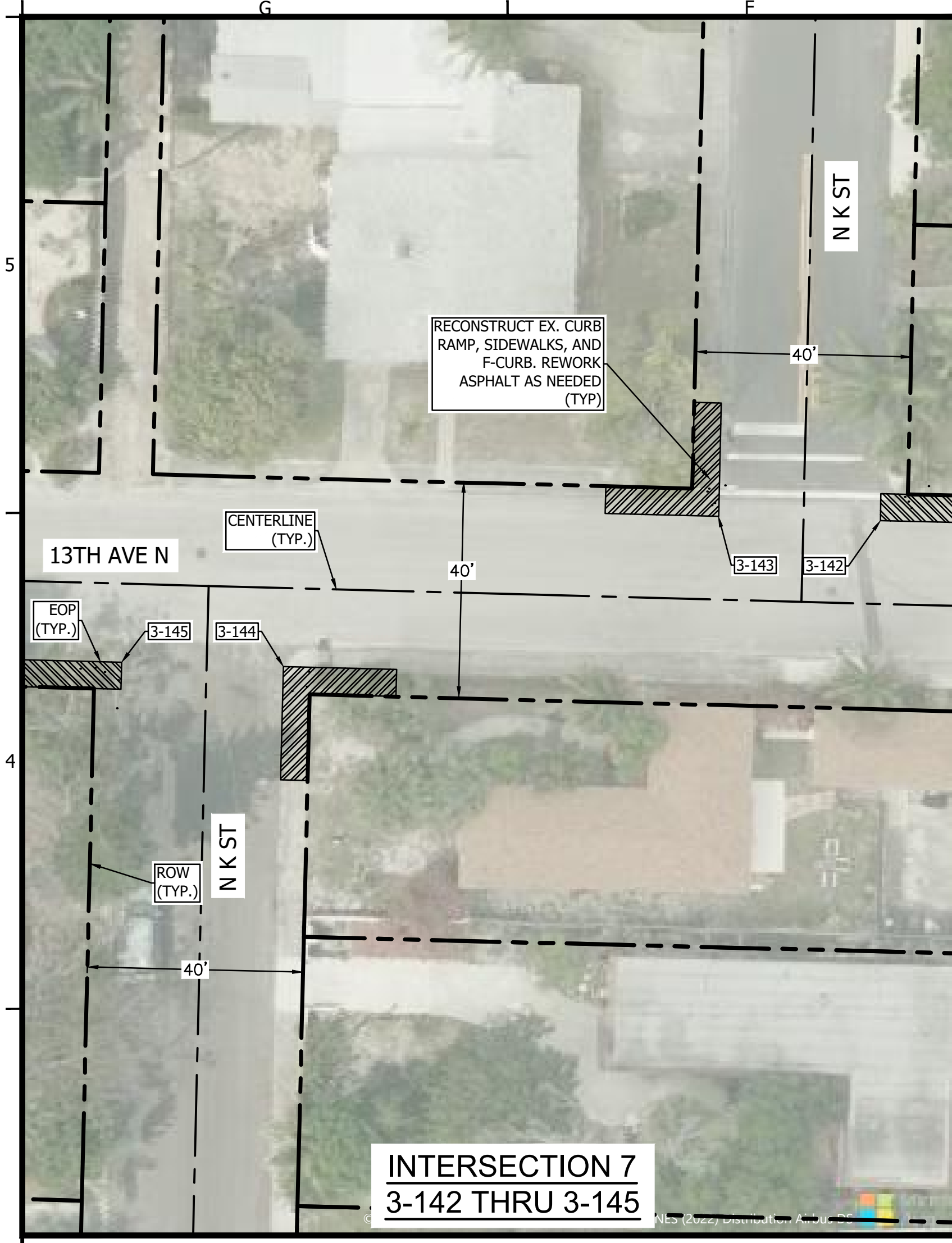


**Know what's below.  
 Call before you dig.**

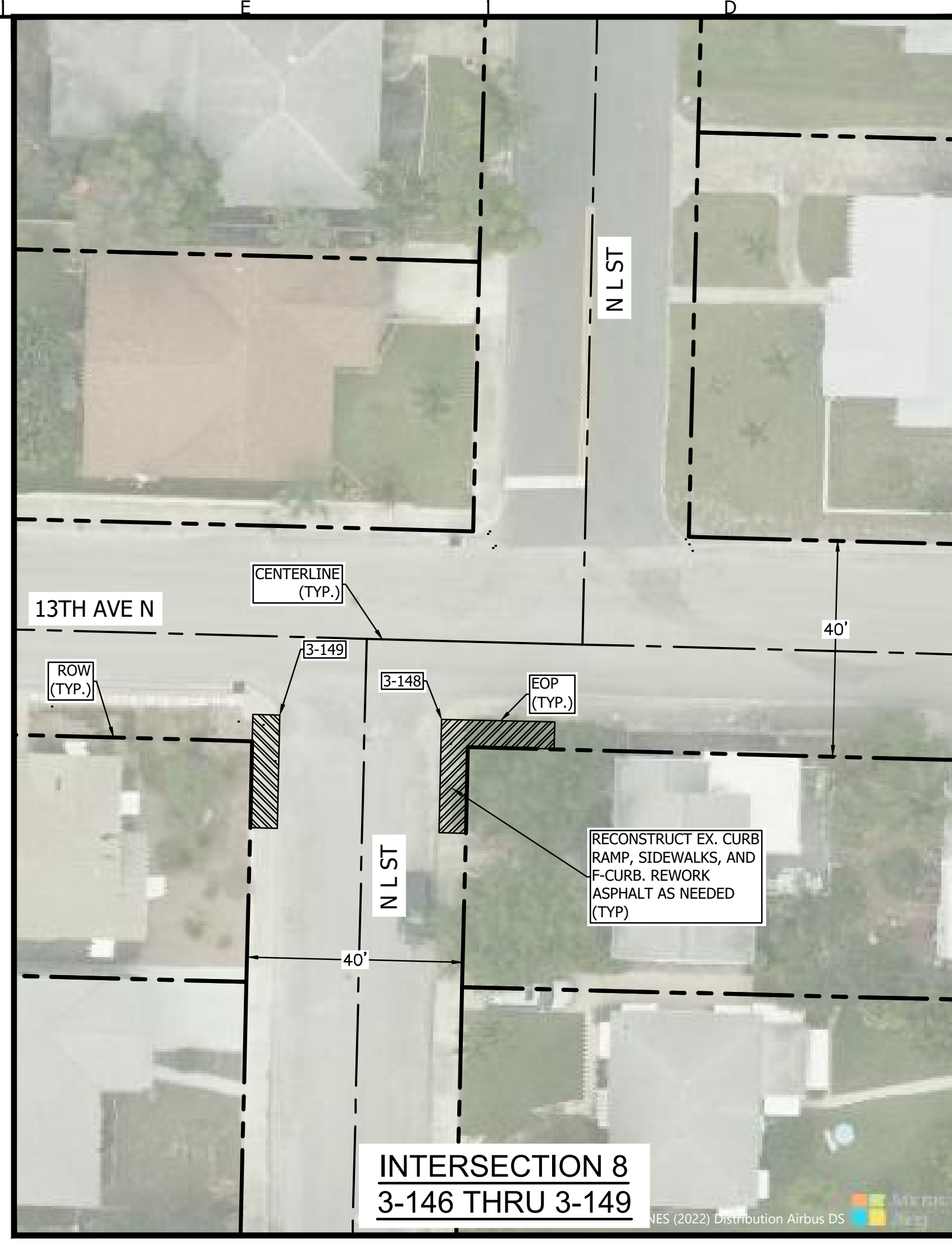
FM: 448301-1-58-01

**CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS**  
 FM448301-58-01  
 LAKE WORTH BEACH, PALM BEACH, FL  
**DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 1 - 6**

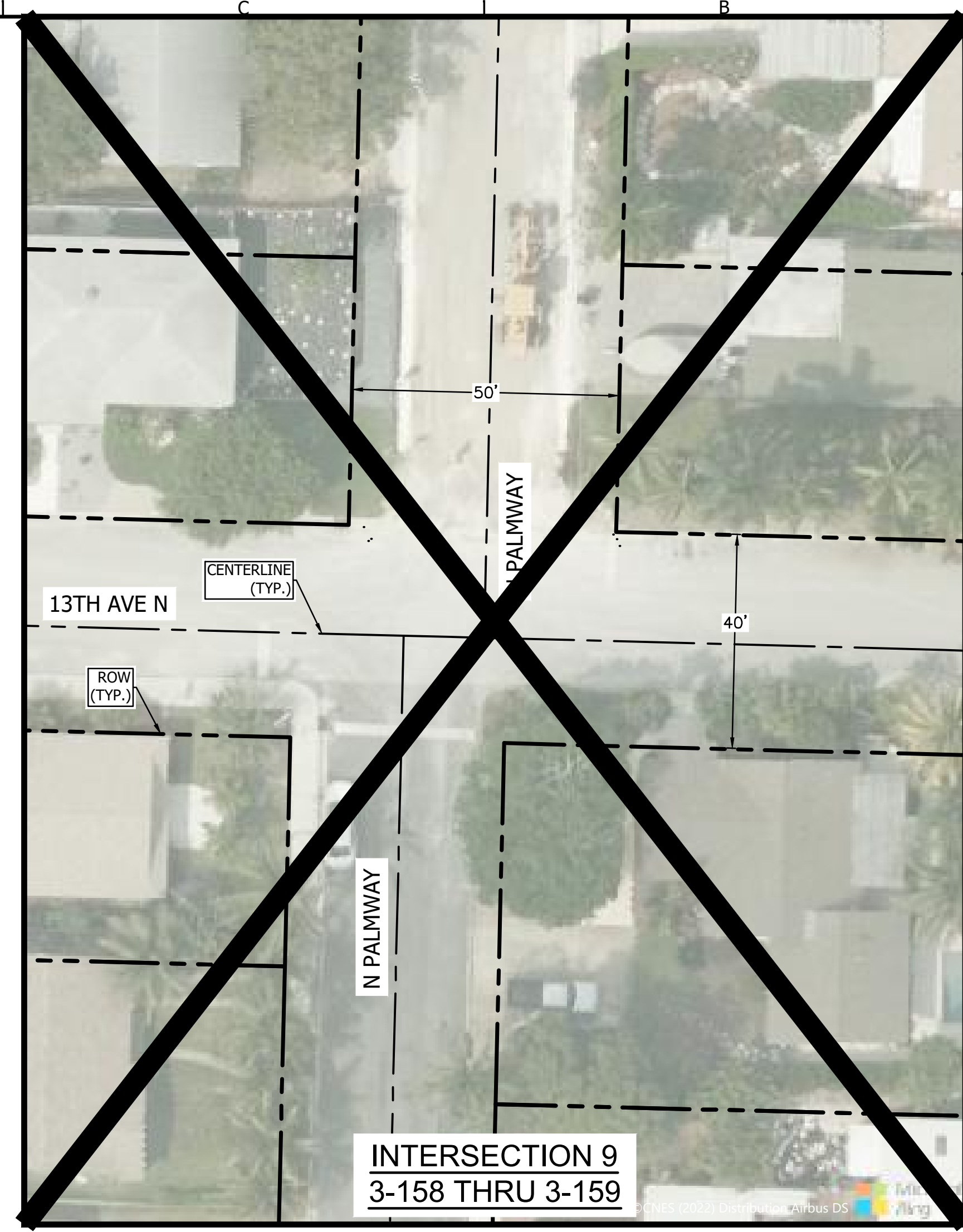
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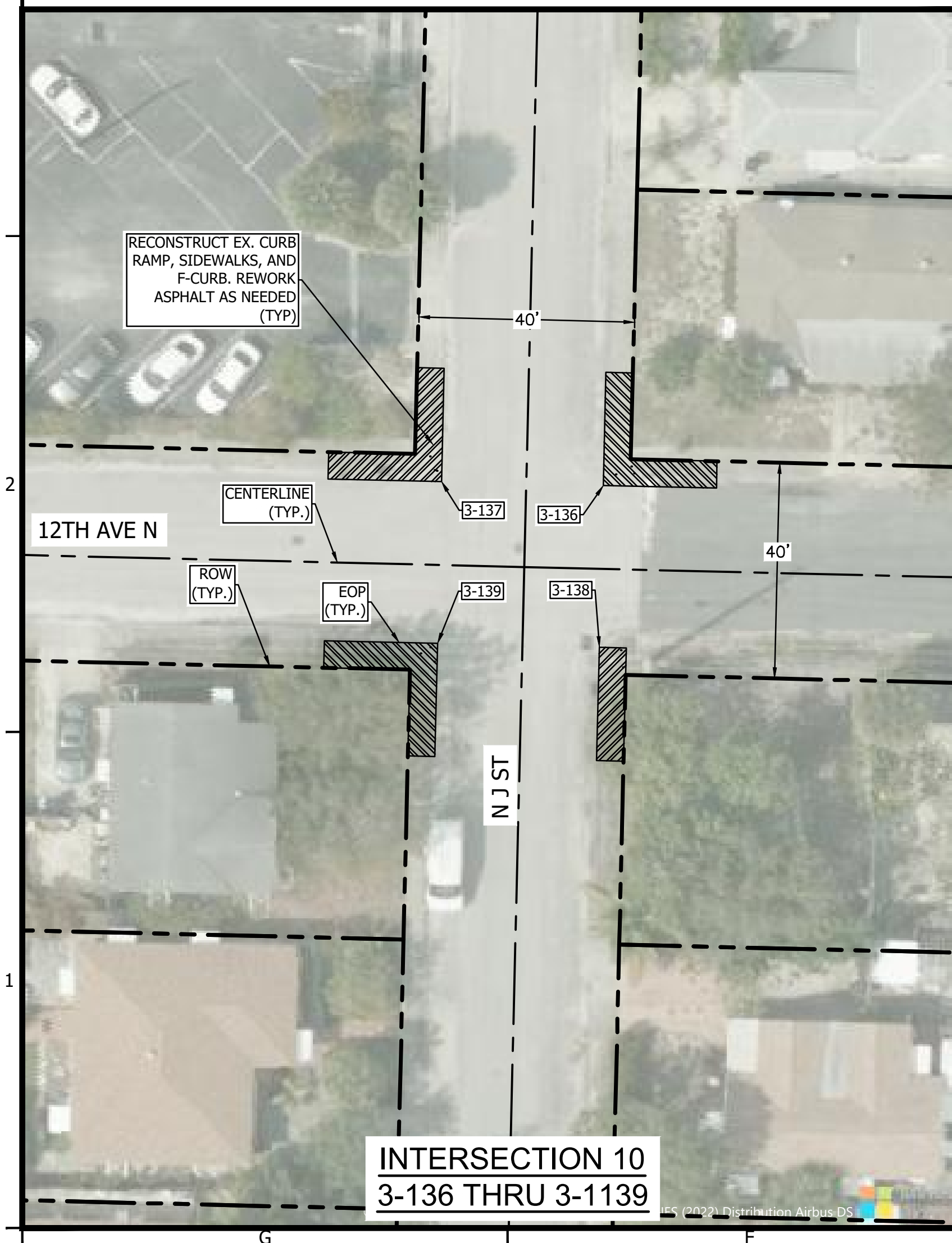
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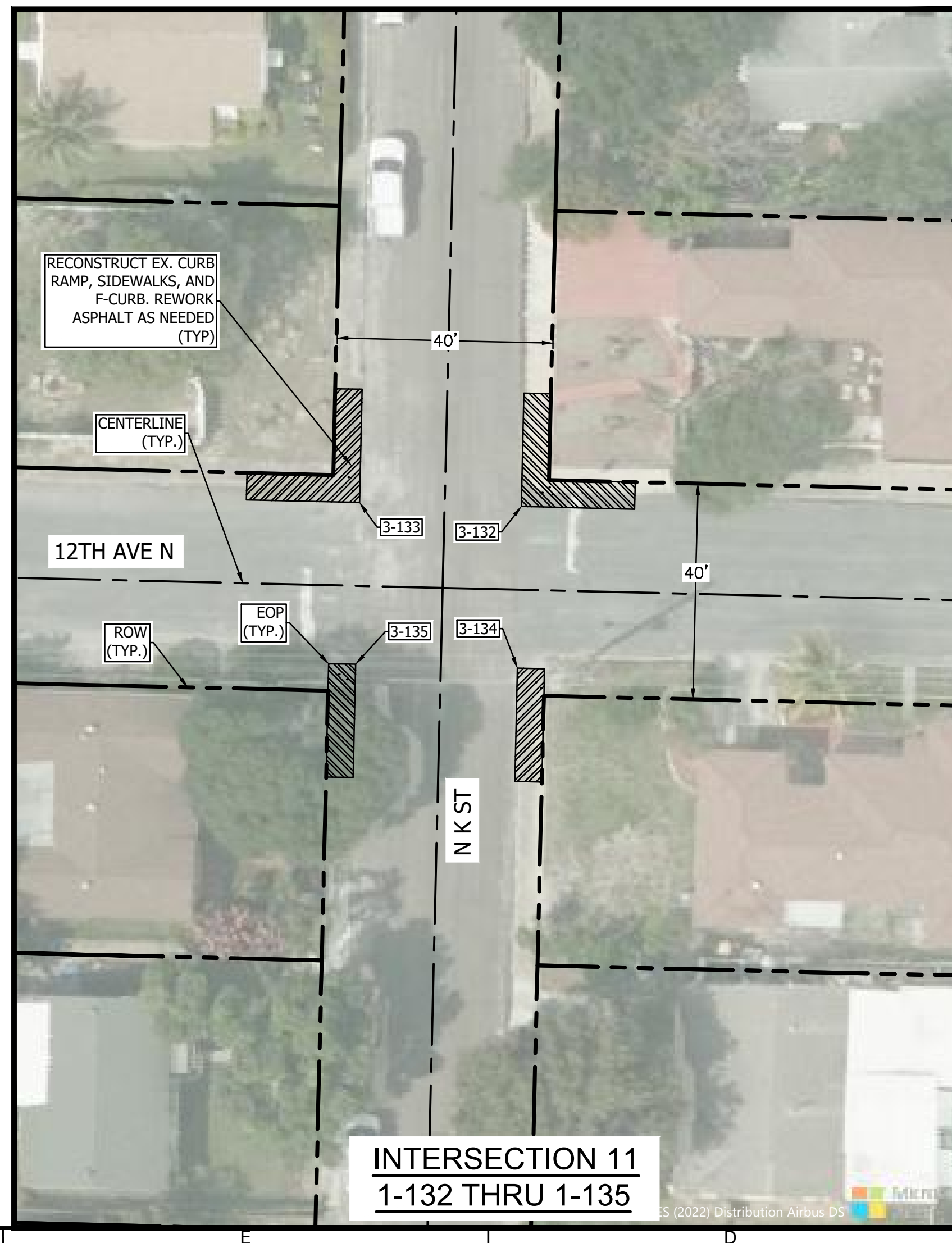
**INTERSECTION 8**  
3-146 THRU 3-149



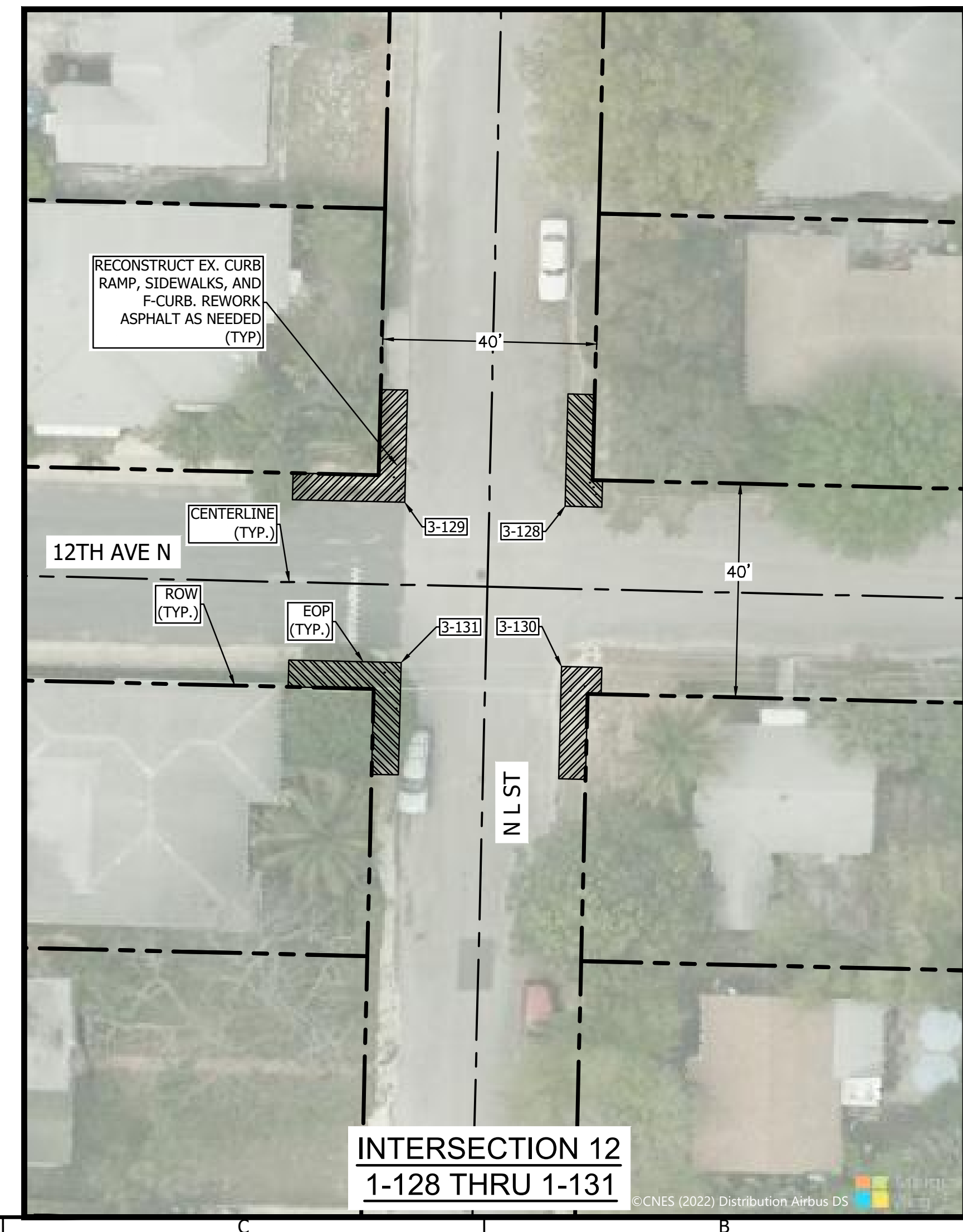
**INTERSECTION 9**  
3-158 THRU 3-159



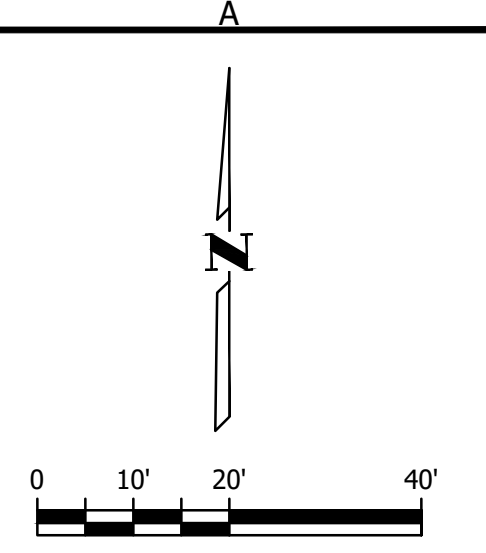
**INTERSECTION 10**  
3-136 THRU 3-139



**INTERSECTION 11**  
1-132 THRU 1-135



**INTERSECTION 12**  
1-128 THRU 1-131



**LEGEND**  
LIMITS OF RECONSTRUCTION

No.	DATE	REVISION	BY

951.687.2220  
**WGI.**  
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 2035 VISTA PARKWAY, WEST PALM BEACH, FLORIDA 33411

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 STEPHEN CRAWFORD CHERRY  
 P.E. #83268  
 ON 2022-10-06

CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
 FM448301-58-01  
 LAKE WORTH BEACH, PALM BEACH, FL  
 DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 7 - 12

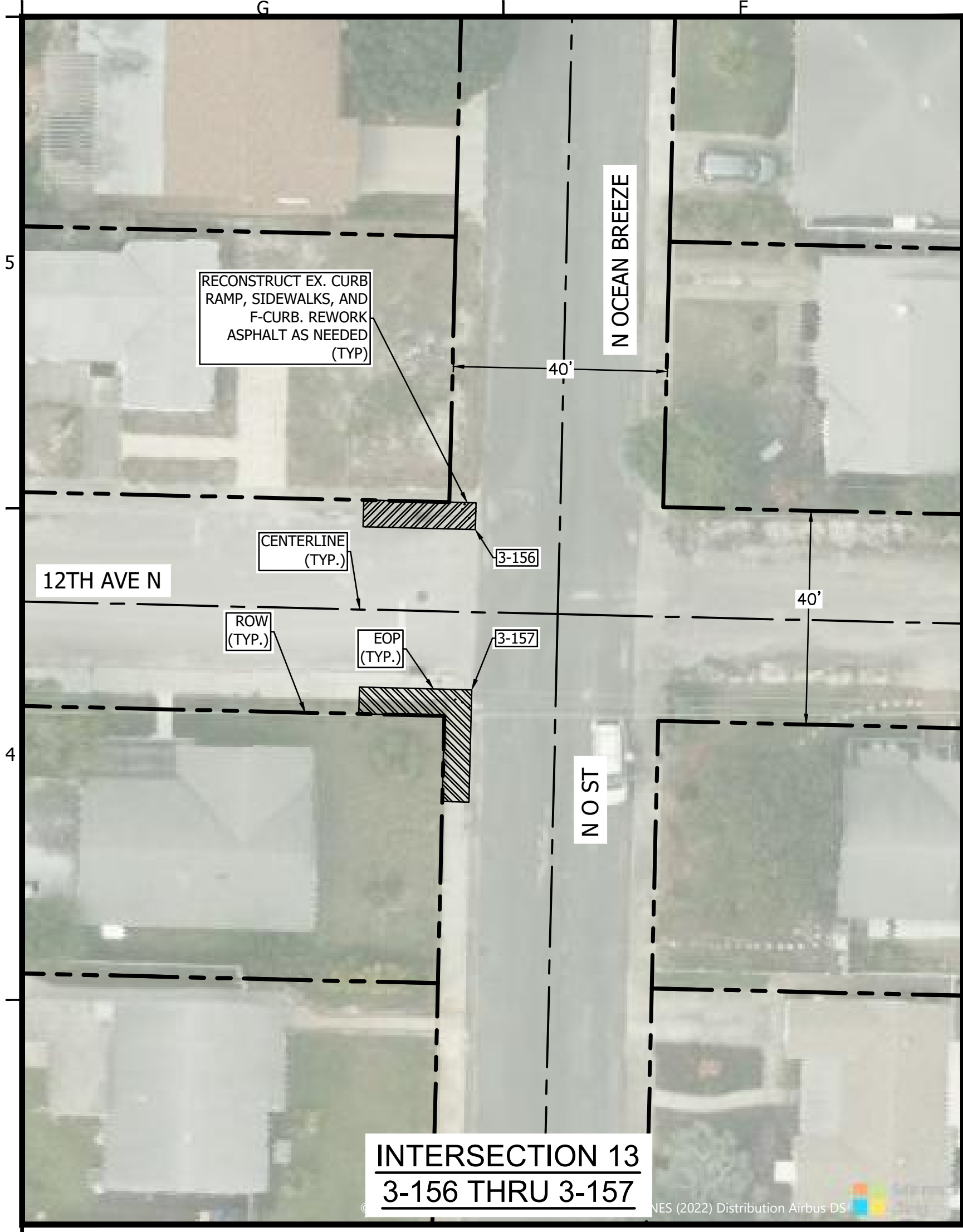


**Know what's below.  
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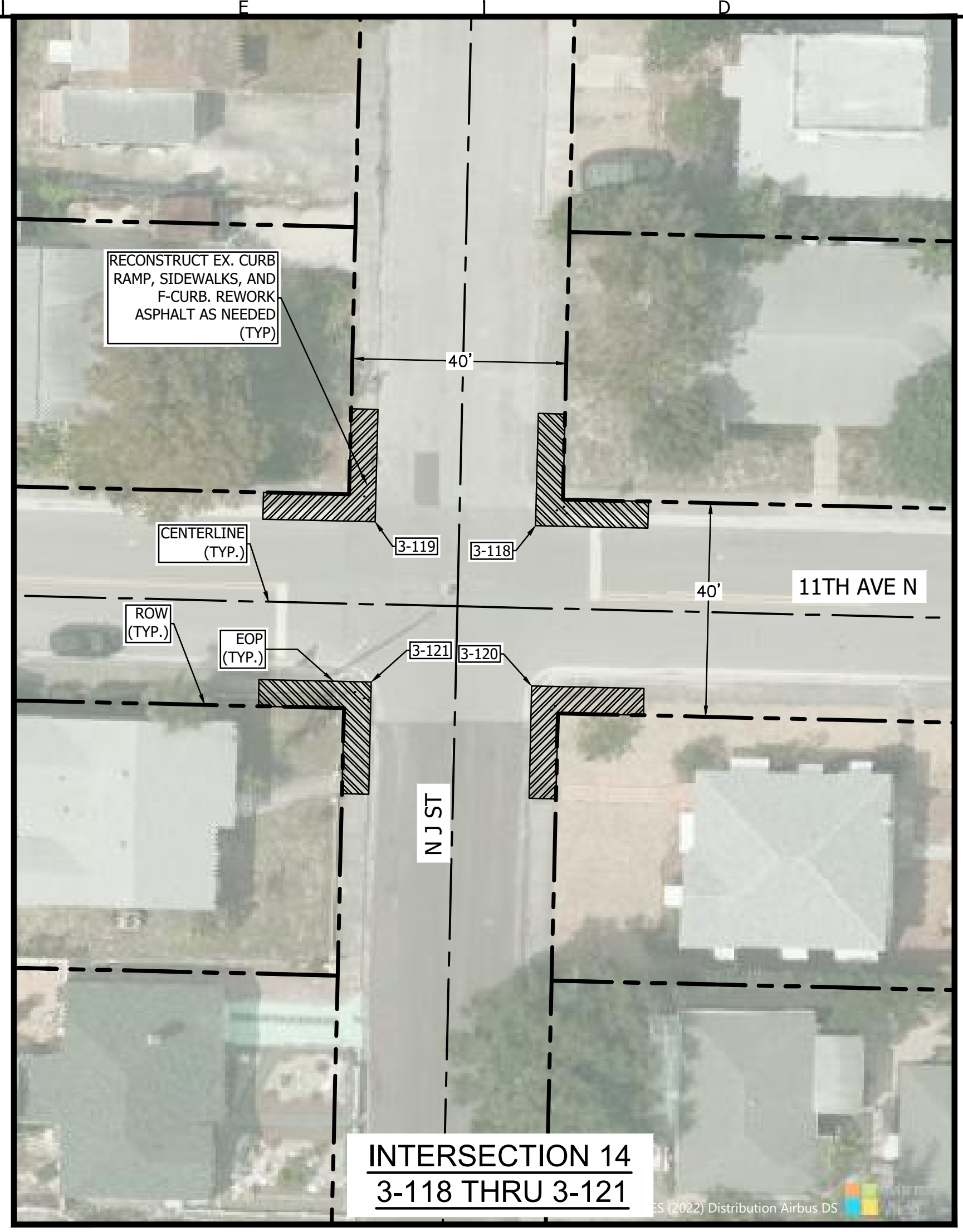
FM: 448301-1-58-01

SHEET  
**C303**  
 22 OF 41  
 2974.30

SWATCH: R010/2022/11/20 AM  
 ROUTED BY: MAXON SKIETT  
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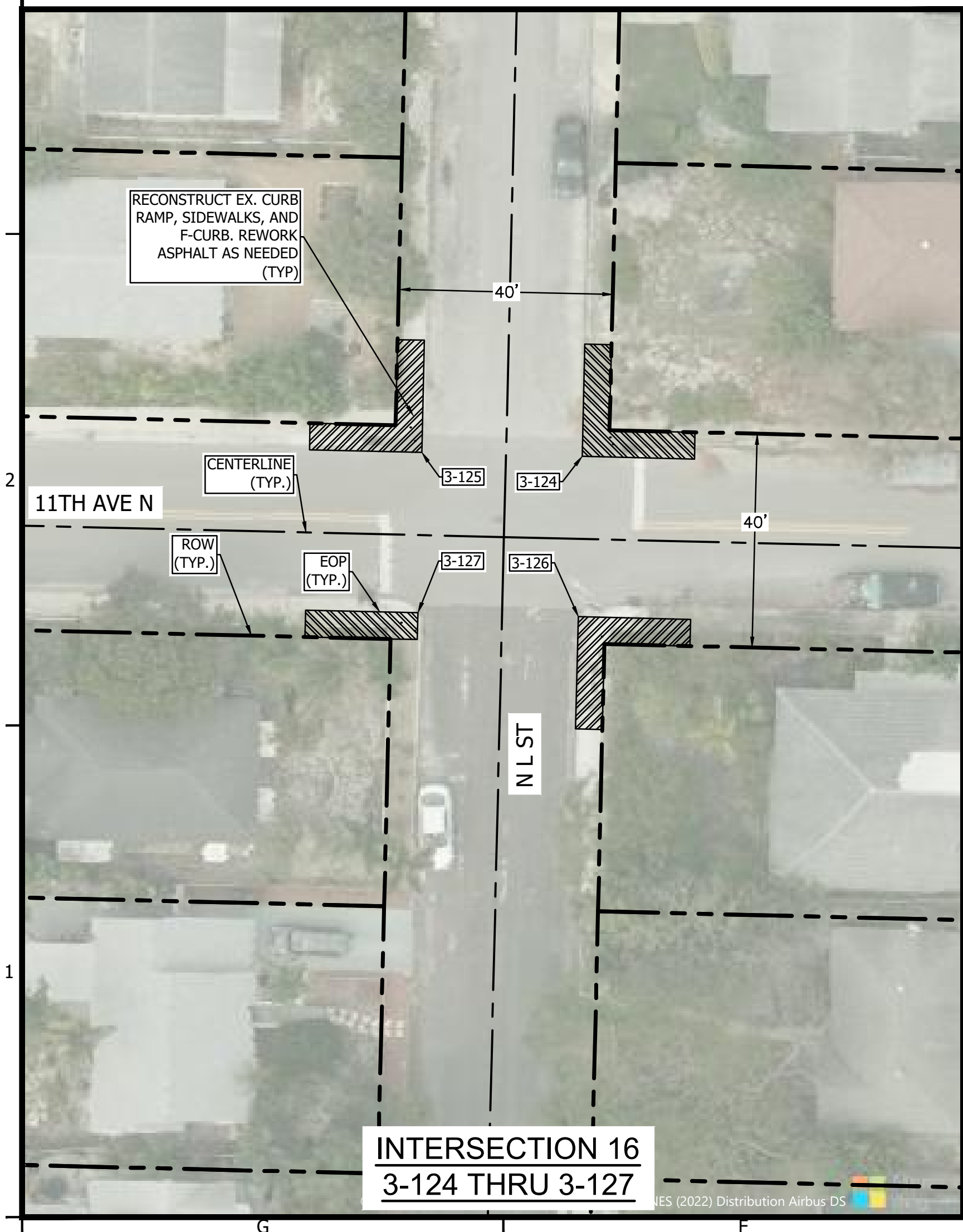
**INTERSECTION 13**  
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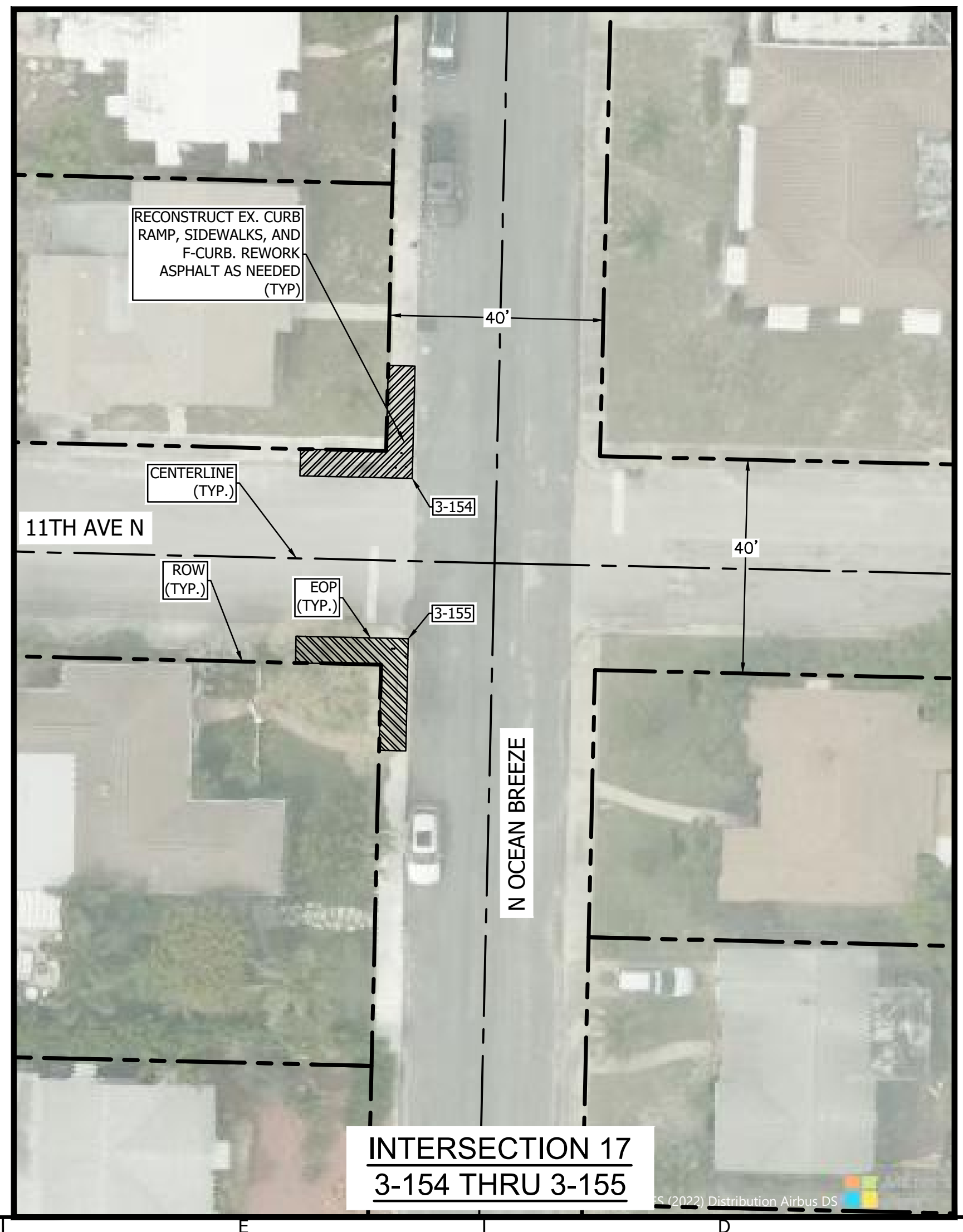
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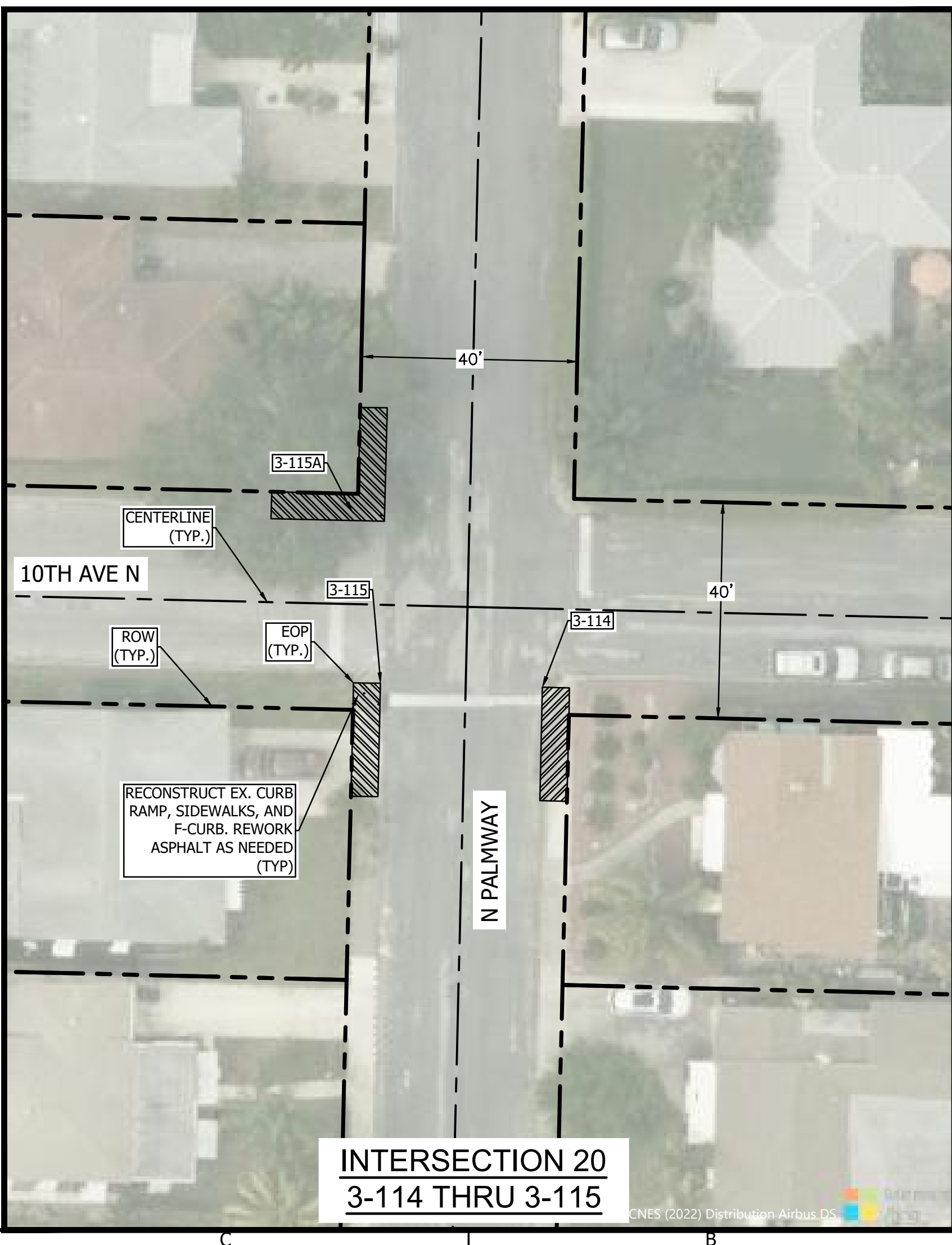
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3-122 THRU 3-123



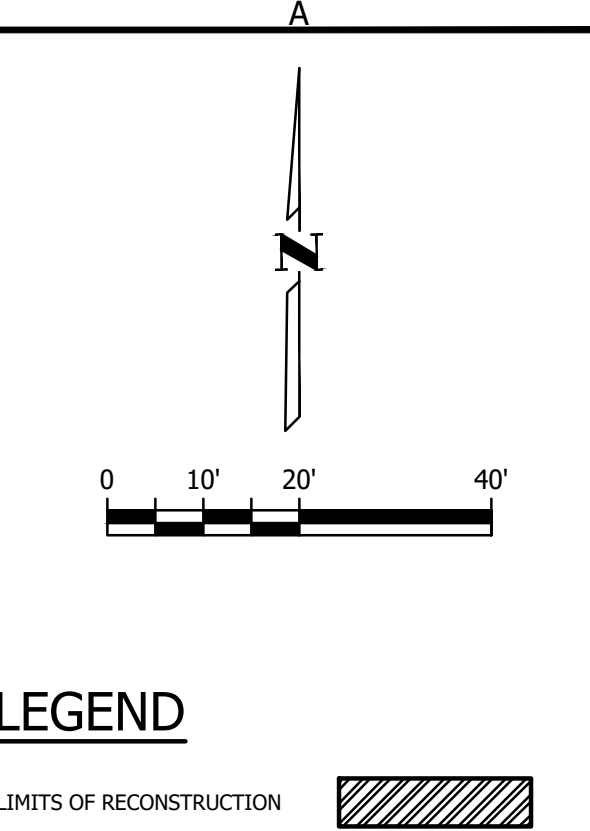
**INTERSECTION 16**  
3-124 THRU 3-127



**INTERSECTION 17**  
3-154 THRU 3-155



**INTERSECTION 20**  
3-114 THRU 3-115



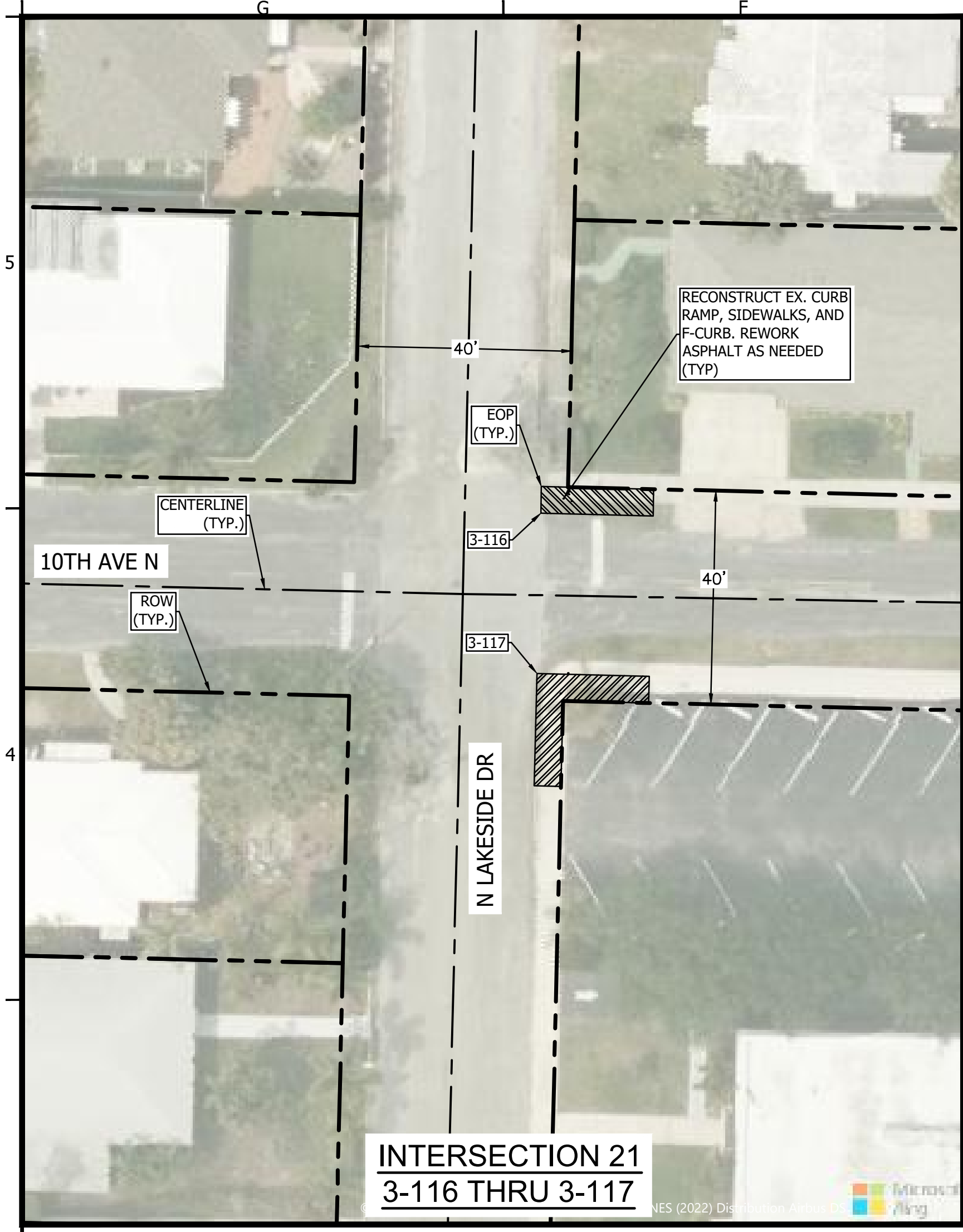
**LEGEND**

LIMITS OF RECONSTRUCTION

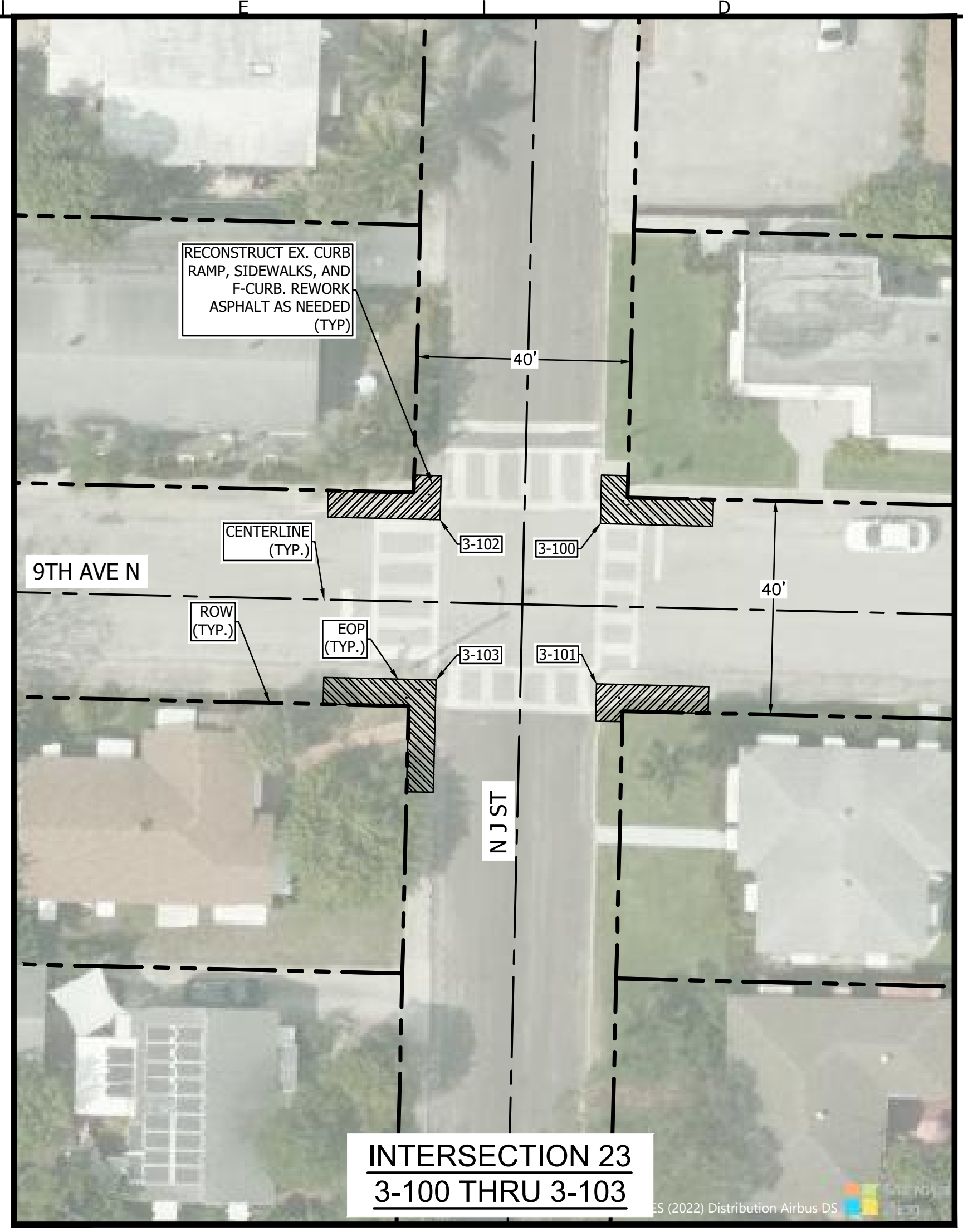
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 PLOTTED BY: MASON SKITT  
 DATE: 11/16/2022 10:30:10 AM  
 PLOTTER: HP DesignJet 2400

 <b>WGI</b> WGIinc.com <small>2035 VISTA PARKWAY, WEST PALM BEACH, FLORIDA 33411</small>	PRELIMINARY <small>NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES.</small> PREPARED UNDER THE SUPERVISION OF STEPHEN CRAWFORD CHERRY P.E. #83268 ON 2022-10-06
CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS <small>FM448301-58-01</small> LAKE WORTH BEACH, PALM BEACH, FL	
DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 13 - 17 & 20	
SHEET <b>C304</b> 23 OF 41 2974.30	448301-1-58-01 FM:

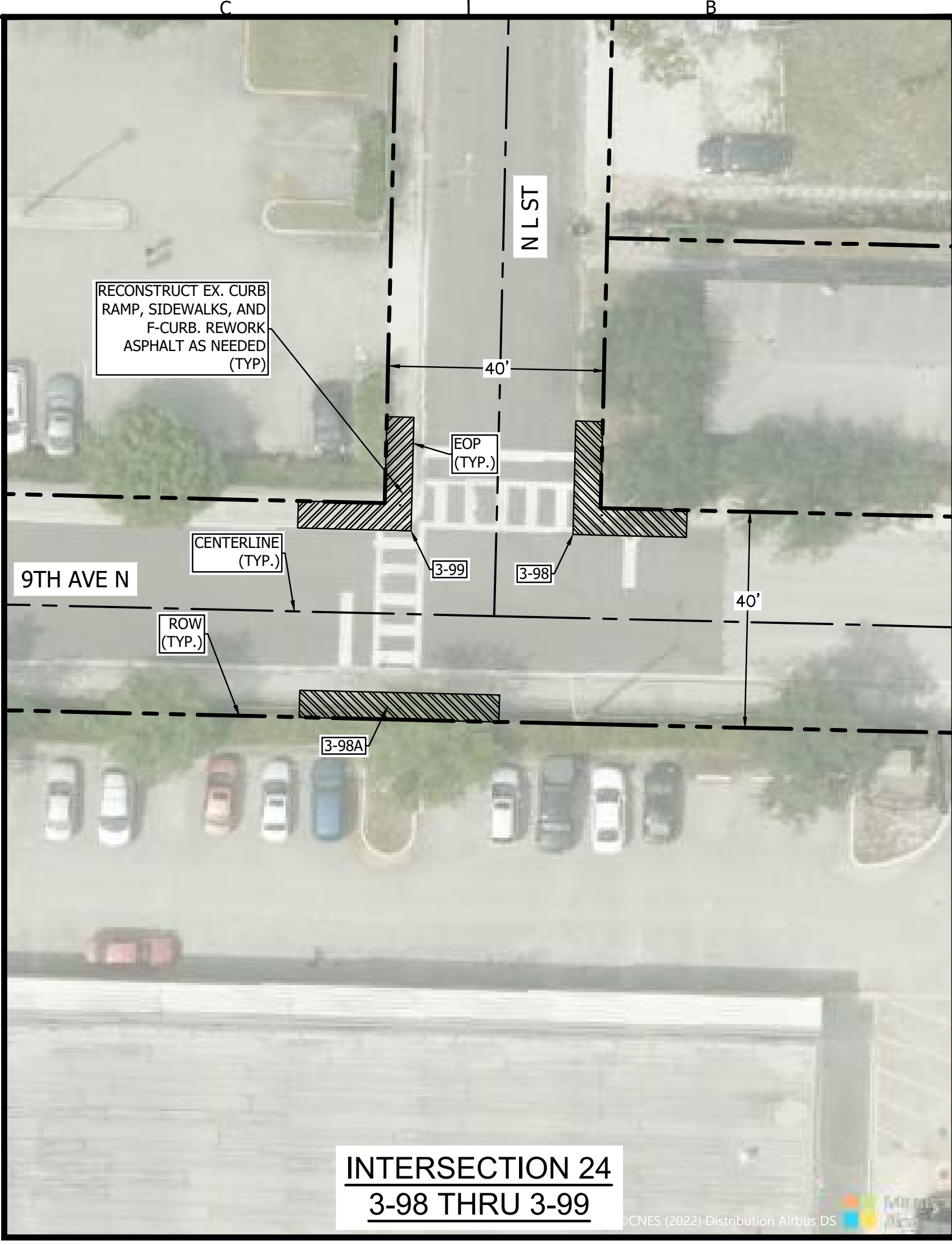
**Know what's below.  
Call before you dig.**



INTERSECTION 21  
3-116 THRU 3-117



INTERSECTION 23  
3-100 THRU 3-103

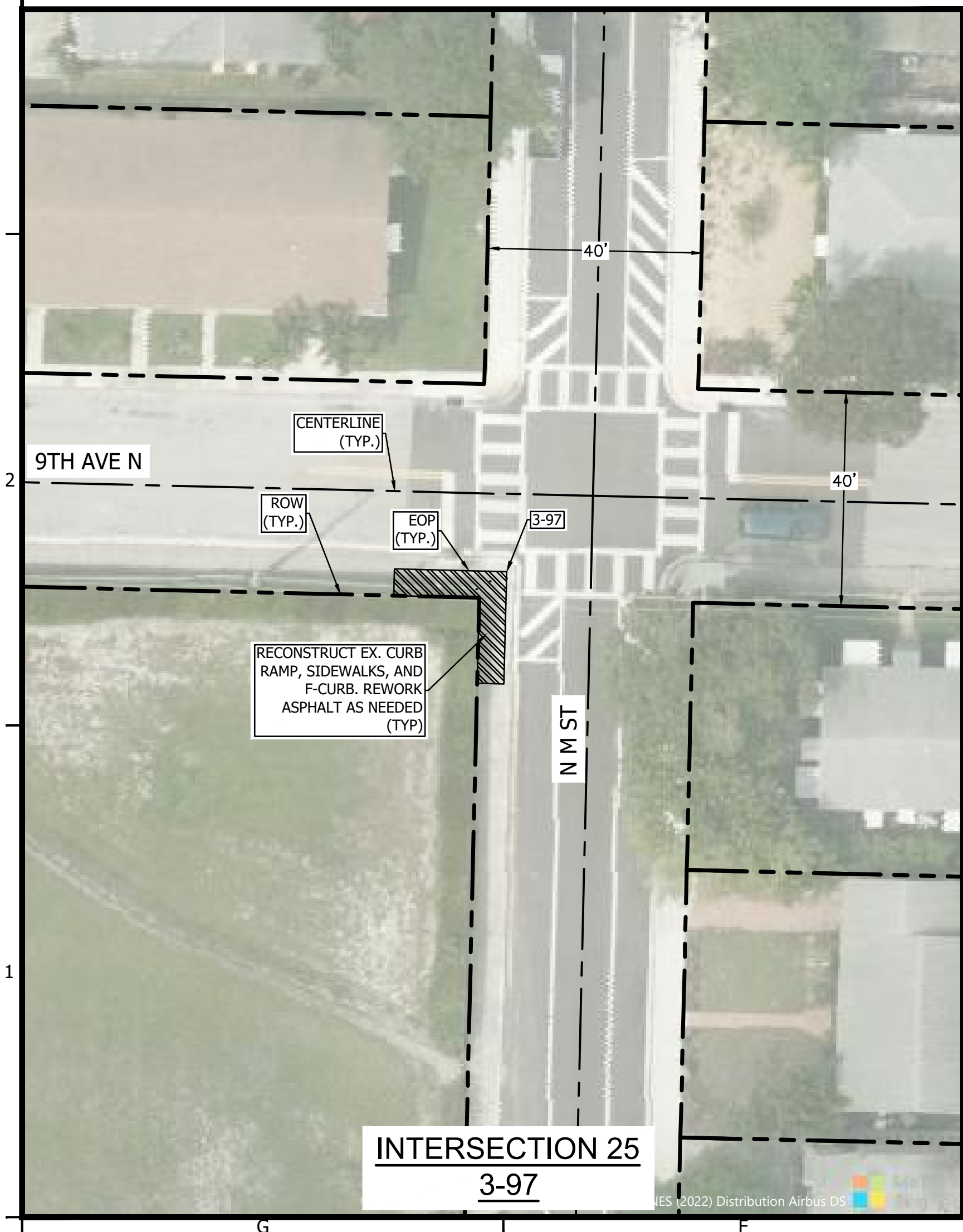


INTERSECTION 24  
3-98 THRU 3-99

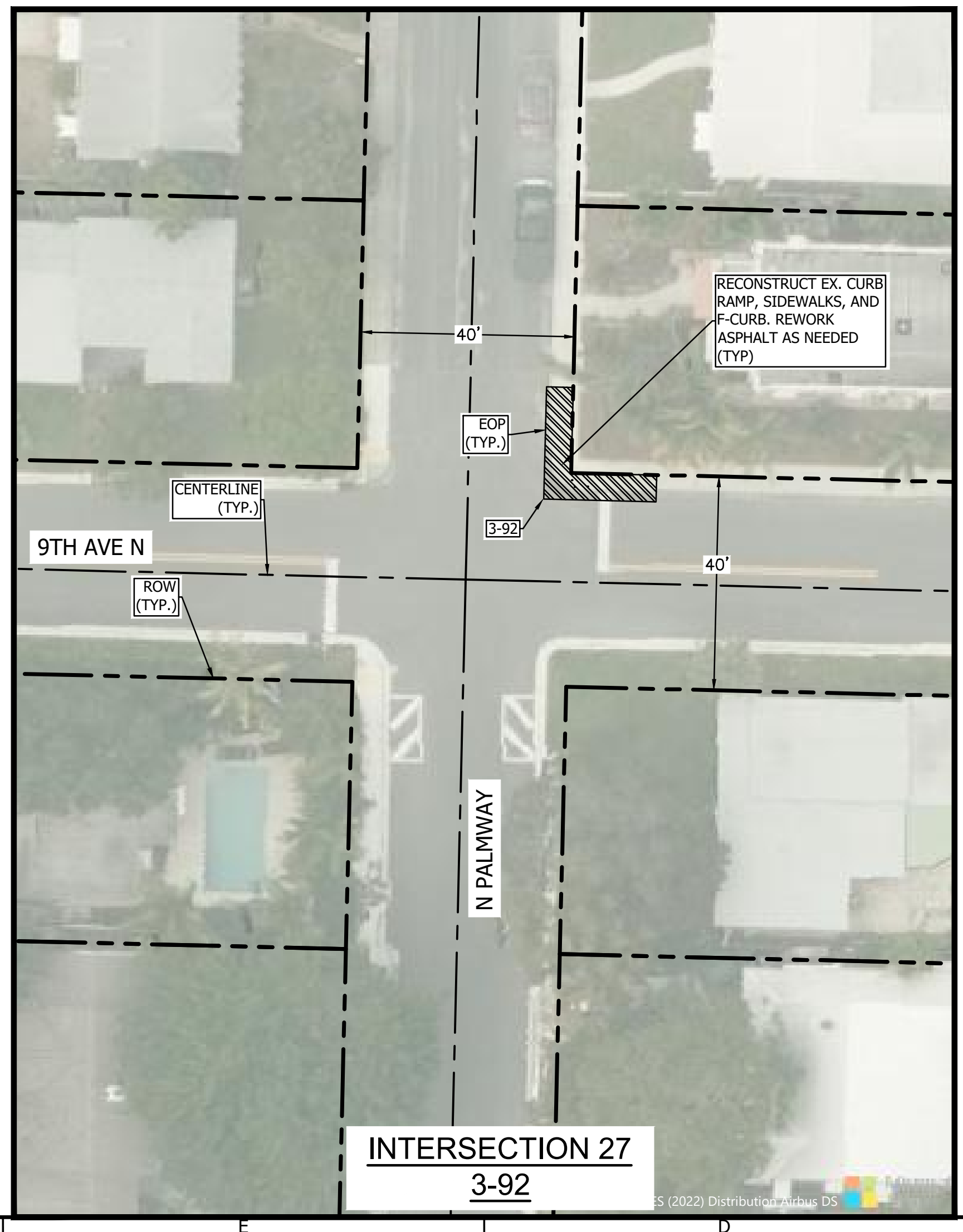
North arrow pointing up and a graphic scale bar showing 0, 10', 20', and 40' feet.

**LEGEND**

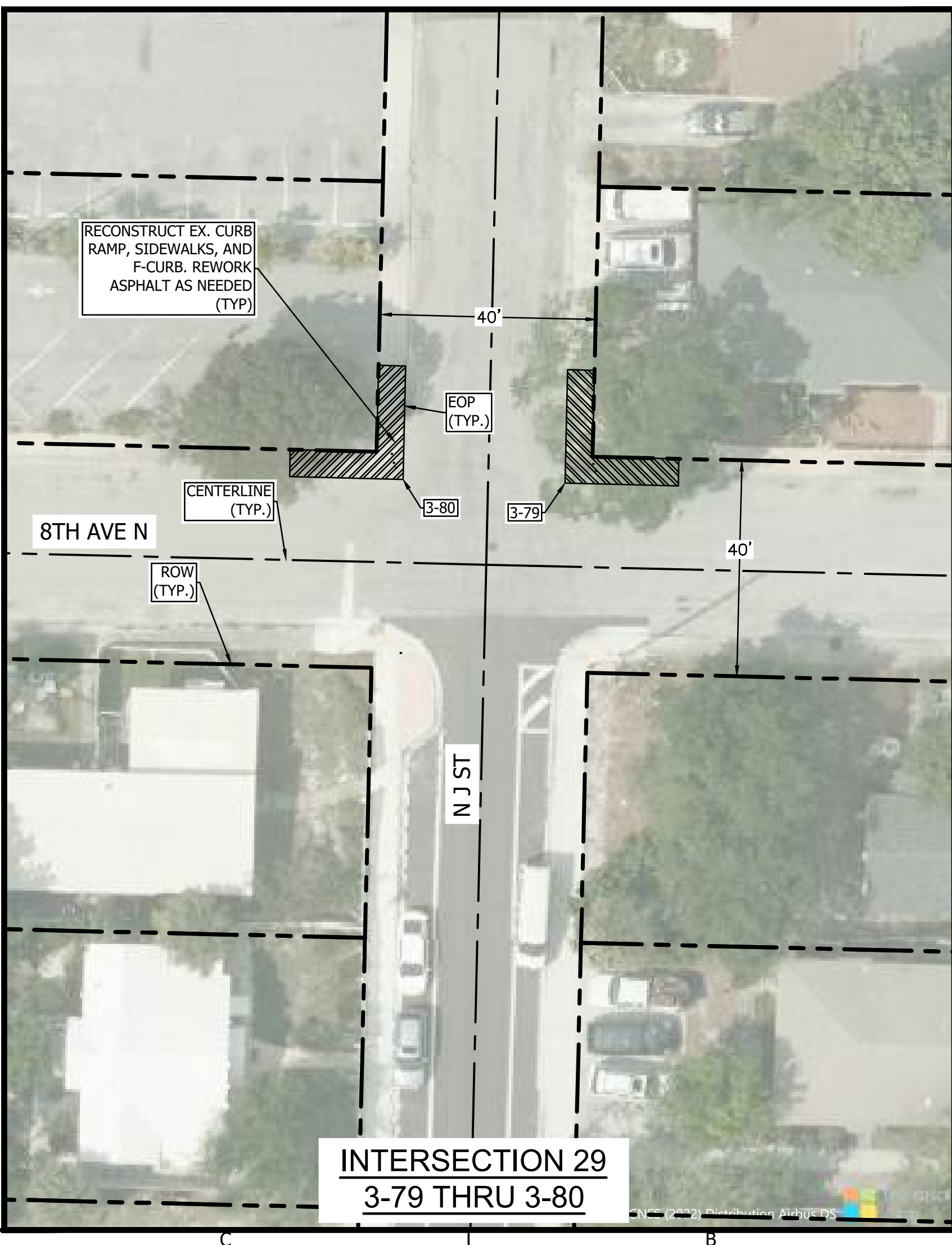
LIMITS OF RECONSTRUCTION



INTERSECTION 25  
3-97



INTERSECTION 27  
3-92



INTERSECTION 29  
3-79 THRU 3-80

No.	Date	Revision

CERT NO. 6091  
951.687.2220

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PREPARED UNDER THE SUPERVISION OF STEPHEN CRAWFORD CHERRY, P.E. #83268 ON 2022-10-06

CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL  
DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 21, 22 - 25, 27 & 29

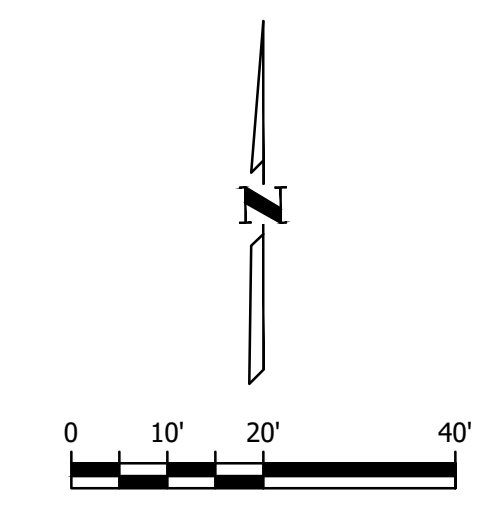
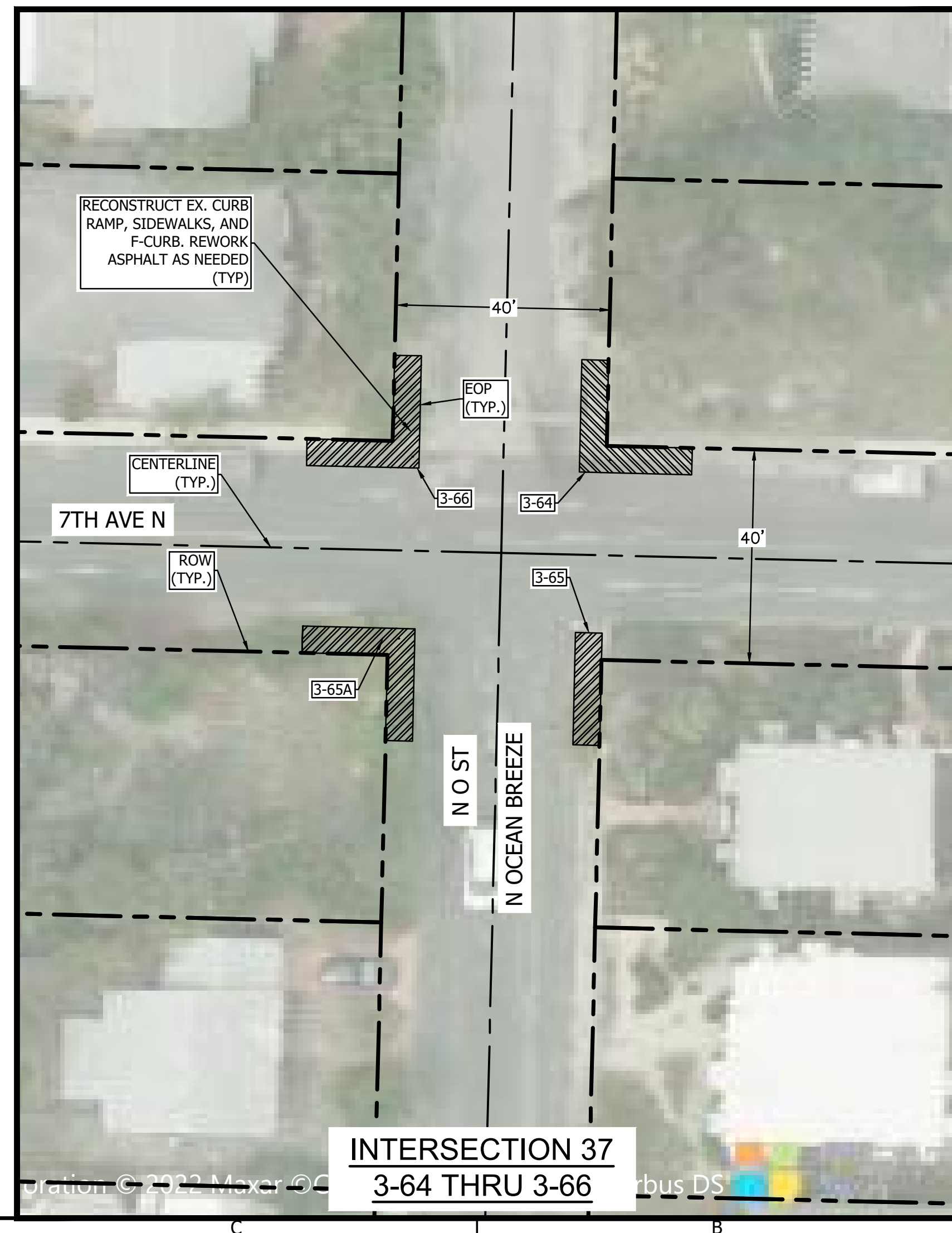
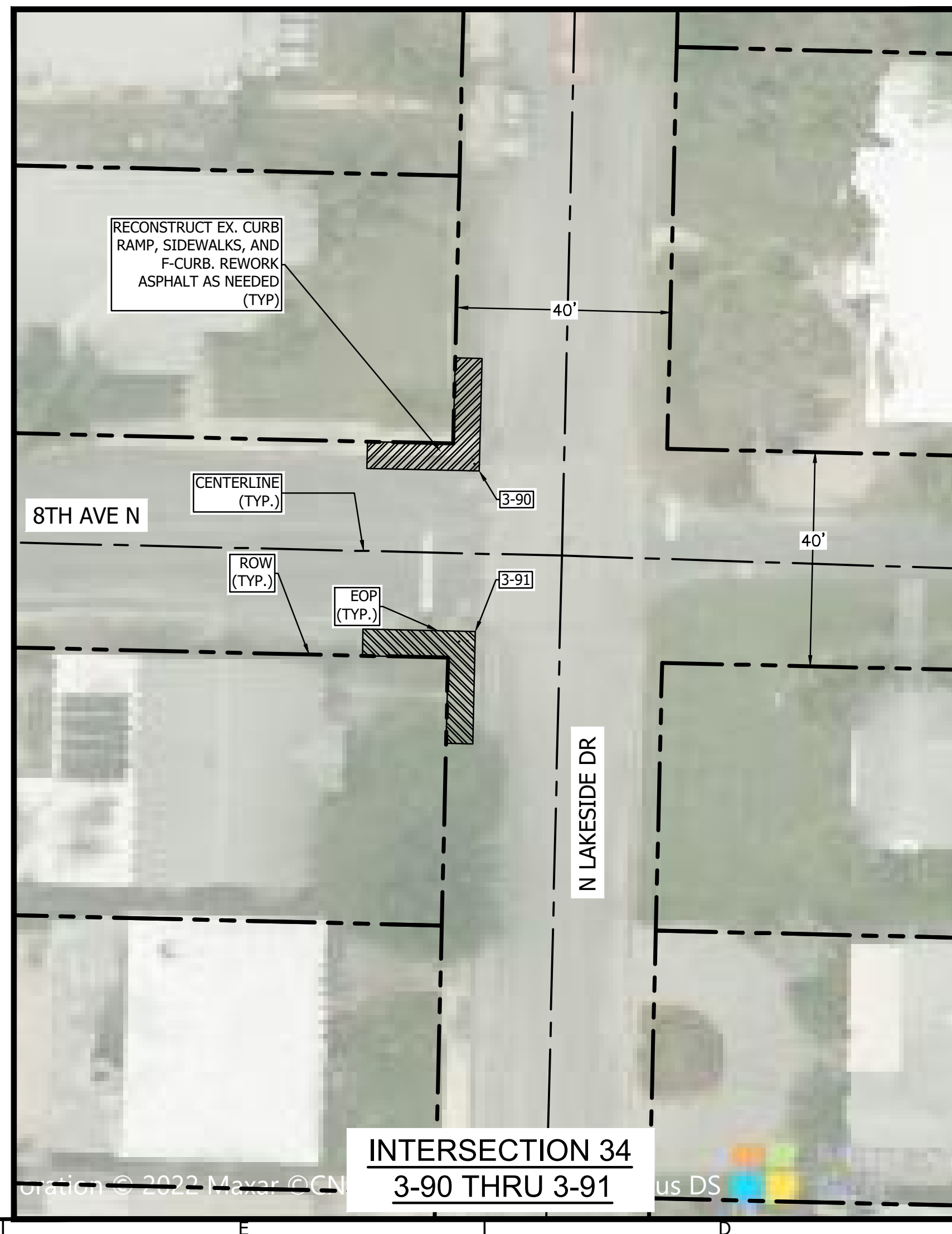
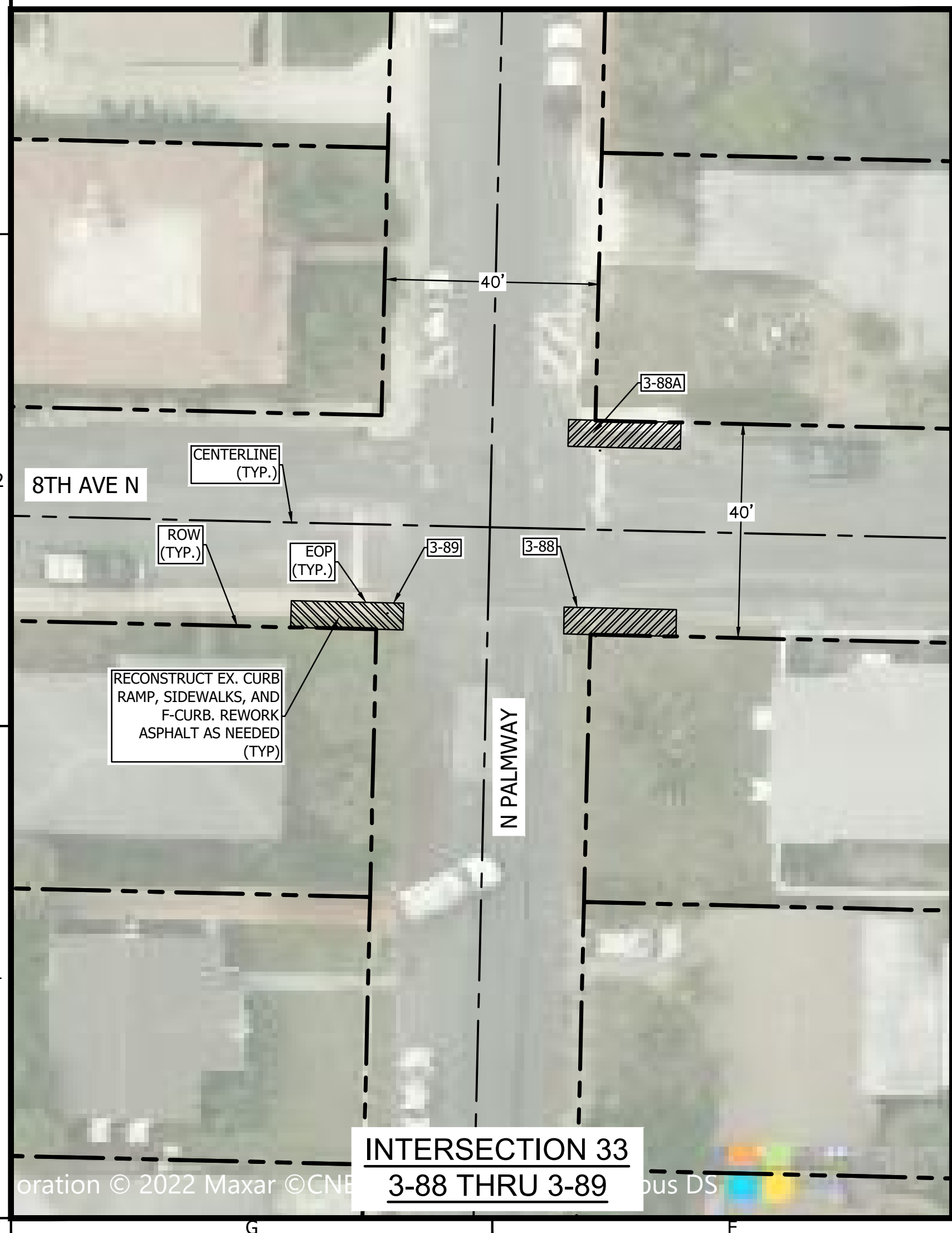
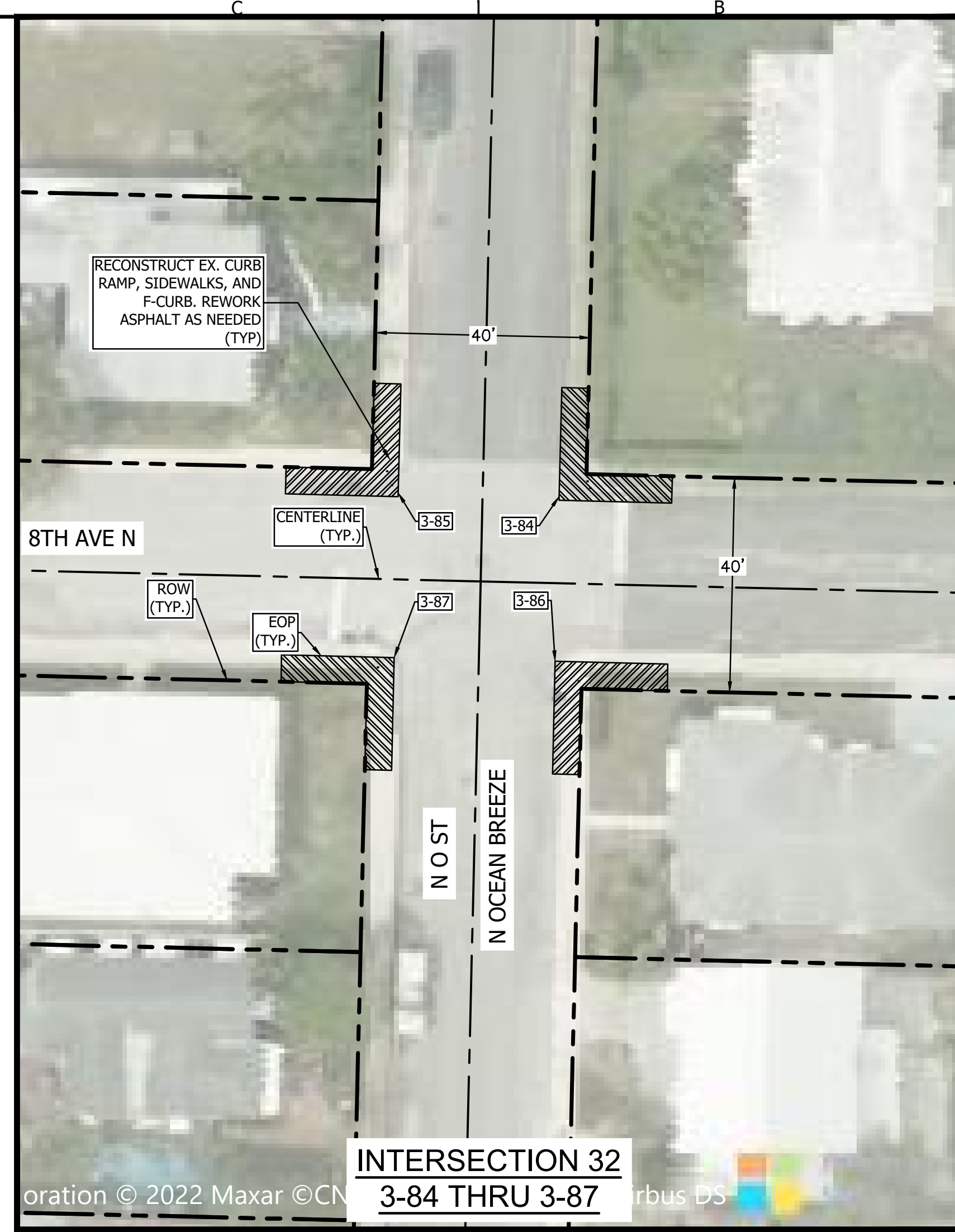
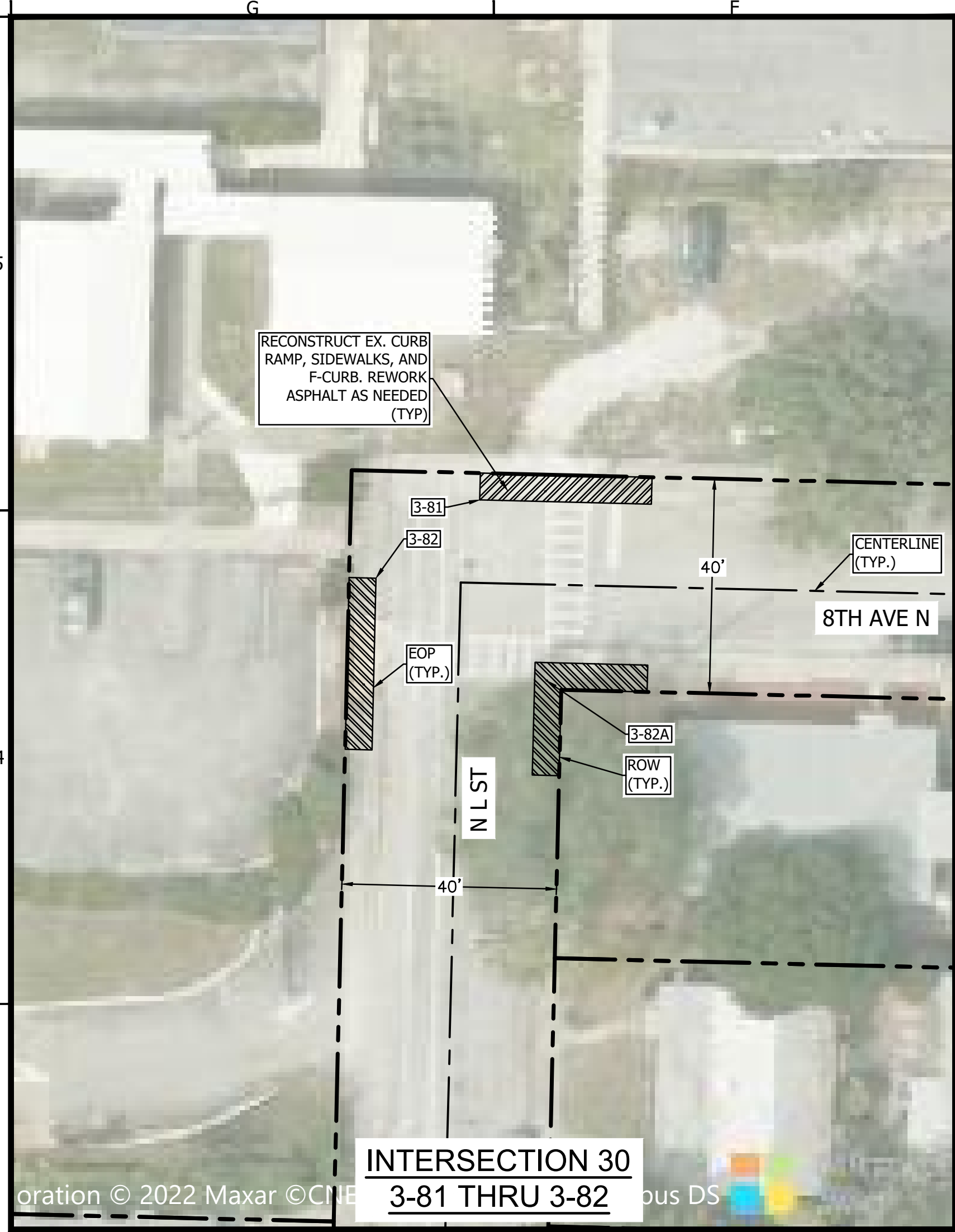
SHEET  
**C305**  
24 OF 41  
2974.30



**Know what's below.  
Call before you dig.**

SWATH: RW 02/22 11:50 AM  
ROUTED BY: MASON SKITT  
DRAWING: P:\2022\04\15\Lake Worth Foot LIP\248301-58-01-300.dwg

FM: 448301-1-58-01



**LEGEND**  
LIMITS OF RECONSTRUCTION

NO.	DATE	REVISION

CERT NO. 6901

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CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL  
DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 30 - 34 & 37



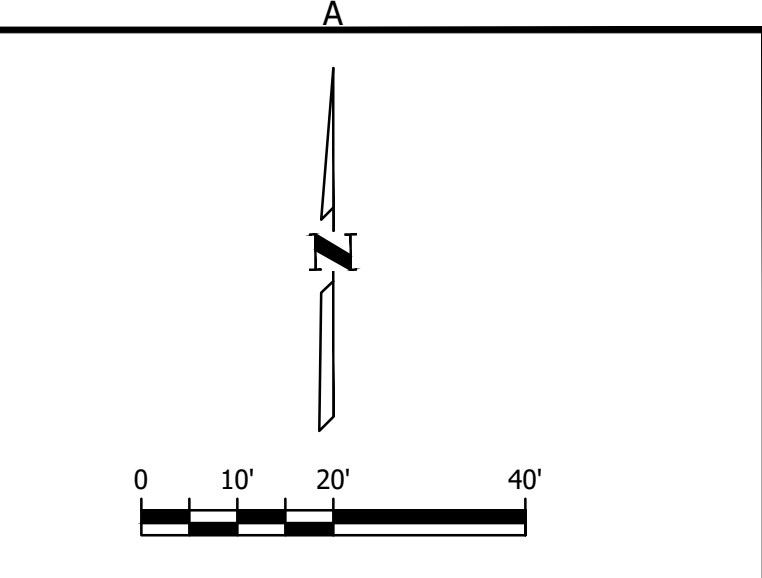
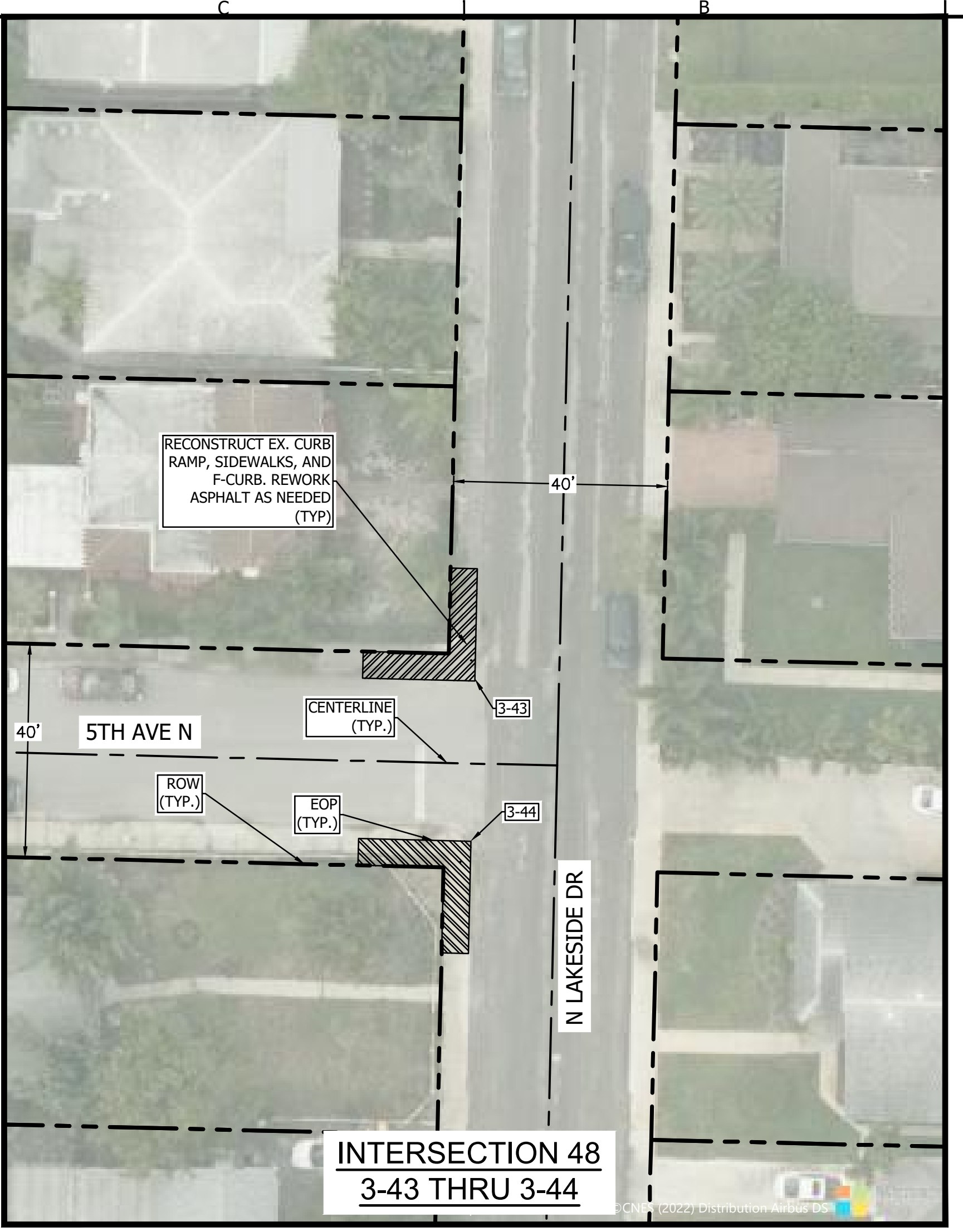
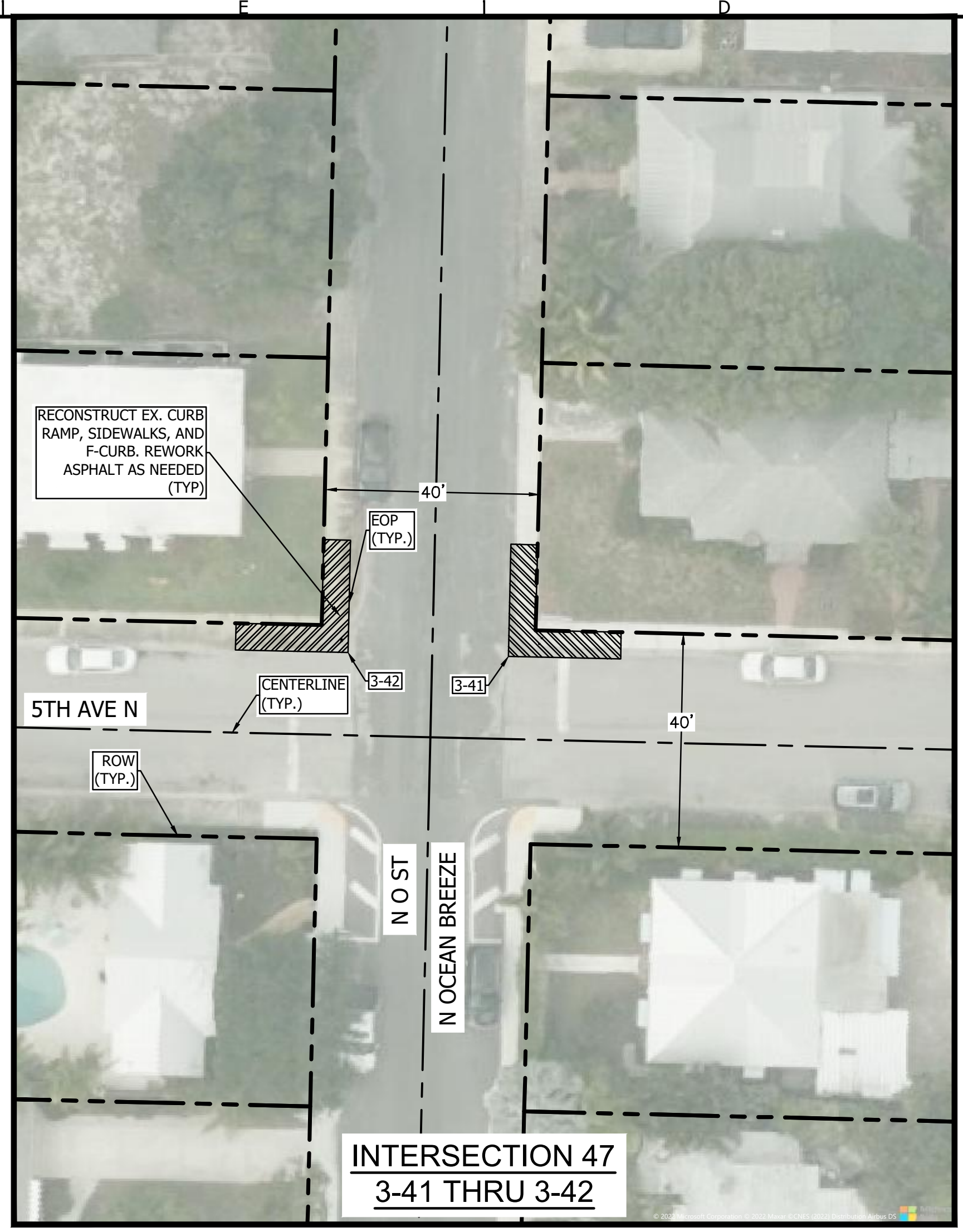
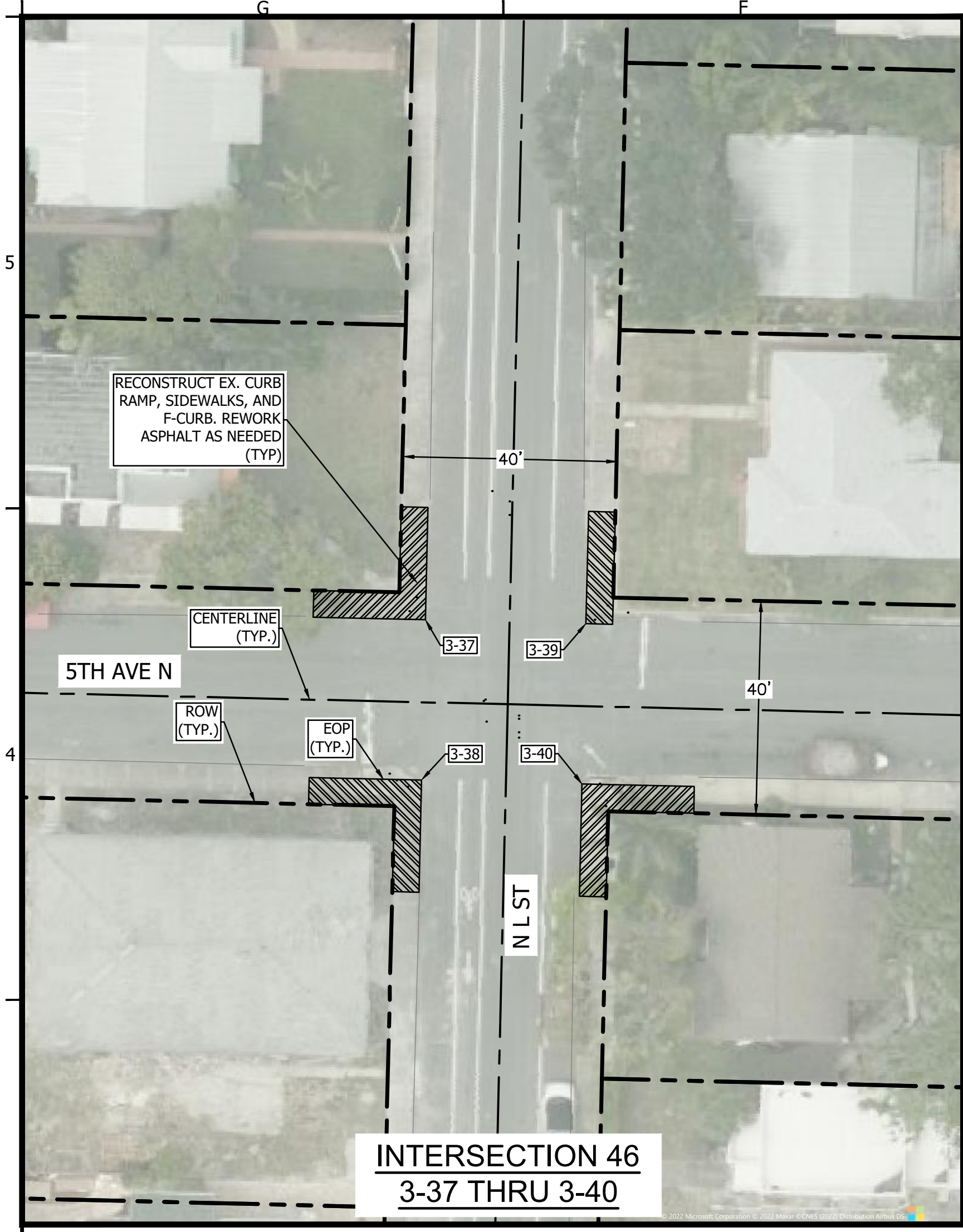
Know what's below.  
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FM: 448301-1-58-01

SHEET  
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25 OF 41  
2974.30

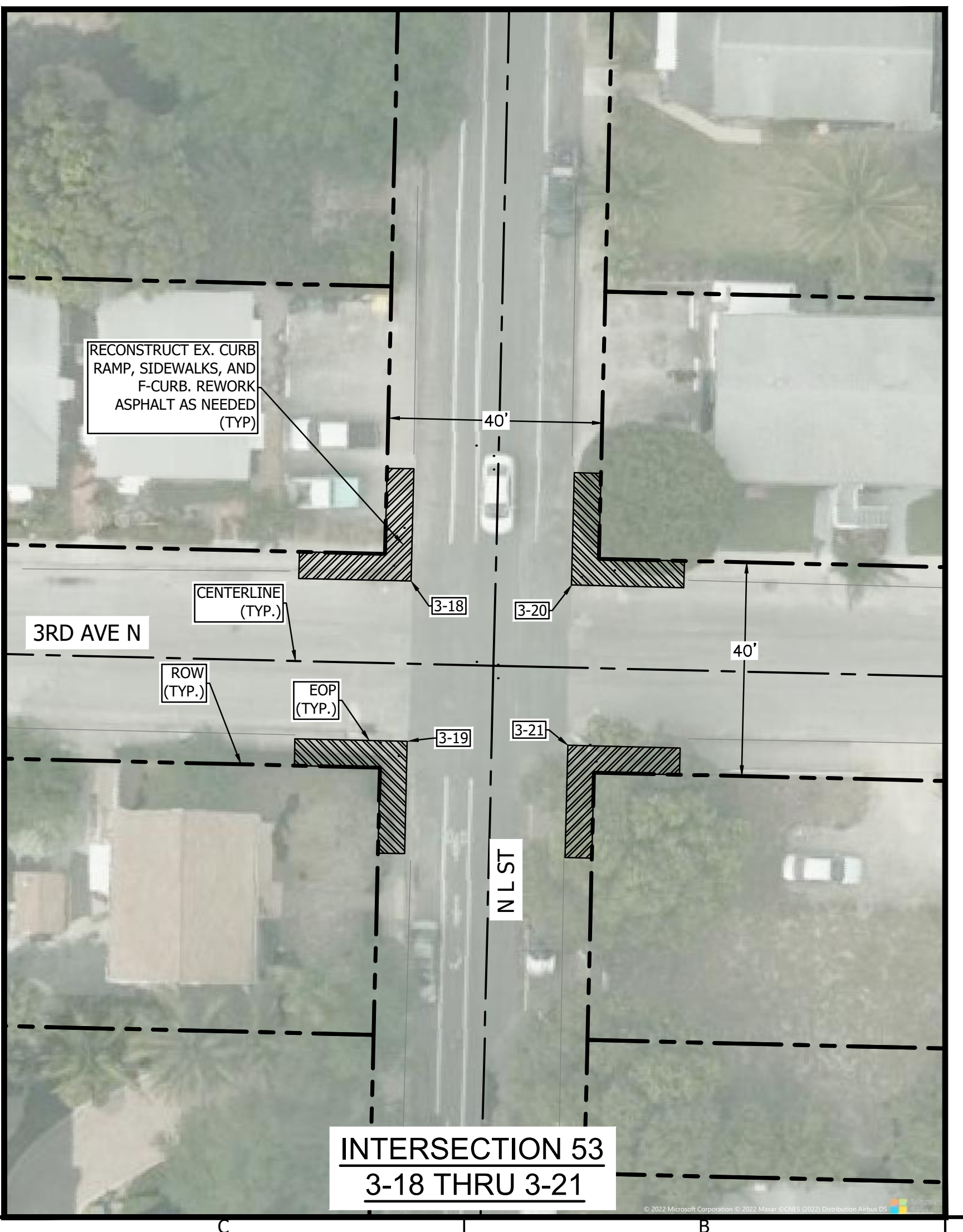
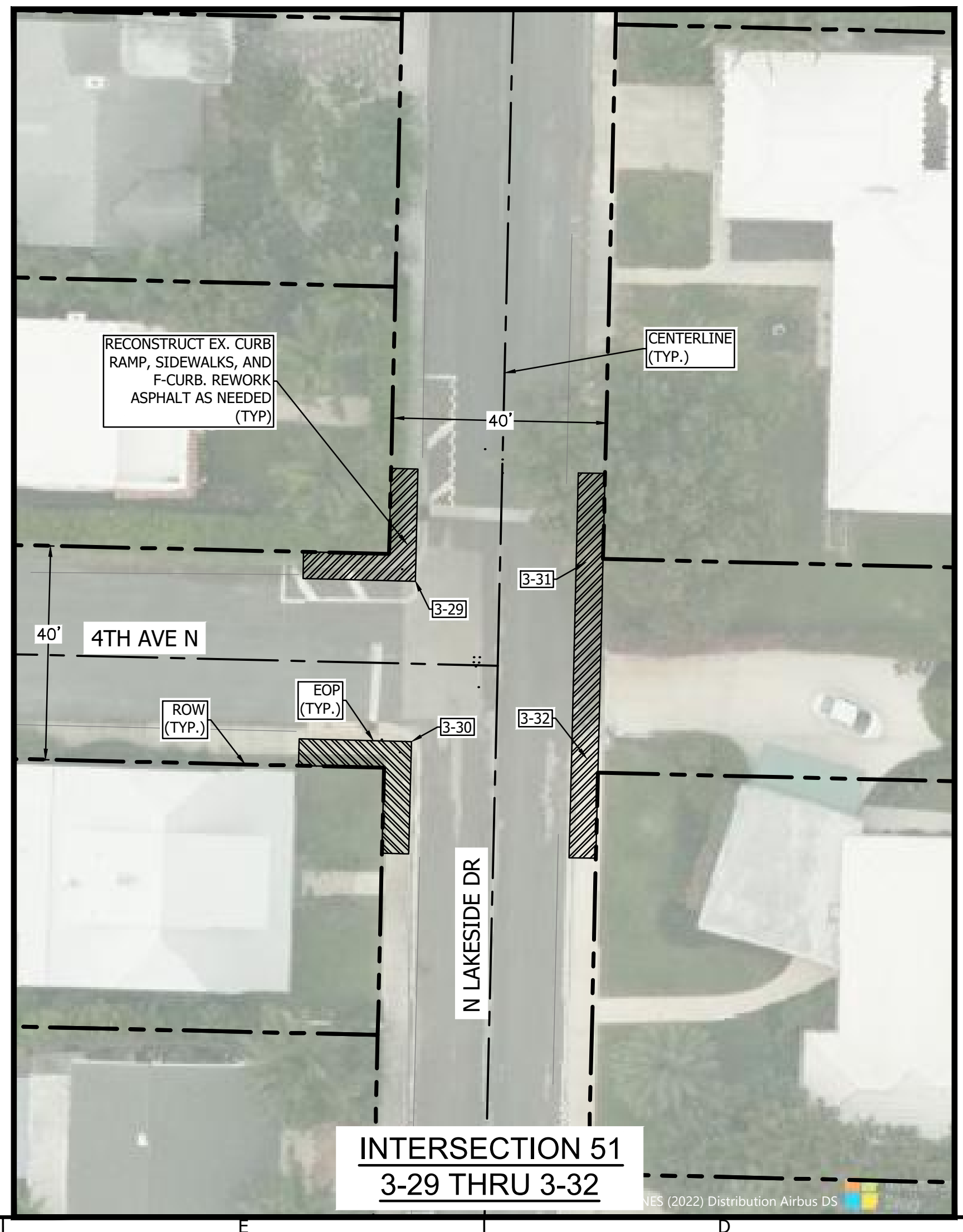
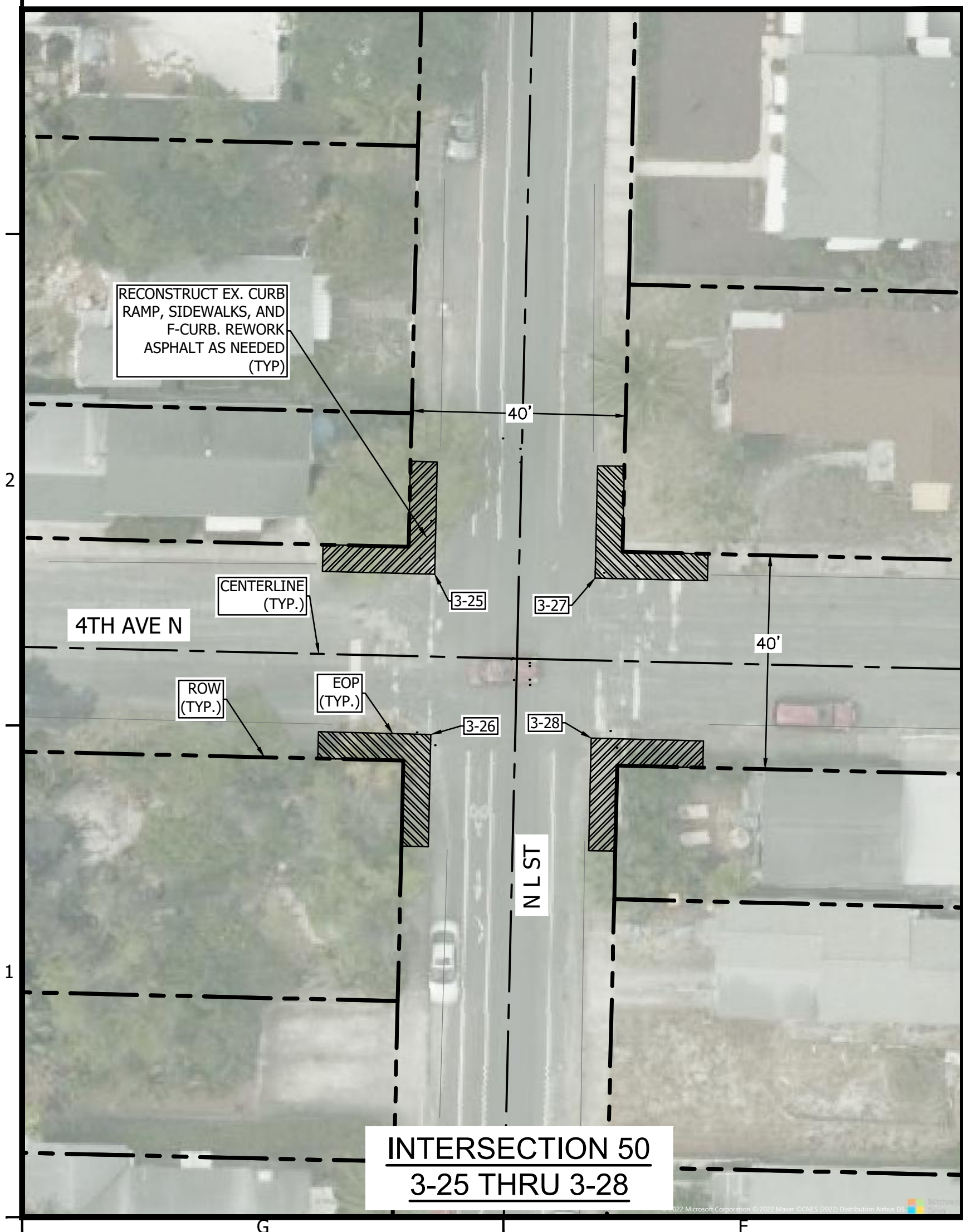






LEGEND

LIMITS OF RECONSTRUCTION



811

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REVISION

DATE

NO.

CERT NO. 6901

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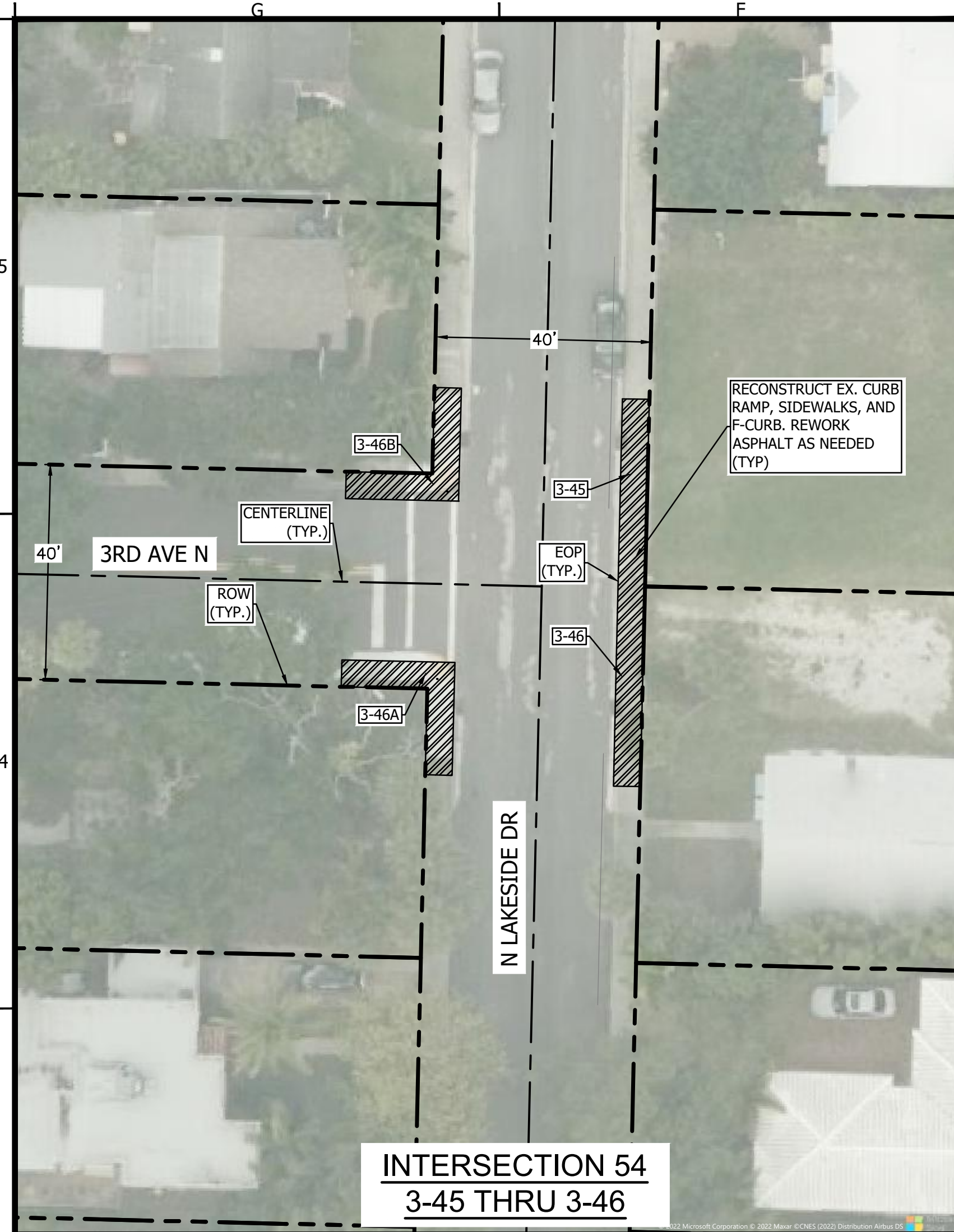
CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL

DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 46-48, 50-51 & 53

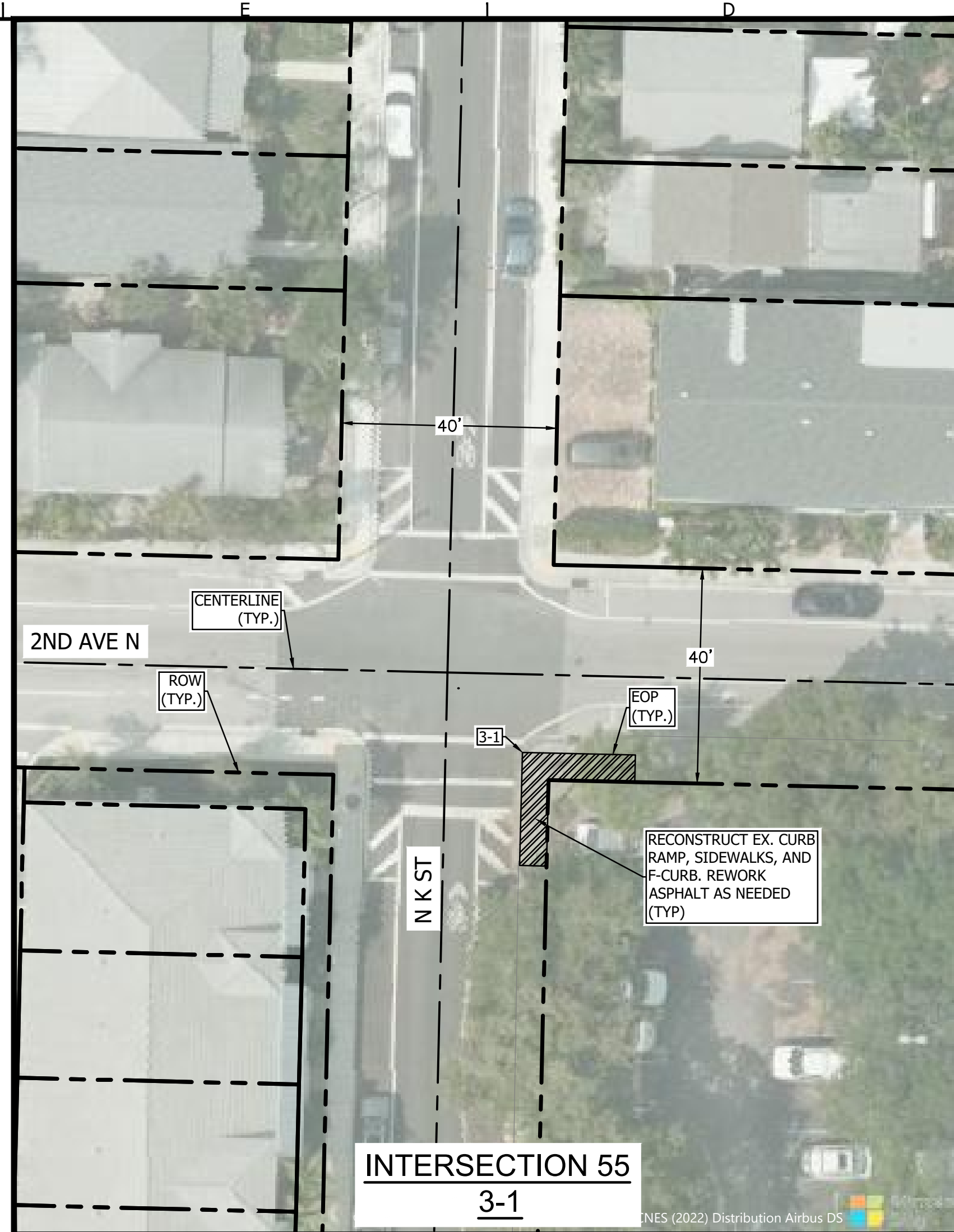
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27 OF 41  
2974.30

FM: 448301-1-58-01

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 DRAWING: P:\2022\07\LAKE WORTH\03 ADA IMPROVEMENTS\03 ADA IMPROVEMENTS\03 ADA IMPROVEMENTS.dwg



**INTERSECTION 54**  
3-45 THRU 3-46



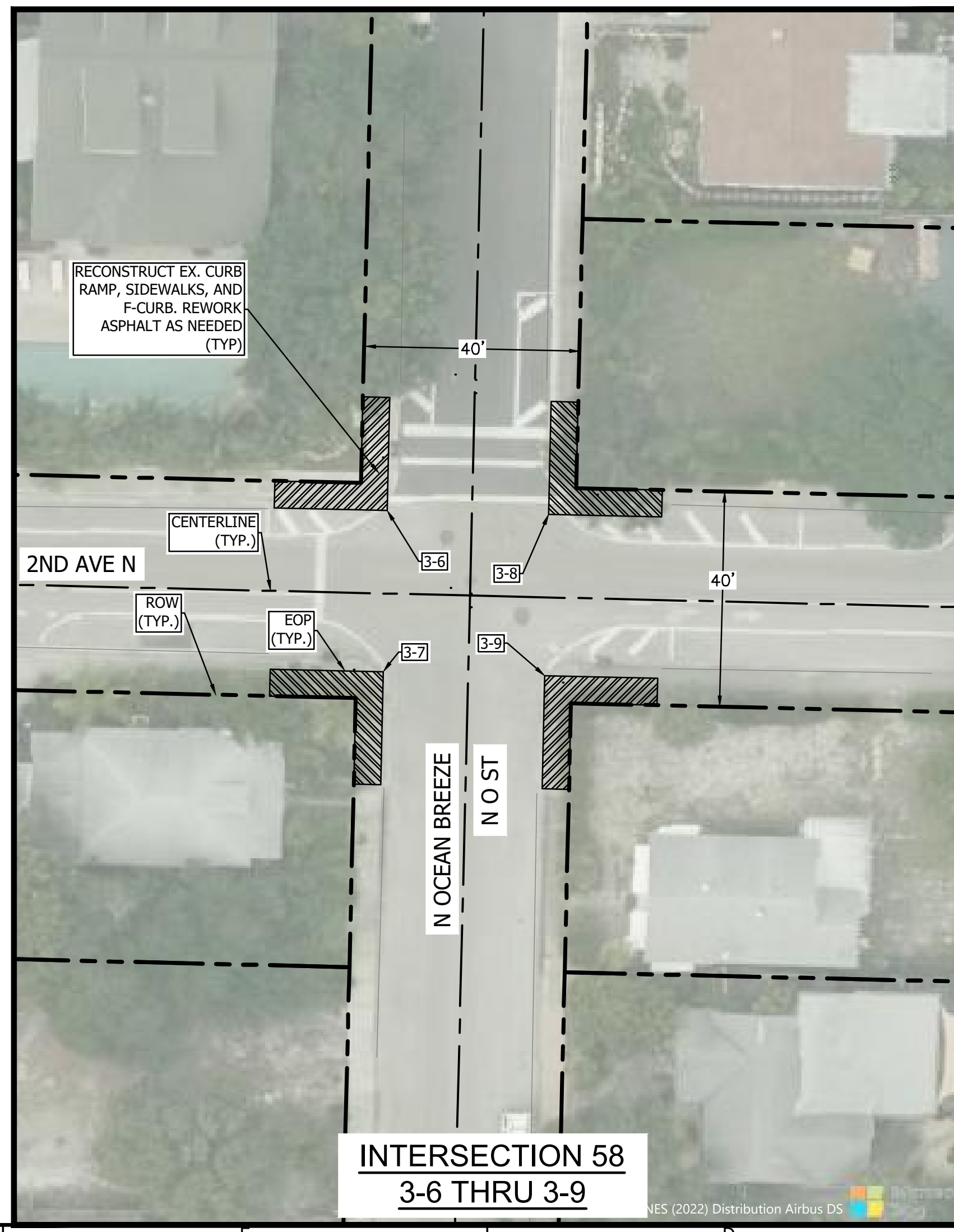
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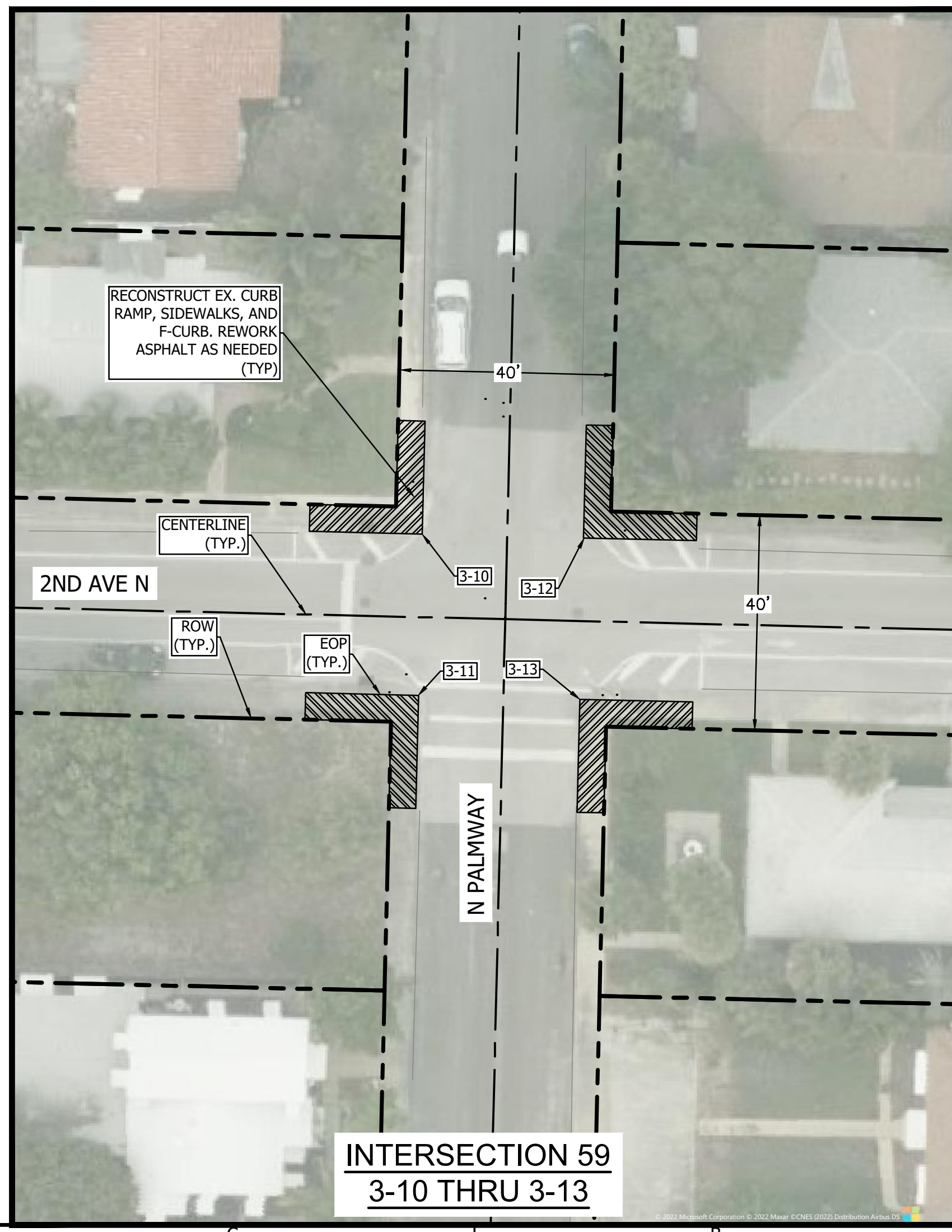
**INTERSECTION 56**  
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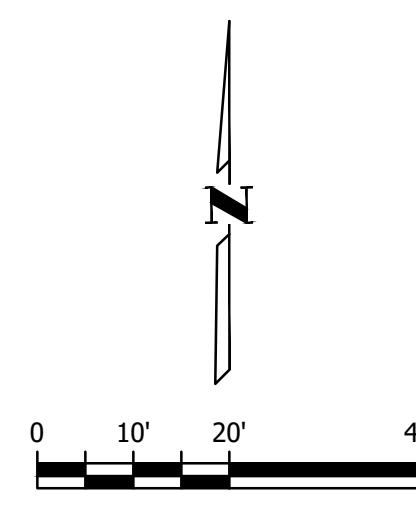
**INTERSECTION 57**  
3-5



**INTERSECTION 58**  
3-6 THRU 3-9



**INTERSECTION 59**  
3-10 THRU 3-13



**LEGEND**

LIMITS OF RECONSTRUCTION

BY	
DATE	
NO.	
REVISION	

CERT NO. 6091  
561.687.2220

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STEPHEN CRAWFORD CHERRY  
P.E. #83268  
ON 2022-10-06

**CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS**  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL  
DISTRICT 3 ADA IMPROVEMENTS @ INTERSECTIONS 54 - 59

448301-1-58-01

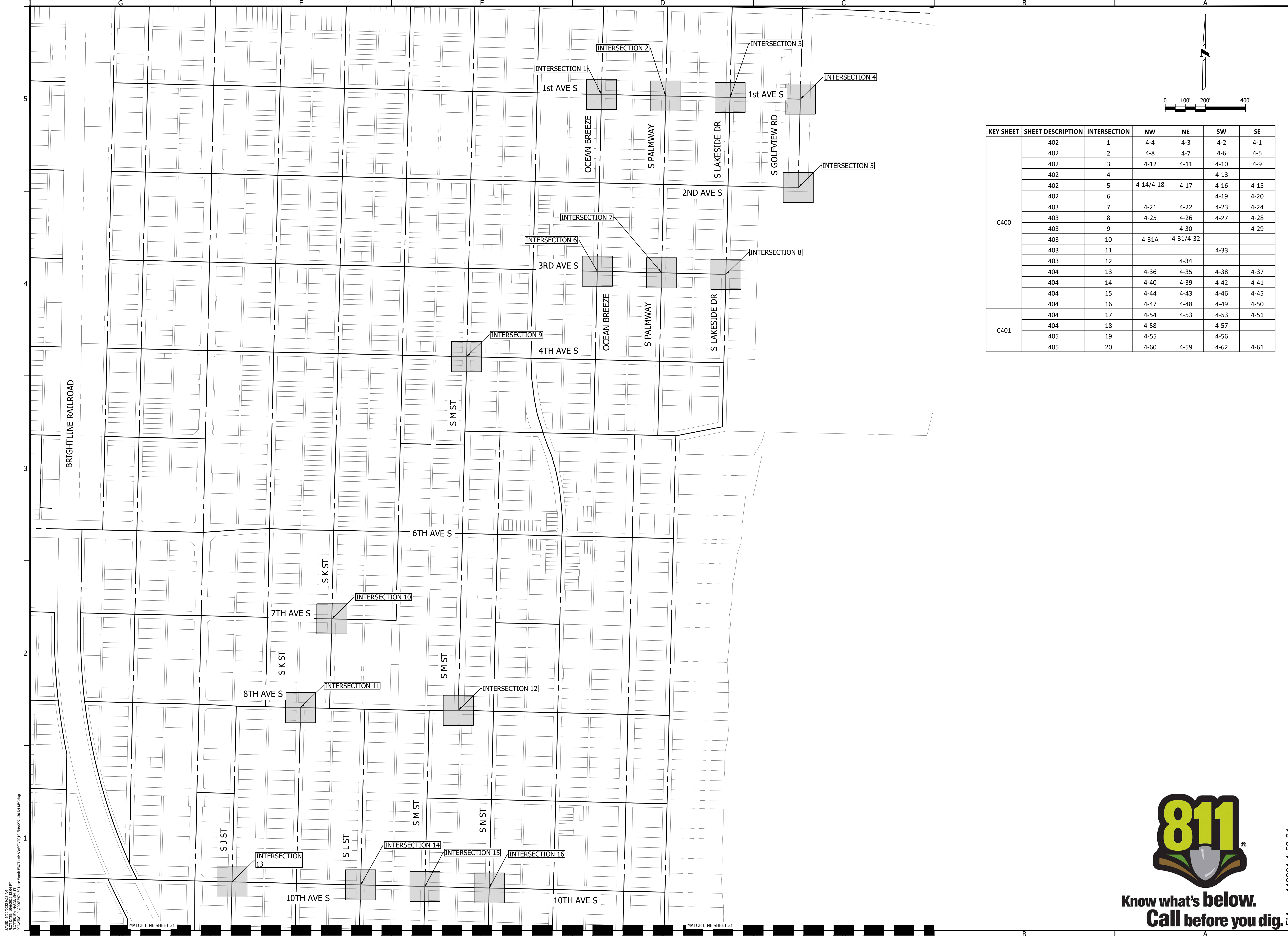
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28 OF 41  
2974.30



**Know what's below.  
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DRAWING: P:\30202\0158\1-58-01\1-58-01.dwg





KEY SHEET	SHEET DESCRIPTION	INTERSECTION	NW	NE	SW	SE
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	402	2	4-8	4-7	4-6	4-5
	402	3	4-12	4-11	4-10	4-9
	402	4			4-13	
	402	5	4-14/4-18	4-17	4-16	4-15
	402	6			4-19	4-20
	403	7	4-21	4-22	4-23	4-24
	403	8	4-25	4-26	4-27	4-28
	403	9		4-30		4-29
	403	10	4-31A	4-31/4-32		
	403	11			4-33	
	403	12		4-34		
	404	13	4-36	4-35	4-38	4-37
	404	14	4-40	4-39	4-42	4-41
	404	15	4-44	4-43	4-46	4-45
	404	16	4-47	4-48	4-49	4-50
C401	404	17	4-54	4-53	4-53	4-51
	404	18	4-58		4-57	
	405	19	4-55		4-56	
	405	20	4-60	4-59	4-62	4-61



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 PURPOSES.  
 PREPARED UNDER THE  
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 STEPHEN CRAWFORD CHERRY  
 P.E. #83268  
 ON 2022-10-06

**CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS**  
 FM448301-58-01  
 LAKE WORTH BEACH, PALM BEACH, FL  
 DISTRICT 4 KEY MAP

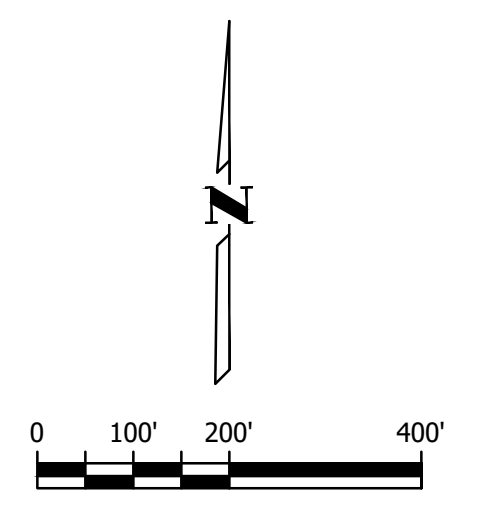
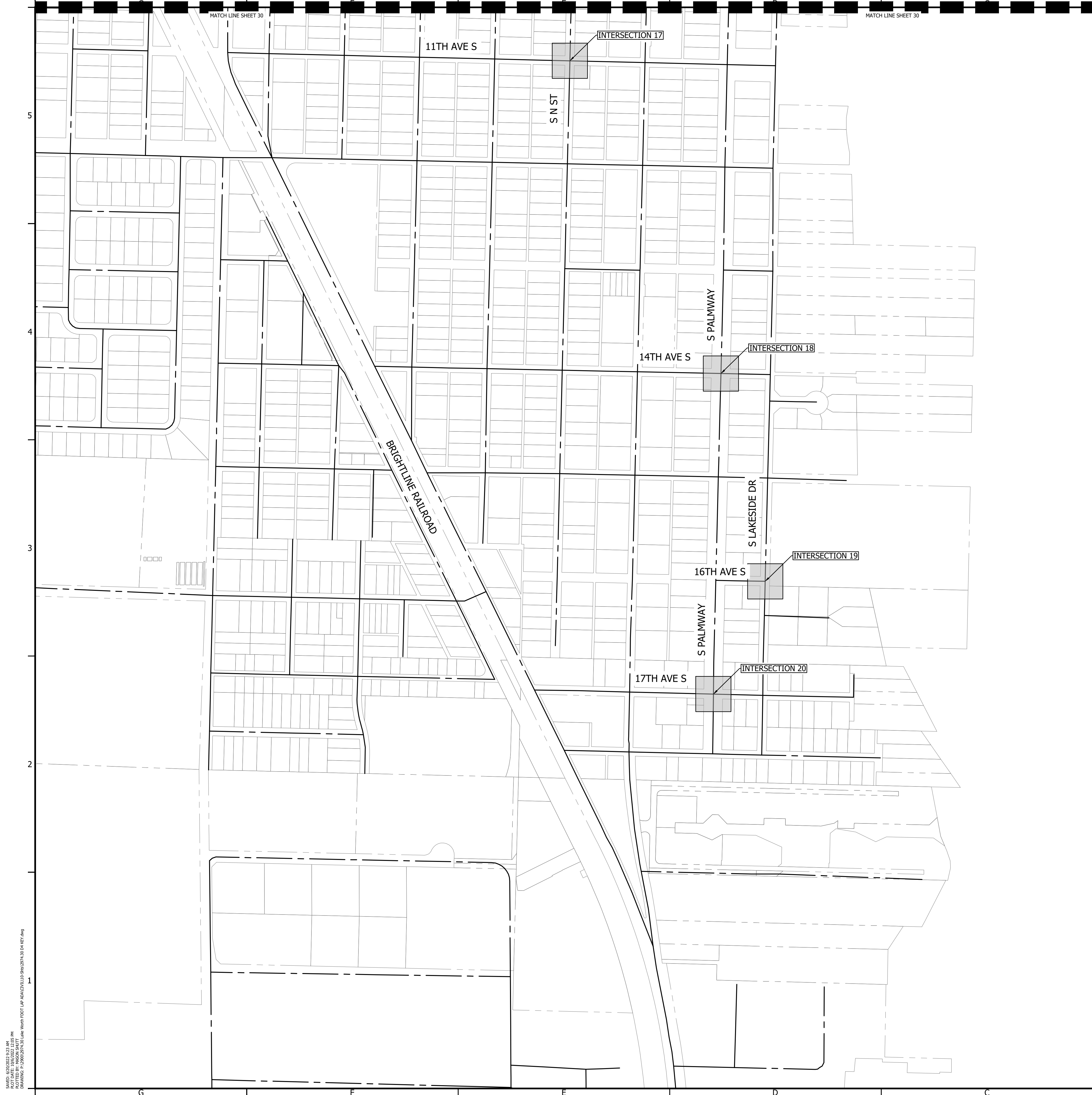


**Know what's below.  
 Call before you dig.**

448301-1-58-01

SHEET  
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 30 OF 41  
 2974.30

DWG: 02/02/2022 9:52 AM  
 PLOTTED BY: MASON SAKIT  
 DRAWING: P:\3000\301\301-1-58-01-1-58-01.dwg



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	402	4			4-13	
	402	5	4-14/4-18	4-17	4-16	4-15
	402	6			4-19	4-20
	403	7	4-21	4-22	4-23	4-24
	403	8	4-25	4-26	4-27	4-28
	403	9		4-30		4-29
	403	10	4-31A	4-31/4-32		
	403	11			4-33	
	403	12		4-34		
404	13	4-36	4-35	4-38	4-37	
404	14	4-40	4-39	4-42	4-41	
404	15	4-44	4-43	4-46	4-45	
404	16	4-47	4-48	4-49	4-50	
404	17	4-54	4-53	4-53	4-51	
C401	404	18	4-58		4-57	
	405	19	4-55		4-56	
	405	20	4-60	4-59	4-62	4-61



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 ON 2022-10-06

**CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS**  
 FM448301-58-01  
 LAKE WORTH BEACH, PALM BEACH, FL  
**DISTRICT 4 KEY MAP**

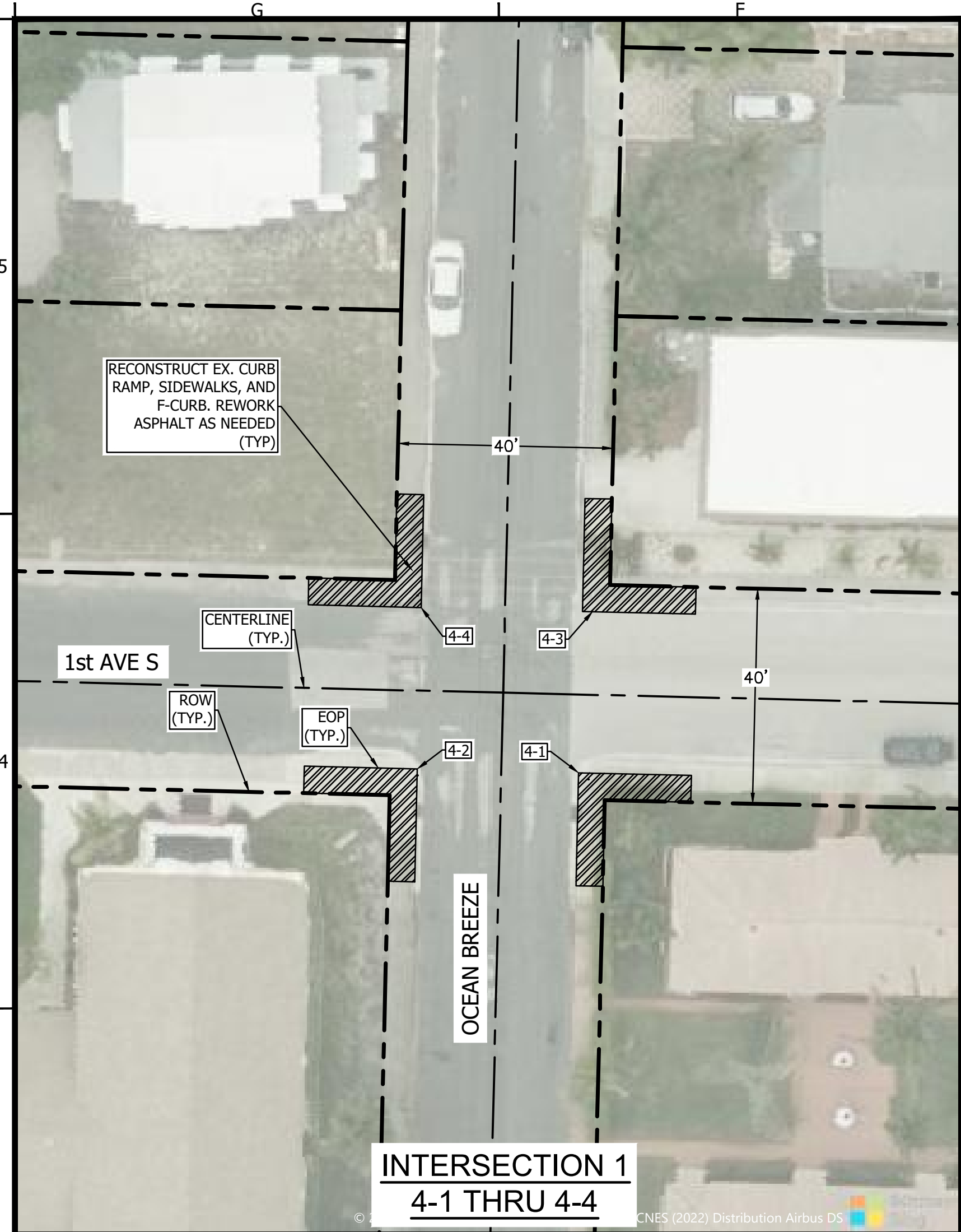


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 Call before you dig.**

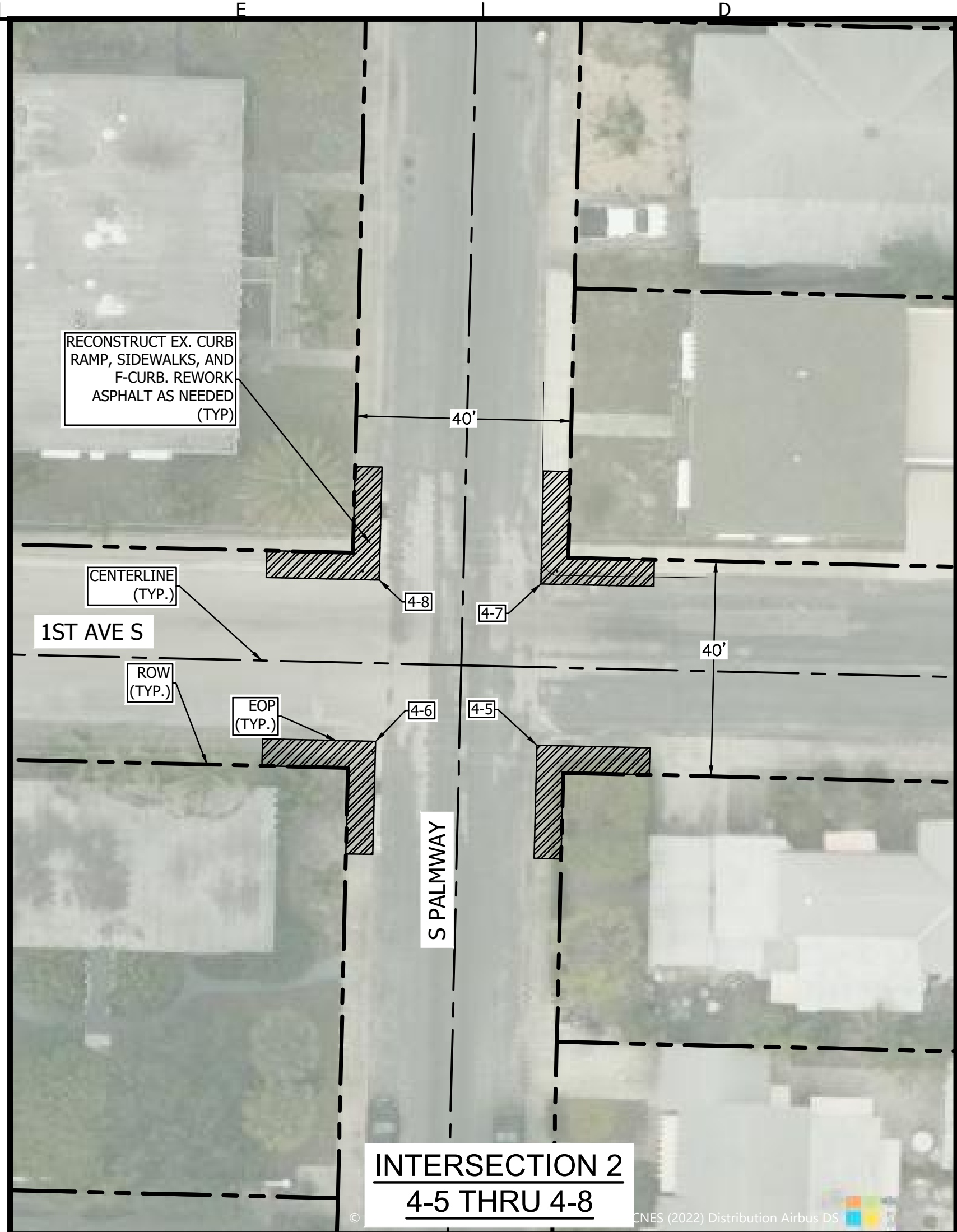
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SHEET  
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 31 OF 41  
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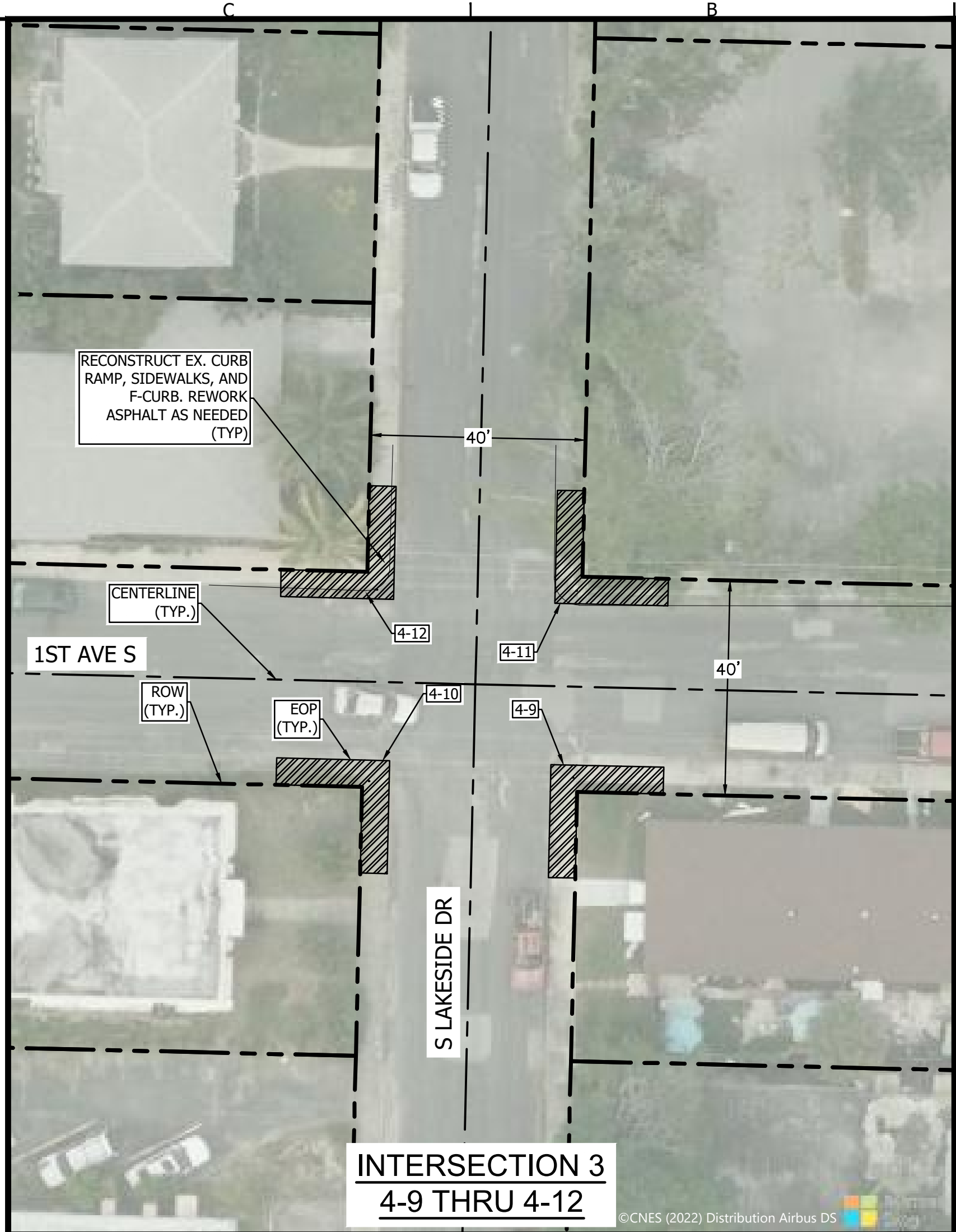
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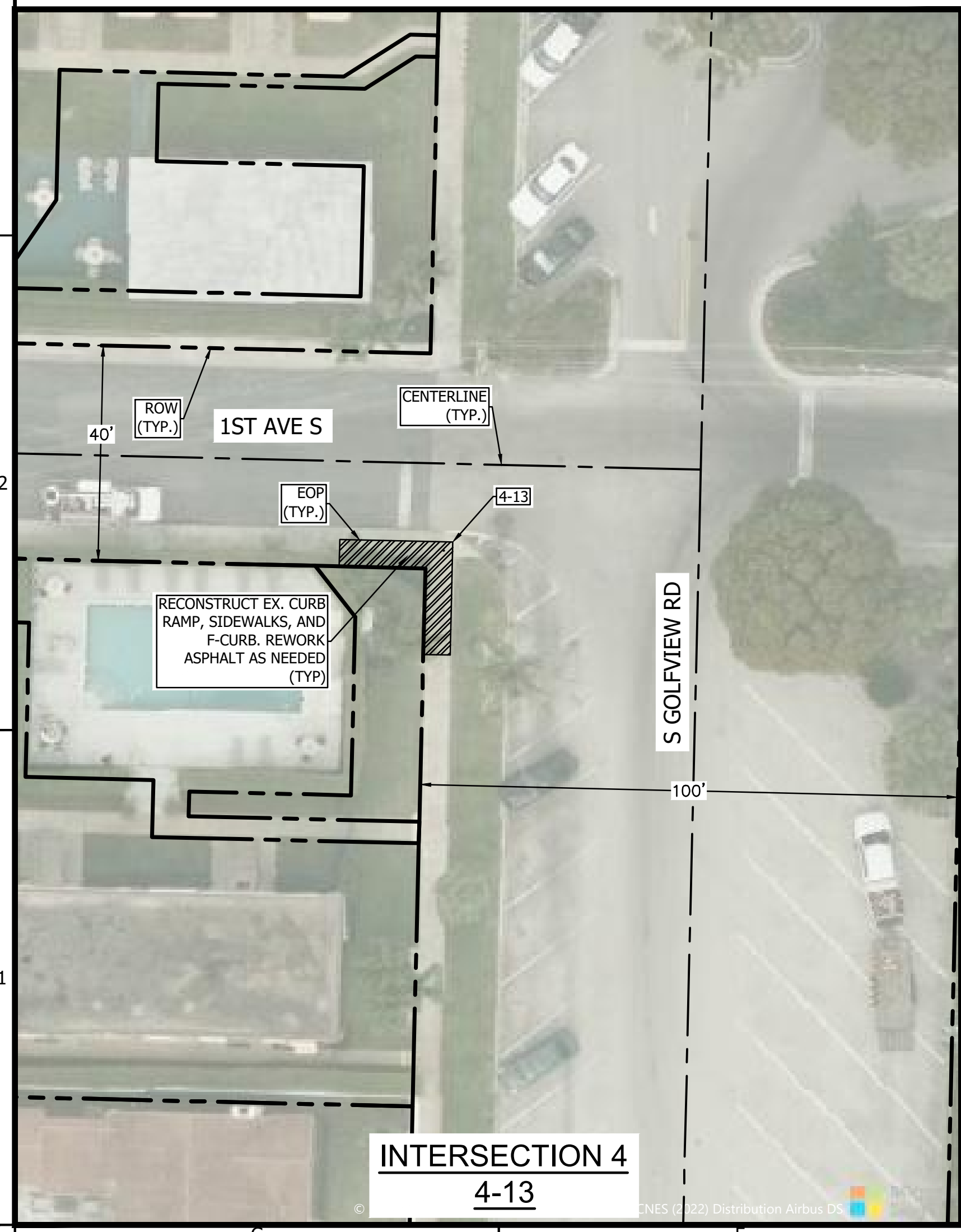
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**INTERSECTION 2**  
4-5 THRU 4-8



**INTERSECTION 3**  
4-9 THRU 4-12



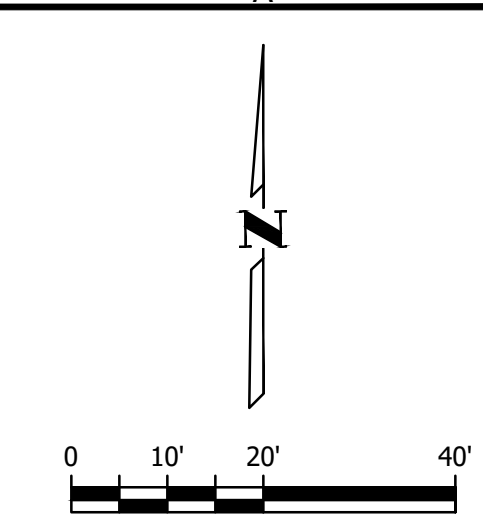
**INTERSECTION 4**  
4-13



**INTERSECTION 5**  
4-14 THRU 4-18



**INTERSECTION 6**  
4-19 THRU 4-20



**LEGEND**

LIMITS OF RECONSTRUCTION

NO.	DATE	BY



CERT NO. 6951  
951.687.2220  
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**CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS**  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL  
DISTRICT 4 ADA IMPROVEMENTS @ INTERSECTIONS 1 - 6



**Know what's below. Call before you dig.**

FM: 448301-1-58-01

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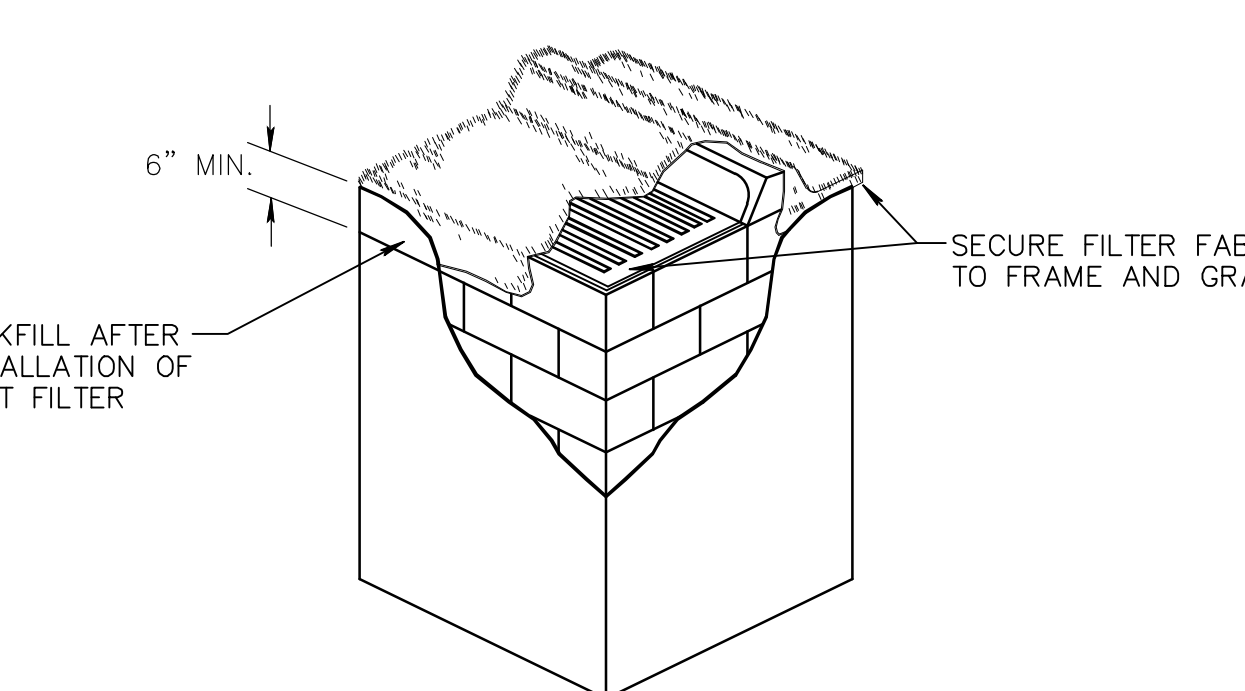
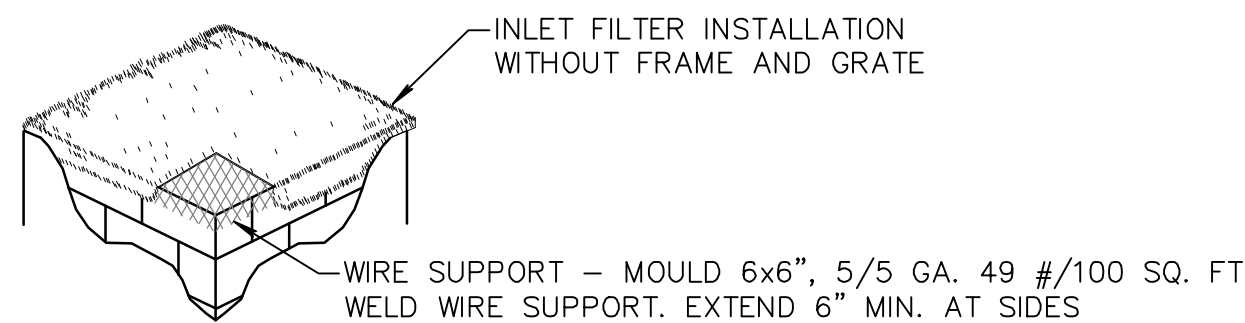












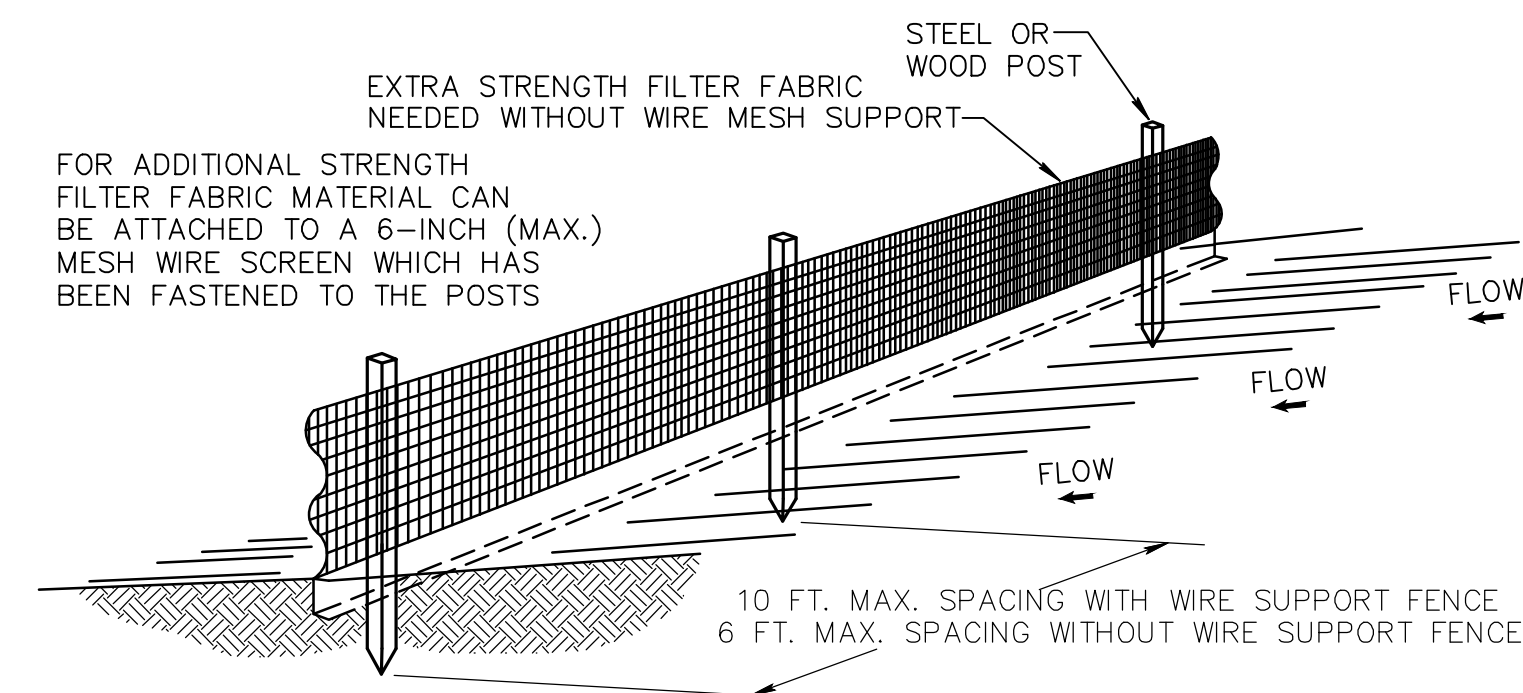
NOT TO SCALE

- NOTES:
1. CONTRACTOR IS TO CLEAN INLET FILTER AFTER EVERY STORM.
  2. CONTRACTOR TO REMOVE FABRIC JUST PRIOR TO PAVING.

A SEDIMENT TRAP WILL BE EXCAVATED BEHIND THE CURB AT THE INLET. THE BASIN SHALL BE AT LEAST 12 TO 14 INCHES IN DEPTH, APPROXIMATELY 36 INCHES IN WIDTH, AND APPROXIMATELY 7 TO 10 FEET IN LENGTH PARALLEL TO THE CURB.

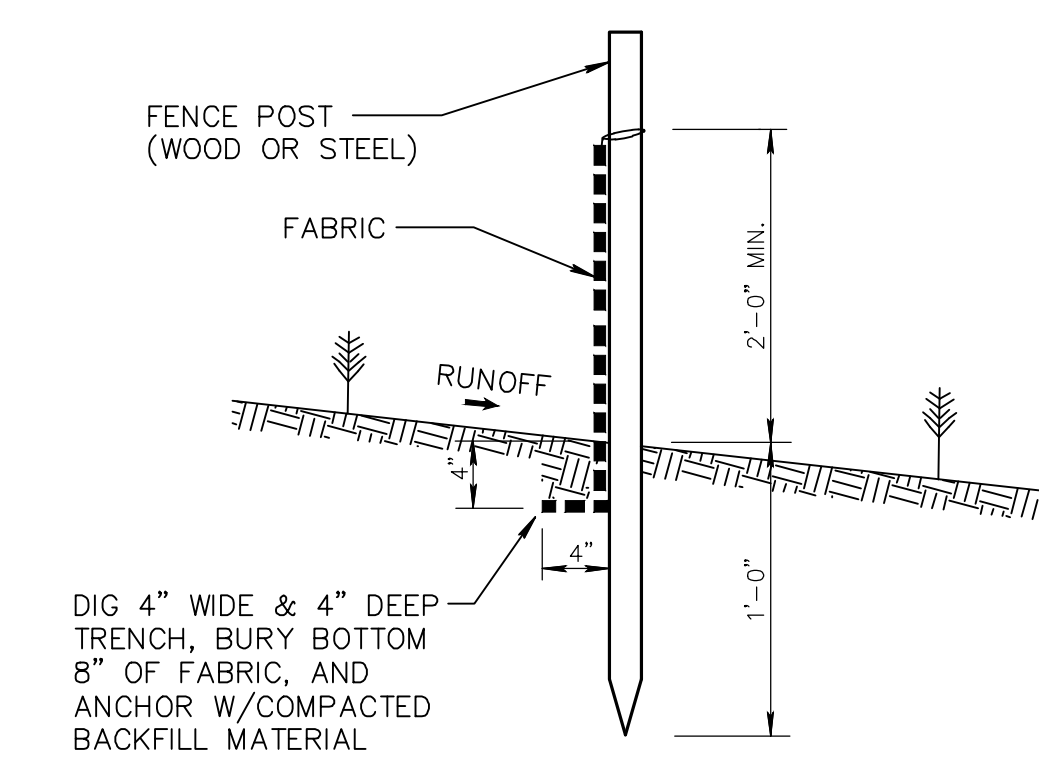
STORM WATER WILL REACH THE SEDIMENT TRAP VIA CURB CUTS ADJACENT TO EACH SIDE OF THE INLET STRUCTURE. THESE OPENINGS SHALL BE AT LEAST 12 INCHES IN LENGTH. STORM WATER MAY ALSO REACH THE BASIN VIA OVERLAND FLOW LAND AREA BEHIND THE CURB. THE CURB CUTS SHALL BE REPAIRED WHEN THE SEDIMENT TRAP IS REMOVED.

CITY OF LAKE WORTH PUBLIC SERVICES DEPARTMENT INLET FILTER DETAIL 26

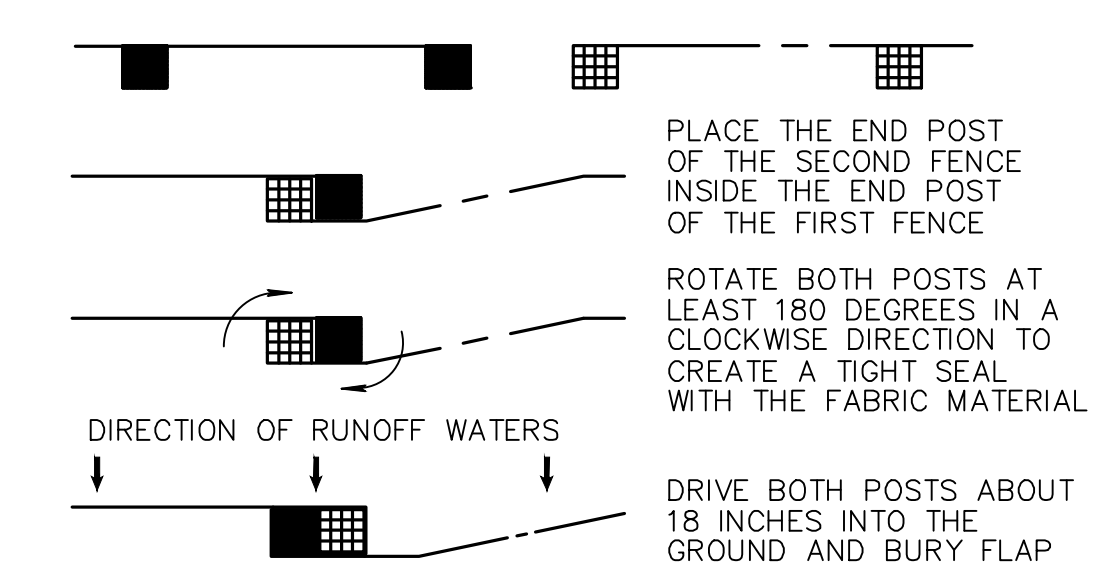


- NOTES:
1. THE HEIGHT OF A SILT FENCE SHALL NOT EXCEED 36 INCHES (90 CM).
  2. THE FILTER FABRIC SHALL BE PURCHASED IN A CONTINUOUS ROLL CUT TO THE LENGTH OF THE BARRIER TO AVOID THE USE OF JOINTS.
  3. POSTS SHALL BE SPACED A MAXIMUM OF 10 FEET (3 M) APART AT THE BARRIER LOCATION AND DRIVEN SECURELY INTO THE GROUND A MINIMUM OF 12 INCHES (30 CM). WHEN EXTRA STRENGTH FABRIC IS USED WITHOUT THE WIRE SUPPORT FENCE, POST SPACING SHALL NOT EXCEED 6 FEET (1.8 M).
  4. A TRENCH SHALL BE EXCAVATED APPROXIMATELY 4 INCHES (10 CM) WIDE AND 4 INCHES (10 CM) DEEP ALONG THE LINE OF POSTS AND UPSLOPE FROM THE BARRIER.
  5. WHEN STANDARD STRENGTH FILTER FABRIC IS USED, A WIRE MESH SUPPORT FENCE SHALL BE FASTENED SECURELY TO THE UPSLOPE SIDE OF THE POSTS USING HEAVY DUTY WIRE STAPLES AT LEAST 1 INCH (25 MM) LONG, TIE WIRES, OR HOG RINGS. THE WIRE SHALL EXTEND INTO THE TRENCH A MINIMUM OF 2 INCHES (5 CM) AND SHALL NOT EXTEND MORE THAN 36 INCHES (90 CM) ABOVE THE ORIGINAL GROUND SURFACE.
  6. THE STANDARD STRENGTH FILTER FABRIC SHALL BE STAPLED OR WIRED TO THE FENCE, AND 8 INCHES (20 CM) OF THE FABRIC SHALL BE EXTENDED INTO THE TRENCH. THE FABRIC SHALL NOT EXTEND MORE THAN 36 INCHES (90 CM) ABOVE THE ORIGINAL GROUND SURFACE.
  7. THE TRENCH SHALL BE BACKFILLED AND THE SOIL COMPACTED OVER THE FILTER FABRIC.
  8. ALL PROJECTS REQUIRE SUBMITTAL OF POLLUTION PREVENTION PLAN (PPP).
  9. ALL PROJECTS 1 AC. OR MORE MUST SUBMIT NOTICE OF INTENT (NOI) TO FDP.

CITY OF LAKE WORTH PUBLIC SERVICES DEPARTMENT SILT FENCE INSTALLATION DETAIL 27



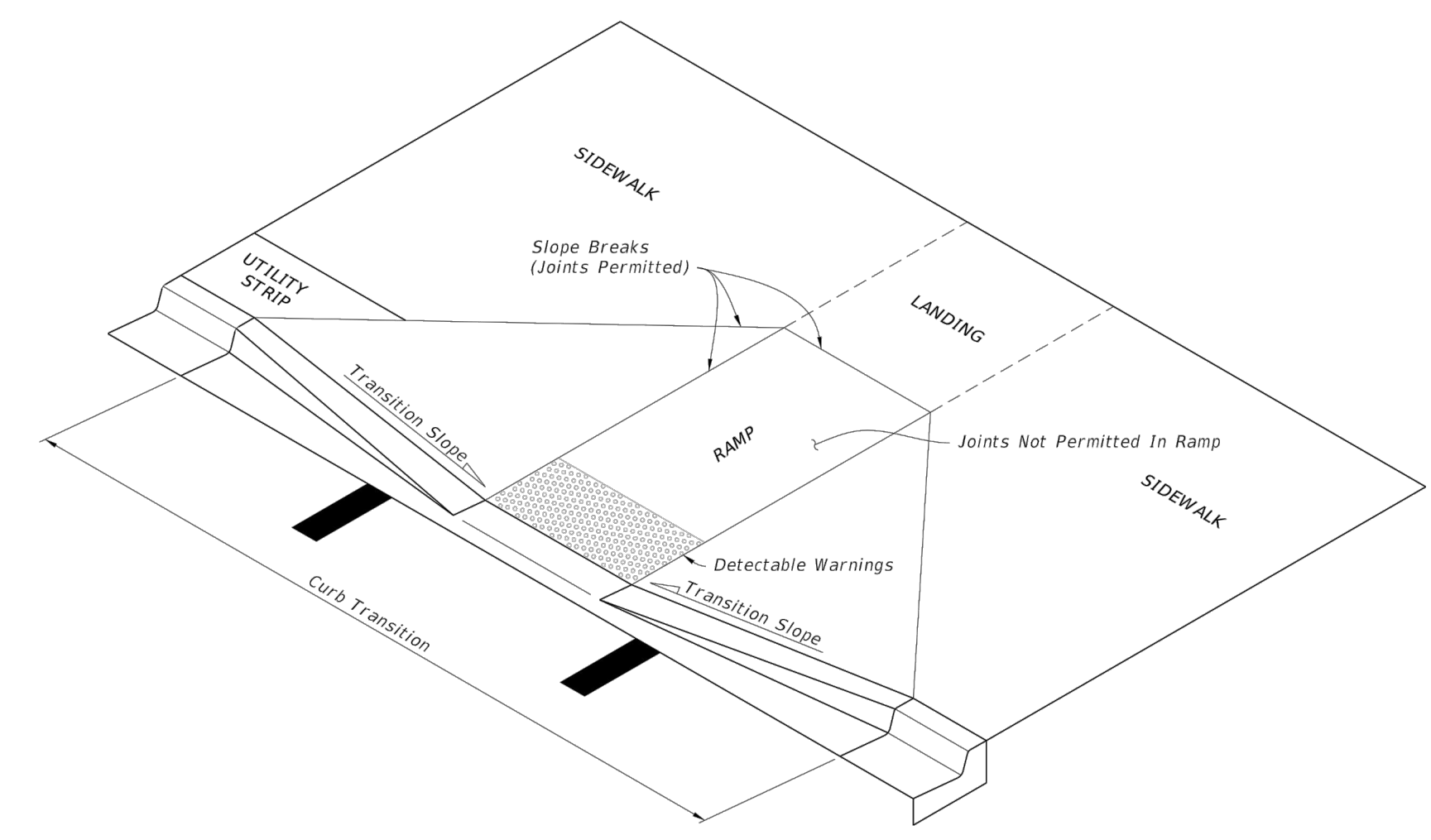
SILT FENCE SECTION NOT TO SCALE



ATTACHING TWO SILT FENCES NOT TO SCALE

CITY OF LAKE WORTH PUBLIC SERVICES DEPARTMENT SILT FENCE INSTALLATION DETAIL 28

- GENERAL NOTES:
1. Cross Slopes and Grades:
    - A. Sidewalk, ramp, and landing slopes (i.e. 0.02, 0.05, and 1:12) shown in this Index are maximums. With approval of the Engineer, provide the minimum feasible slope where the requirements cannot be met.
    - B. Landings must have cross-slopes less than or equal to 0.02 in any direction.
    - C. Maintain a single longitudinal slope along each side of the curb ramp. Ramp slopes are not required to exceed 15 feet in length.
    - D. Joints permitted at the location of Slope Breaks. Otherwise locate joints in accordance with Index 522-001. No joints are permitted within the ramp portion of the Curb Ramp.
  2. Curb, Curb and Gutter and/or Sidewalk:
    - A. Refer to Index 522-001 for concrete thickness and sidewalk details.
    - B. Remove any existing curb, curb and gutter, or sidewalk to the nearest joint beyond the curb transition or to the extent that no remaining section is less than 5 feet long.
    - C. Width of Curb Ramp is 4'-0" minimum. Match sidewalk or Shared Use Path width as shown in the Plans.
  3. Curb Ramp Alpha-Identification:
    - A. Sidewalk curb ramp alpha-identifications (e.g. CR-A) are provided for reference purposes in the Plans.
    - B. Alpha-identifications CR-I and CR-J are intentionally omitted.
  4. Detectable Warnings:
    - A. Install detectable warnings in accordance with Specification 527.
    - B. Place detectable warnings across the full width of the ramp or landing, to a minimum depth of 2 feet measured perpendicular to the curb line and no greater than 5 feet from the back of the curb or edge of pavement.
    - C. If detectable warnings are shown in the Plans on slopes greater than 5%, align the truncated domes with the centerline of the ramp; otherwise, the truncated domes are not required to be aligned.



CURB RAMP NOMENCLATURE

LAST REVISION 11/01/21	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	INDEX 522-002	SHEET 1 of 7
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PREPARED UNDER THE SUPERVISION OF STEPHEN CRAWFORD CHERRY, P.E. #83268 ON 2022-10-06

CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS FM448301-58-01 LAKE WORTH BEACH, PALM BEACH, FL

CITY OF LAKE WORTH 2 & FDOT DETAILS 1

448301-1-58-01

SHEET C501 37 OF 41 2974.30

WGI. wGinc.com 2035 VISTA PARKWAY, WEST PALM BEACH, FLORIDA 33411

G F E D C B A

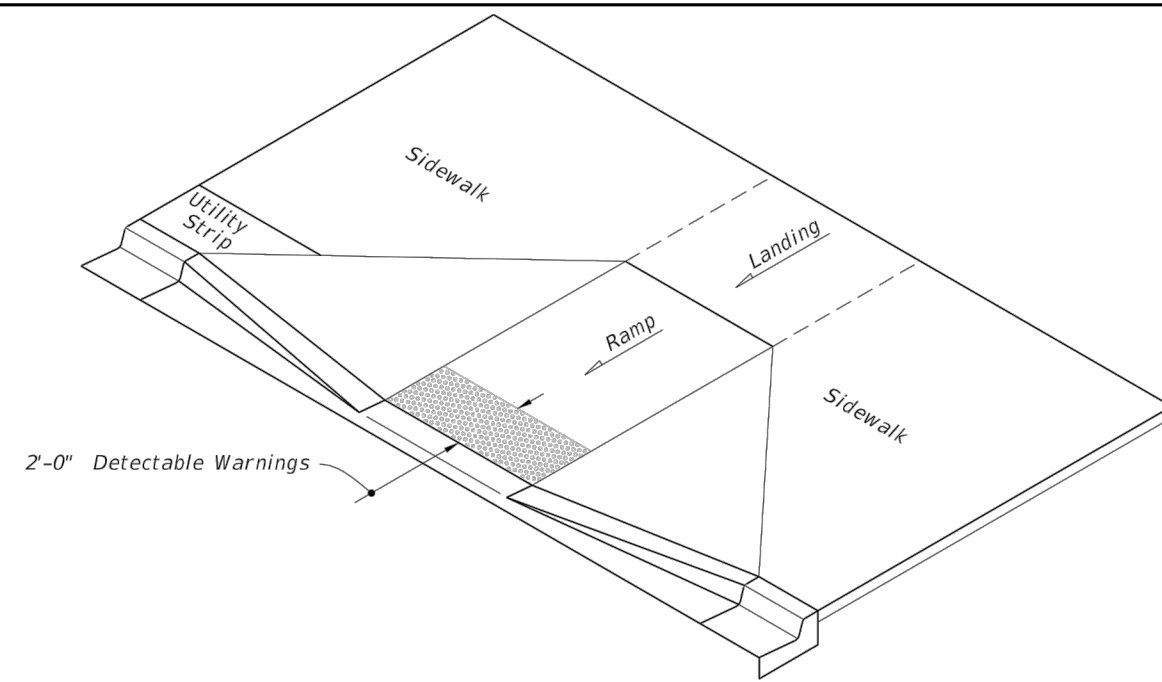
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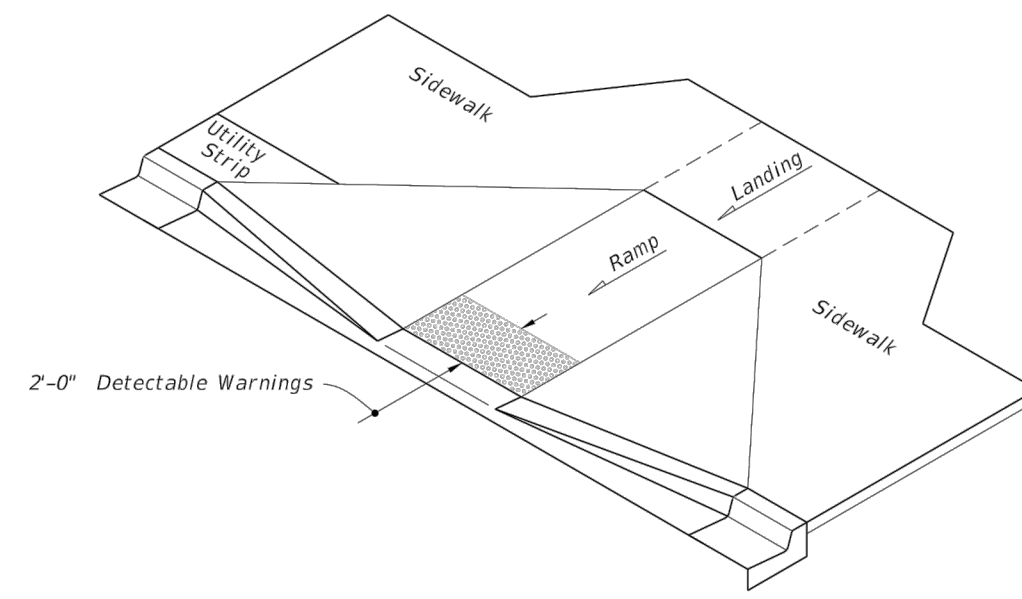
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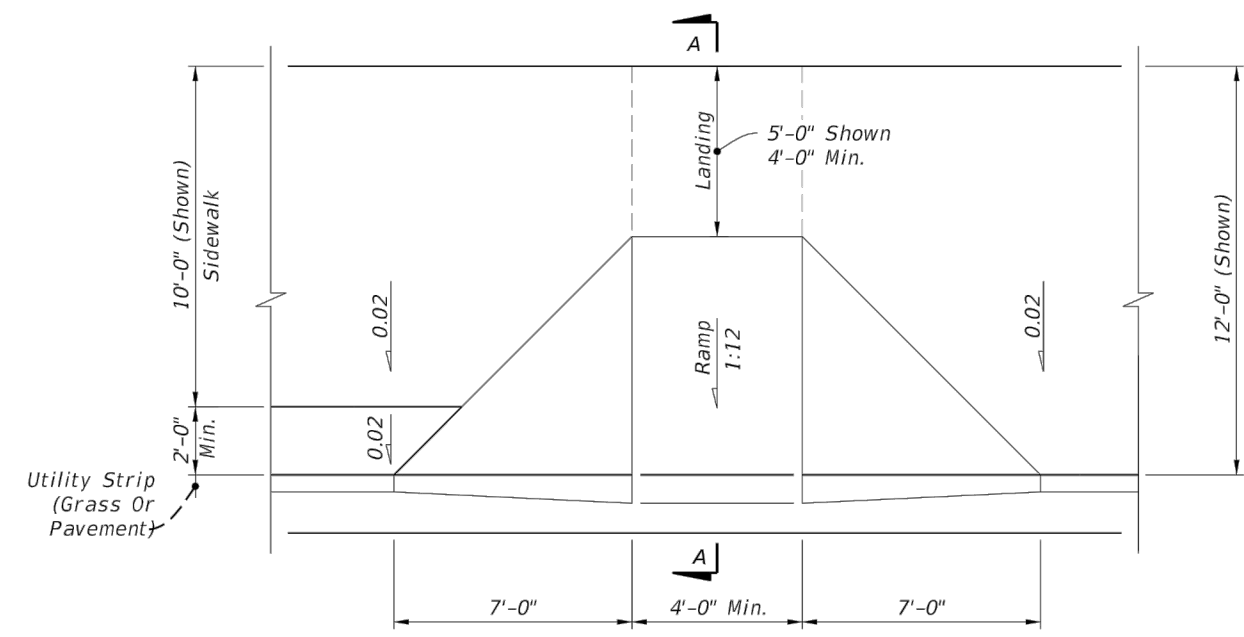
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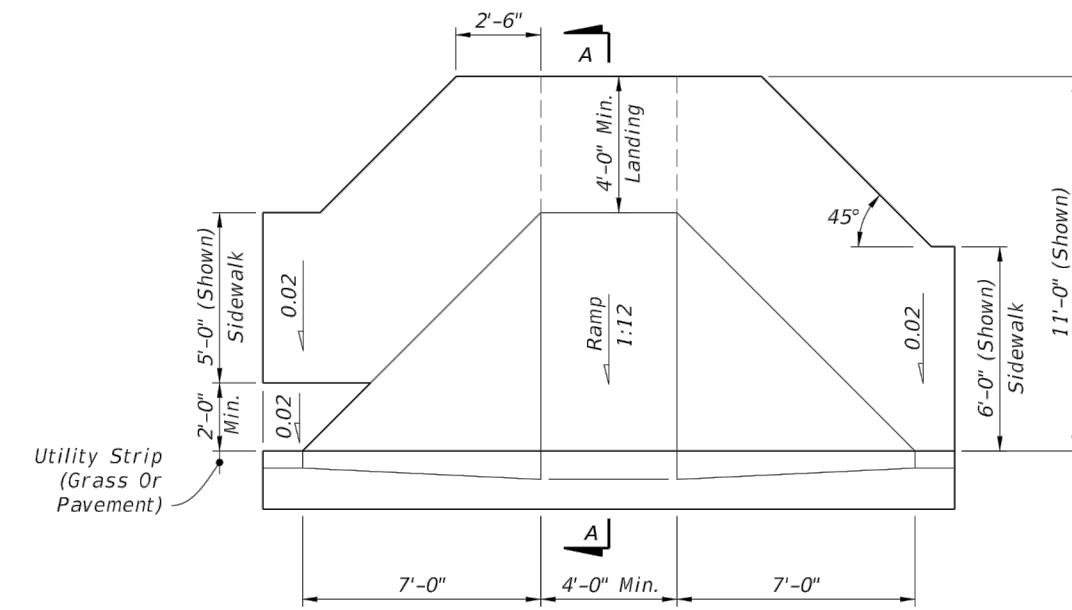
ISOMETRIC VIEW



ISOMETRIC VIEW



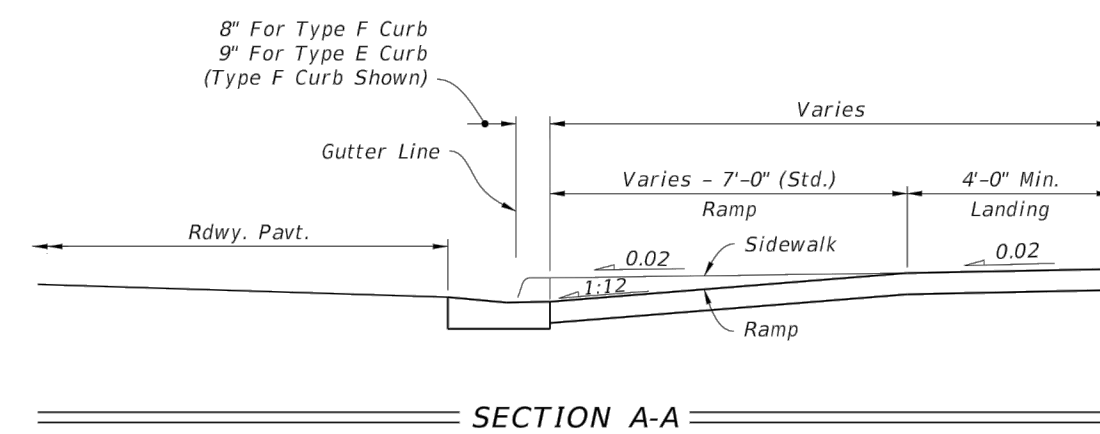
PLAN VIEW



PLAN VIEW

NOTE: For Example of CR-A used in Radial Curb Returns, See Sheet 8.

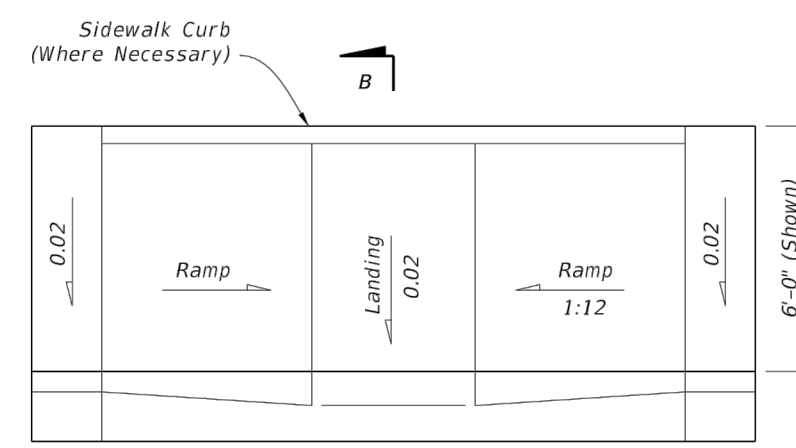
CR-A



SECTION A-A

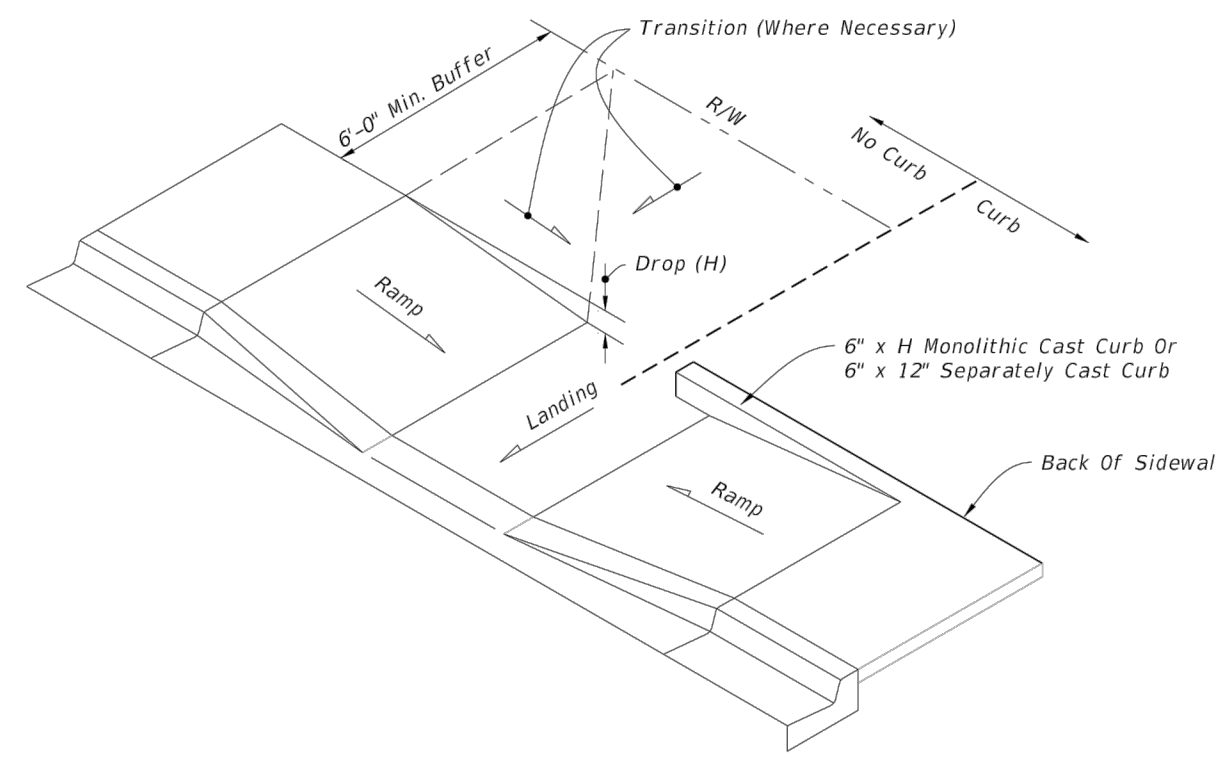
SIDEWALK CURB RAMPS CR-A AND CR-B

LAST REVISION 11/01/20	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	DETECTABLE WARNINGS AND SIDEWALK CURB RAMPS	INDEX 522-002	SHEET 2 of 7
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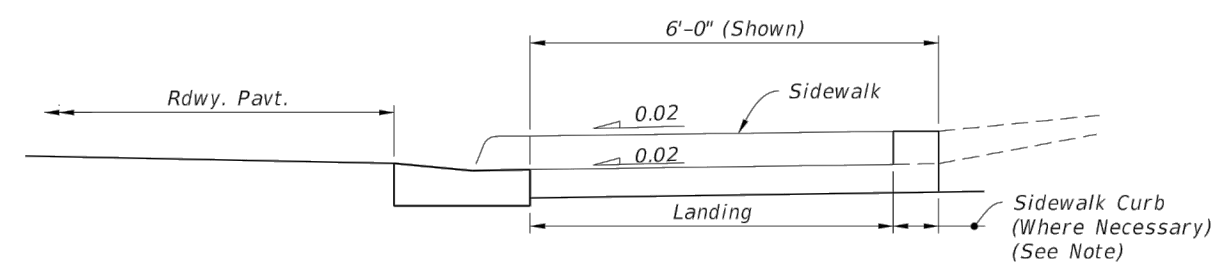


PLAN VIEW

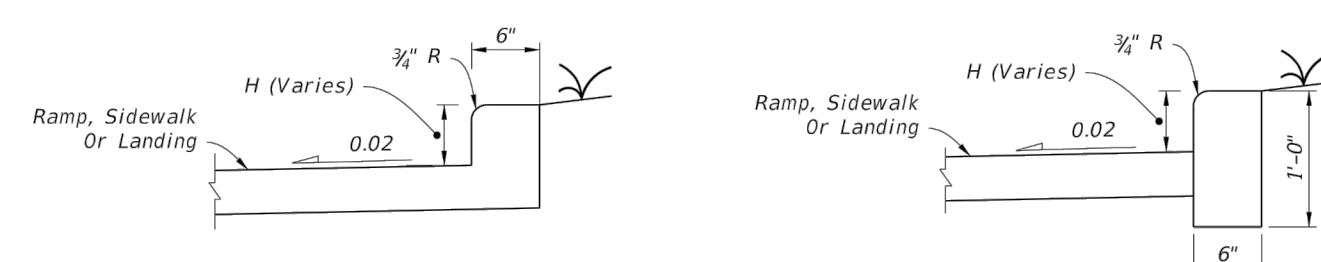
CR-C



CONSTRUCTION OF SIDEWALK CURB IN CUT SECTIONS



SECTION B-B



MONOLITHIC CAST CURB

SEPARATELY CAST CURB

SIDEWALK CURB RAMPS CR-C AND SIDEWALK CURB

LAST REVISION 11/01/20	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	DETECTABLE WARNINGS AND SIDEWALK CURB RAMPS	INDEX 522-002	SHEET 3 of 7
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9/22/2021 8:58:38 AM

9/22/2021 8:58:34 AM

SW:02.37210282.12591.PIN  
PLOT:02.37210282.12591.PIN  
ROUTED BY: MASON SKIDGT  
DRAWING: P:\52020282\37210282\12591\37210282.dwg

CERT NO: 6091

951.687.2220

PRELIMINARY

NOT FOR CONSTRUCTION,  
BIDDING, OR PERMIT  
PURPOSES.

PREPARED UNDER THE  
SUPERVISION OF  
STEPHEN CRAWFORD CHERRY  
P.E. #83268  
ON 2022-10-06

CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL  
FDOT DETAILS 2

SHEET  
C502  
38 OF 41  
2974.30



Know what's below.  
Call before you dig.

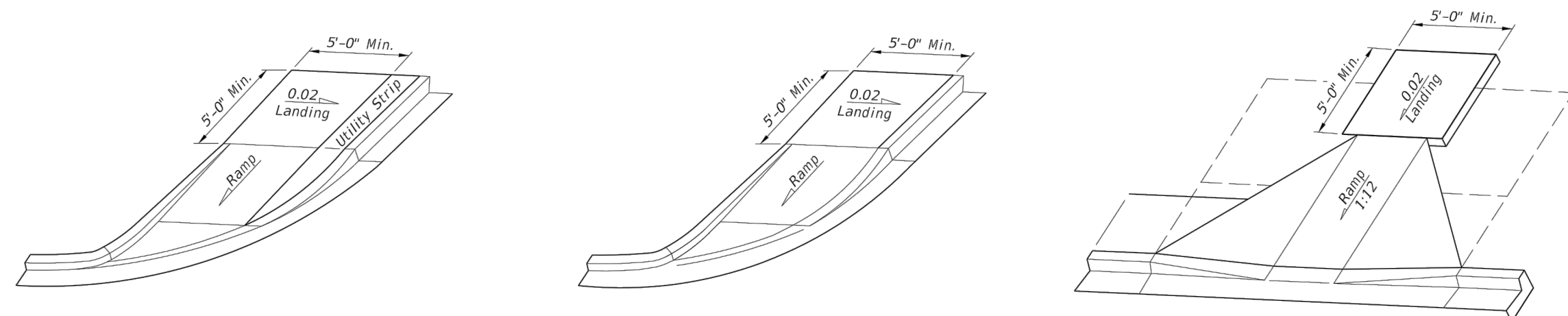
FM: 448301-1-58-01



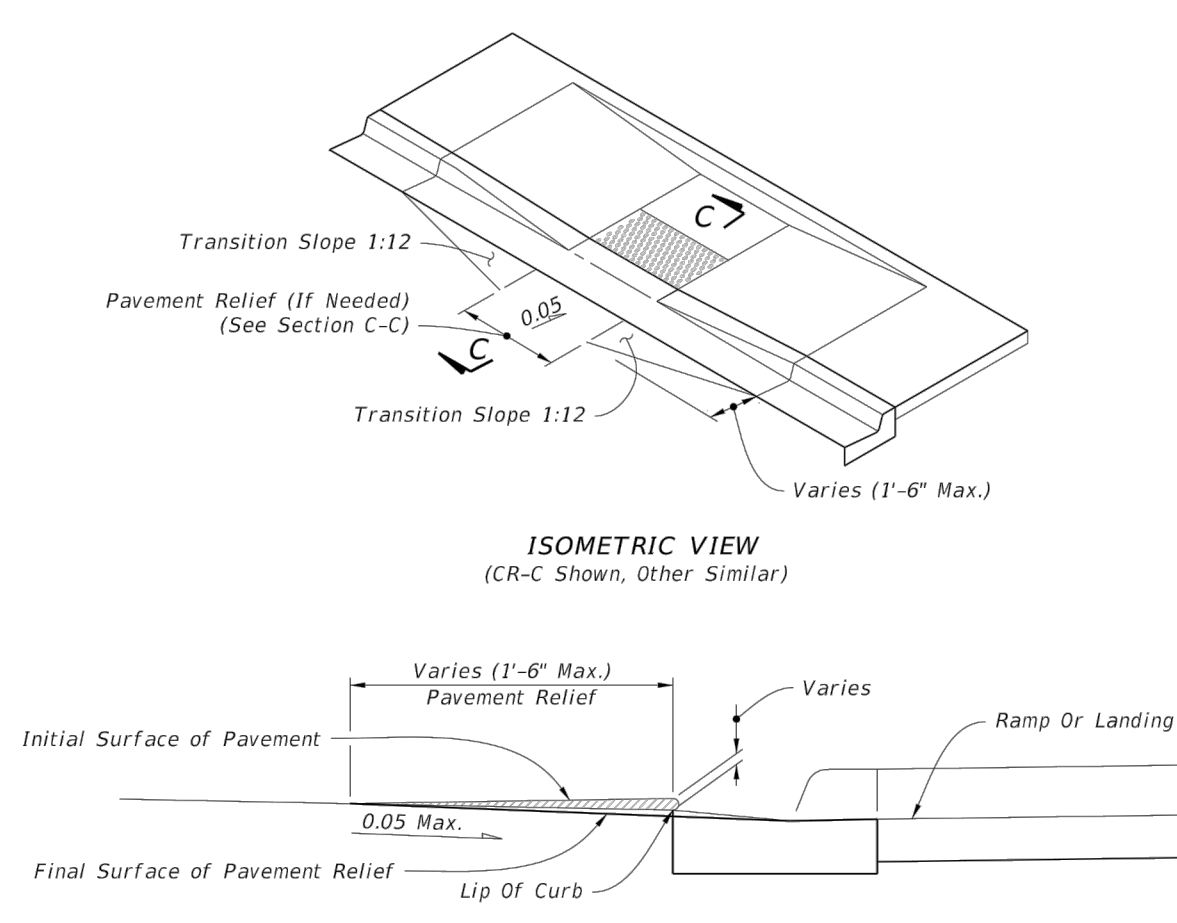
WGInc.com  
2035 VISTA PARKWAY, WEST PALM BEACH, FLORIDA 33411

REVISION  
DATE  
BY

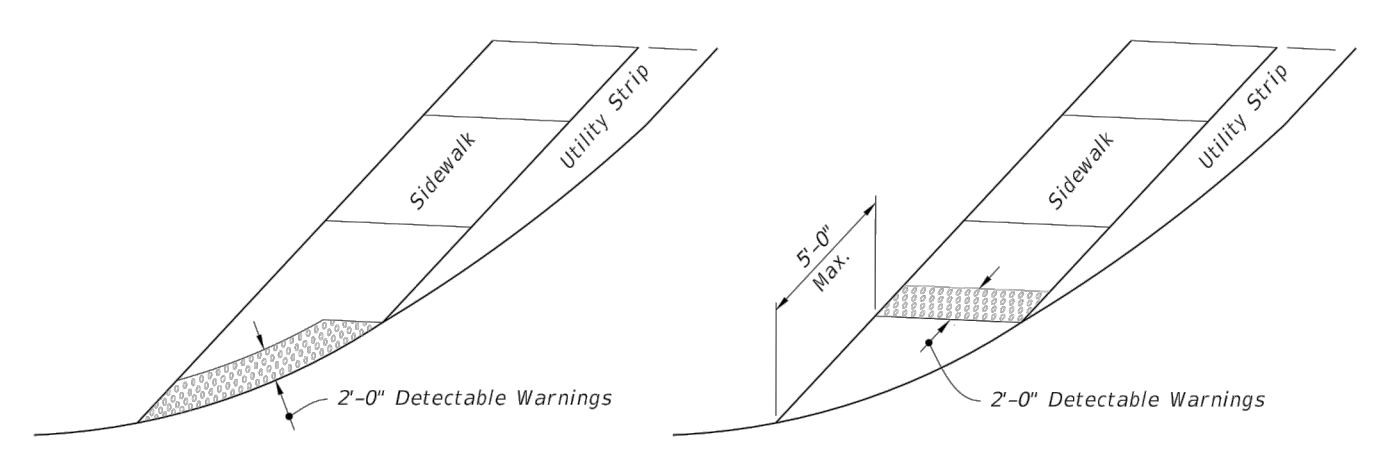




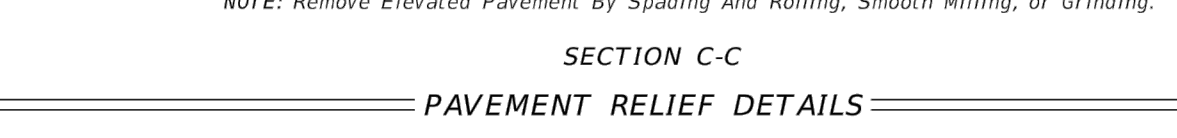
LANDINGS FOR CURB RAMP WITHOUT SIDEWALKS  
(See CR-F, CR-G & CR-K Respectively For Detectable Warning Details/Options)



ISOMETRIC VIEW  
(CR-C Shown, Other Similar)



OPTION A      OPTION B



SECTION C-C

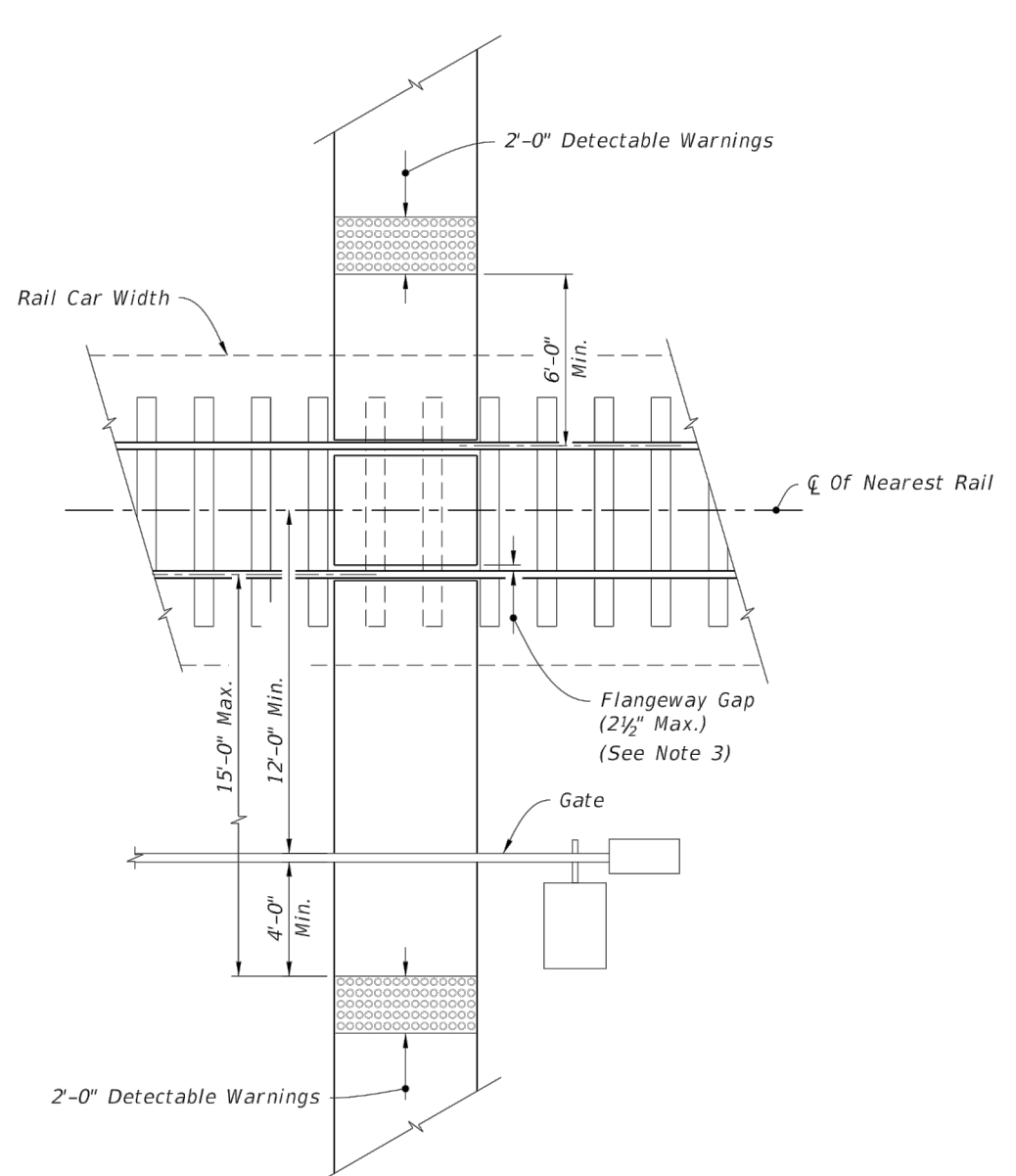


DETECTABLE WARNING ON FLUSH SHOULDER SIDEWALKS

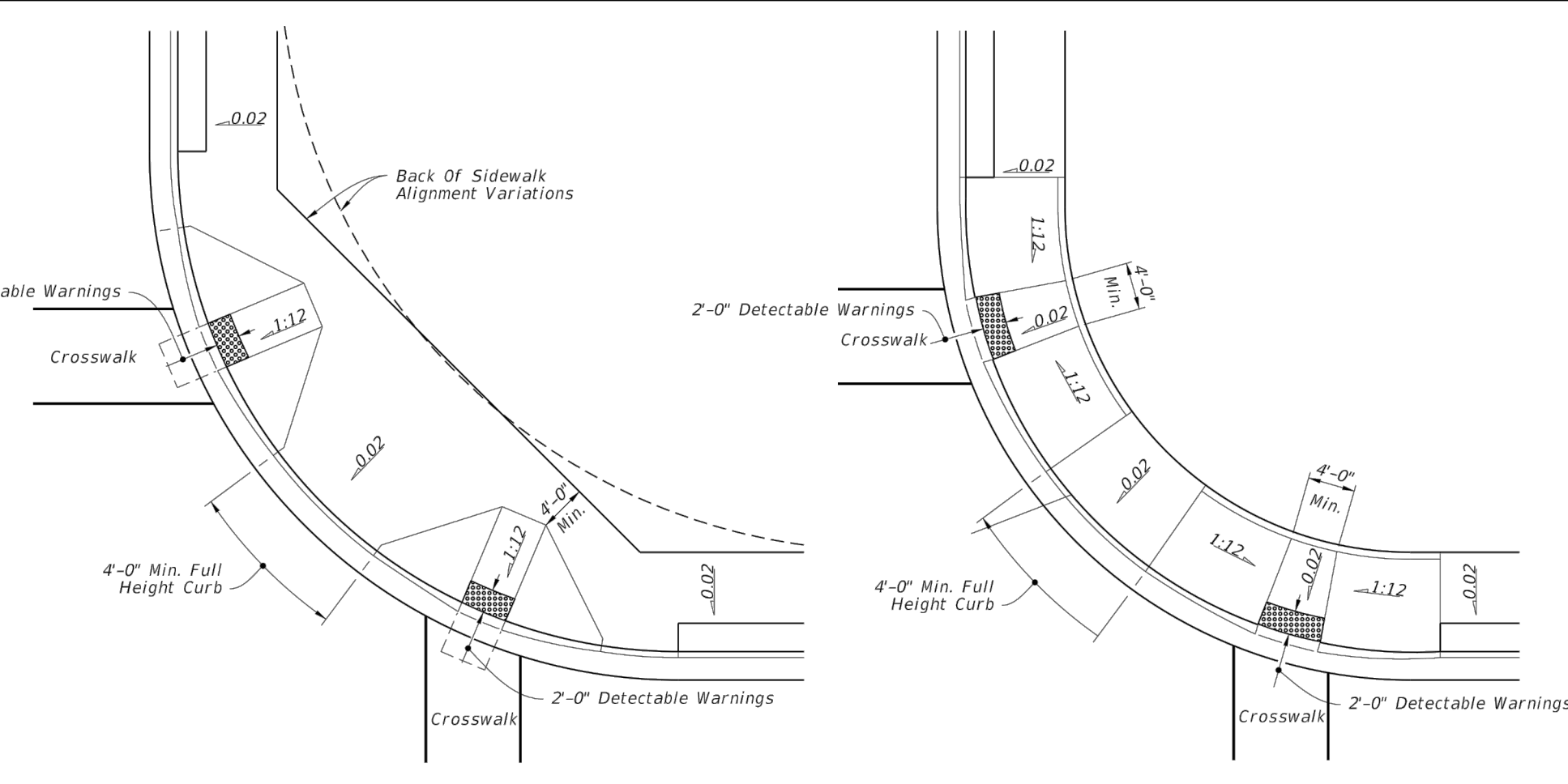
CURB RAMP WITHOUT SIDEWALKS AND FLUSH SHOULDER SIDEWALKS

LAST REVISION 11/01/20	DESCRIPTION:	<b>FDOT</b> FY 2022-23 STANDARD PLANS	DETECTABLE WARNINGS AND SIDEWALK CURB RAMP	INDEX 522-002	SHEET 6 of 7
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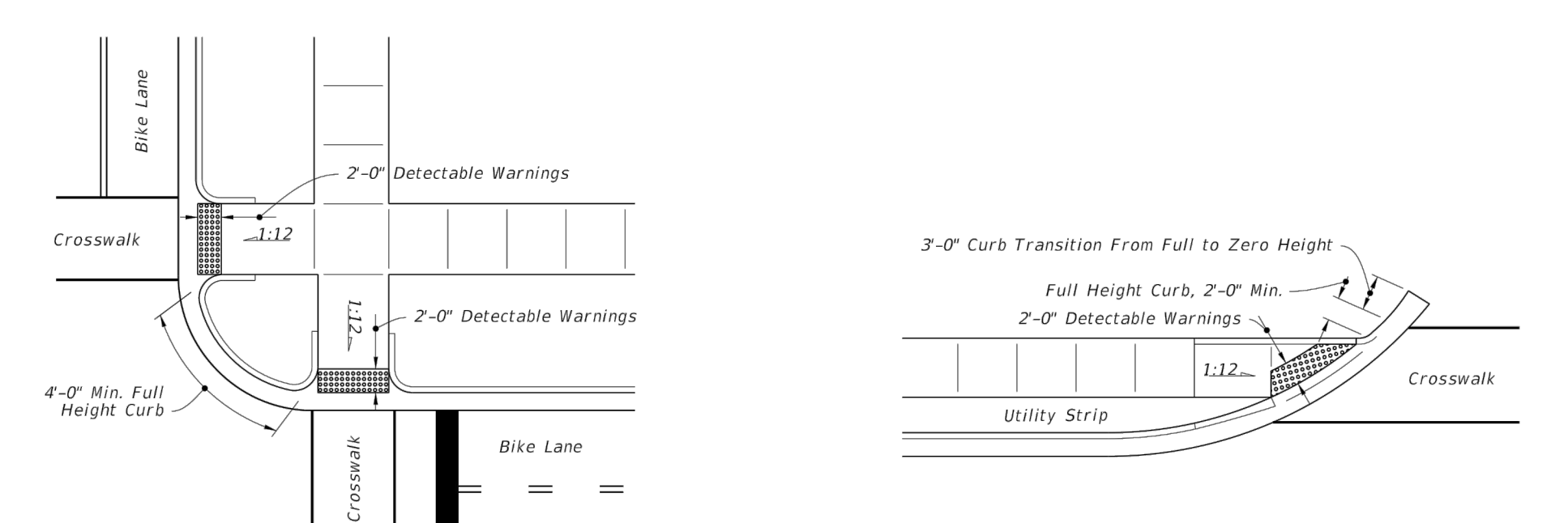
- NOTES:**
- Where crosswalk markings are used, ramps must fall within the crosswalk limits. A clear space of 48" minimum is required at the bottom of the ramp within a marked crosswalk. If crosswalk markings are not present, a clear space of 48" minimum is required at the bottom of the ramp outside of active travel lanes.
  - Crosswalk widths and configurations vary; must conform to Index 711-001.
  - Flangeway Gap may be up to 3' for Freight-only Railways.



RAILROAD CROSSING



CURB RAMP WITHIN RADIAL RETURN



CURB RAMP OUTSIDE RADIAL RETURN



LINEAR SIDEWALK RAMP

PLACEMENT OF SIDEWALK CURB RAMP AT CURBED RETURNS (TYP.)

RAILROAD CROSSING AND CURB RAMP AT CURBED RETURNS

LAST REVISION 11/01/20	DESCRIPTION:	<b>FDOT</b> FY 2022-23 STANDARD PLANS	DETECTABLE WARNINGS AND SIDEWALK CURB RAMP	INDEX 522-002	SHEET 7 of 7
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BY	
DATE	
NO.	
REVISION	

CERT NO. 6091  
561.687.2220

**WGI**  
WGInc.com  
2035 VISTA PARKWAY, WEST PALM BEACH, FLORIDA 33411

**PRELIMINARY**  
NOT FOR CONSTRUCTION,  
BIDDING, OR PERMIT  
PURPOSES.  
PREPARED UNDER THE  
SUPERVISION OF  
STEPHEN CRAWFORD CHERRY  
P.E. #83268  
ON 2022-10-06

CITY OF LAKE WORTH BEACH VARIOUS LOCATIONS  
FM448301-58-01  
LAKE WORTH BEACH, PALM BEACH, FL  
FDOT DETAILS 4



**Know what's below.  
Call before you dig.**

SHEET C504
40 OF 41
2974.30

FM: 448301-1-58-01

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** Public Works/Leisure Services

**TITLE:**

Construction Agreement with M&M Asphalt Maintenance, Inc. for the Harold Grimes Memorial Park Improvement Project Phase 1B – Parking Lot Resurfacing

**SUMMARY:**

The Agreement with M&M Asphalt Maintenance, Inc. authorizes the contractor to resurface the existing parking lot located at the Harold Grimes Memorial Field at a cost not to exceed \$54,922.50.

**BACKGROUND AND JUSTIFICATION:**

The City identified deficiencies in the current surface conditions of the parking lot located at Harold Grimes Memorial Field that require resurfacing to correct. The resurfacing of the parking lot will provide a safe and functional parking area for the park that meets current City standards. This project will utilize funding from the previous years CDBG Grant for the replacement of the Harold Grimes Memorial Field pavilion improvement project.

Harold Grimes Memorial Field is located in District 1. It currently serves as a complex for the multi-use athletic field and public pavilion. The proposed will rehabilitate the existing parking lot and meet current City specifications. The project duration is one hundred twenty (120) calendar days for completion.

The City advertised and accepted bids via the public procurement process and on February 1, 2023 received a total of seven (7) bids from qualified and experienced contractors. Staff from Public Works and Financial Services reviewed the bids and determined that M&M Asphalt Maintenance, Inc. met the requirements of a responsive and responsible bidder. The Agreement with M&M Asphalt Maintenance, Inc. is at a cost not to exceed \$54,922.50 and is being fully funded by CDBG grant funds.

**MOTION:**

Move to approve/disapprove the Agreement with M&M Asphalt Maintenance, Inc. for the Harold Grimes Memorial Park Improvement Project Phase 1B – Parking Lot Resurfacing.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Construction Agreement  
Bid Tab

**FISCAL IMPACT ANALYSIS**

Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
<b>Inflows</b>					
Current Appropriation	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
<b>Outflows</b>					
Current Appropriation	\$54,922.50	0	0	0	0
Operating	0	0	0	0	0
Capital	0	0	0	0	0
<b>Net Fiscal Impact</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>No. of Addn'l Full-Time Employee Positions</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>New Appropriation Fiscal Impact:</b>		
	<b>Revenue Source</b>	<b>Expenditure</b>
Department		
Division		
GL Description		
GL Account Number		
Project Number		
Requested Funds		

<b>Budget Transfer Impact</b>		
	<b>Revenue Source</b>	<b>Expenditure</b>
Department		
Division		
GL Description		
GL Account Number		
Project Number		
Requested Funds		

<b>Contract Award - Existing Appropriation</b>		
	<b>Expenditure</b>	
Department	Recreation	
Division	Recreation	
GL Description	Improve other than Build	
GL Account Number	301-8060-572.63-63	
Project Number	GV2201	
Requested Funds	\$54,922.50	



**CITY OF LAKE WORTH BEACH, FLORIDA**



**CITY OF LAKE WORTH BEACH**

**IFB #23-103**

**Harold Grimes Memorial Park  
Improvement Project  
Phase 1B – Parking Lot  
Resurfacing**

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**Contract**

**CITY OF LAKE WORTH BEACH  
PUBLIC WORKS DEPARTMENT  
1749 3rd Avenue South  
Lake Worth, FL 33460**

City of Lake Worth Beach  
Harold Grimes Memorial Park Improvement Project  
Phase 1B – Parking Lot Resurfacing IFB #23-103

**TABLE OF CONTENTS**

<u>BIDDING AND CONTRACT DOCUMENTS</u>	<u>NO. OF PAGES</u>
00020 INVITATION TO BID .....	2
00100 INSTRUCTIONS TO BIDDERS .....	10
00300 BID FORM .....	11
00310 BIDDERS’S QUALIFICATION QUESTIONAIRE.....	5
00500 AGREEMENT .....	11
00501 OPINION OF ATTORNEY .....	1
00620 CONSTRUCTION PAYMENT AND PERFORMANCE BOND .....	3
00630 NOTICE OF COMPLIANCE WITH CHAPTER 556, FLORIDA STATUTES.....	1
00670 CONTRACTOR'S AFFIDAVIT TO OWNER .....	1
00680 APPLICATION FOR PAYMENT .....	1
00681 SCHEDULE OF VALUES AND WORK COMPLETED .....	1
00700 GENERAL CONDITIONS .....	72
00800 SUPPLEMENTARY CONDITIONS .....	6
00820 SPECIAL CONDITIONS .....	2
00840 RESIDENT PROJECT REPRESENTATIVE .....	3
00850 CAMPAIGN CONTRIBUTION STATEMENT .....	2
00851 SCRUTINIZED COMPANIES CERTIFICATION FORM.....	1
00900 ADDENDUM 1 .....	2
NOTICE OF INTENT TO AWARD.....	1
BID BOND .....	4
DOCUMENTATION SUBMITTED WITHIN CONTRACTOR BID PACKAGE .....	10
SCOPE OF WORK, SITE MAP & PHOTOS .....	10
01000 Palm Beach County Department of Housing & Economic Development Requirements for Federally Funded Projects Documentation.....	54
Part 1 – General Requirement and Forms	
Part 2 – DBRA Requirements and Use of Online Labor Compliance Reporting System (Elation)	
Wage Decision: FL20220182 Highway Mod 1 2-25-22	
HUD 2516 Reporting Form	
Subcontractor Statement of Acknowledgment	

**City of Lake Worth Beach  
Harold Grimes Memorial Park Improvement Project  
Phase 1B – Parking Lot Resurfacing  
IFB #23-103**

**00020  
INVITATION TO BID**

The City of Lake Worth Beach is soliciting bids from responsible and experienced contractors for the parking lot resurfacing of the Harold Grimes Memorial Park located at 520 Sunrise Court, Lake Worth Beach FL 33460.

**This Invitation for Bid (IFB) may be downloaded at [lakeworthbeachfl.bidsandtenders.net](http://lakeworthbeachfl.bidsandtenders.net) or [www.lakeworthbeachfl.gov](http://www.lakeworthbeachfl.gov).** All Bidders shall have a Bidding System Vendor account and be registered as a Plan Taker for this Bid opportunity, which will enable the Bidders to download the Bid Call Document, to receive Addenda email notifications and download all documents without the watermark “preview” on them.

To ensure receipt of the latest information and updates via email regarding this bid, or if a Bidder has obtained this Bid Document from a third party, the onus is on the Bidder to create a Bidding System Vendor account and be register as a Plan Taker for the bid opportunity. Copies of this IFB may also be acquired by contacting [purchasing1@lakeworthbeachfl.gov](mailto:purchasing1@lakeworthbeachfl.gov).

Time is of the essence and any bid received after **3:00 PM, February 1, 2023** whether by mail or otherwise shall be rejected by the City. The time of receipt shall be determined by the time clock located in the Financial Services Office. Bids shall be placed in a sealed envelope, marked with the bid number, title, date, and hour bids are scheduled to be received. **The City offices have limited access to the public at this time. Courier deliveries SHALL NOT require signature for the receipt. Bidders may deliver bids directly to City Hall during regular business hours 8 a.m. to 5 p.m. Monday through Friday. If bids are delivered in person, visitors shall ring the bell at the City Hall front entrance and wait for assistance or by contacting Procurement Division at (561) 586 – 1770 in advance.** Bidders are responsible for ensuring that their bid is stamped by office personnel by the deadline indicated.

All persons or entities responding to the IFB (hereafter “Bidders”) are responsible for ensuring that their bid is received by the City at its’ designated office address by the deadline indicated in the IFB. The City will in no way be responsible for delays caused by any occurrence. Bids shall not be submitted and will not be accepted in by e-mail, telephone, telegram, facsimile or any other City’s address except as notified below. The time of receipt shall be determined by the time clock in Financial Services Department.

**All bids must be mailed or delivered to:**

**City of Lake Worth Beach, City Hall  
Financial Services – Procurement Division  
7 North Dixie Hwy. 2<sup>nd</sup> floor  
Lake Worth Beach, FL 33460**

**SUBJECT LINE MUST BE IDENTIFIED AS IFB # 23-103 City of Lake Worth Beach Harold Grimes Memorial Park Improvement Project, Phase 1B – Parking Lot Resurfacing.**

Any subsequent contract executed as a result of this IFB may be funded, in whole or in part, by the Federal funds. Bidders therefore agree that any work performed pursuant to this IFB and resulting contract will comply with all applicable Federal law, regulations, executive orders, federal policies, procedures, and directives.

This project is funded by a HUD Community Development Block Grant (CDBG) via the PBC Department of Housing & Economic Development. Davis-Bacon & Related Acts, including wage rates, will apply to all construction work performed on this project. PBC requires the use of an online Labor Compliance Reporting System for all contractors and sub-contractors. Section 3 businesses are encouraged to bid.

All questions must be in writing submitted on [lakeworthbeachfl.bidsandtenders.net](http://lakeworthbeachfl.bidsandtenders.net) or [purchasing1@lakeworthbeachfl.gov](mailto:purchasing1@lakeworthbeachfl.gov) before **January 13, 2023** at 4 p.m.

Bids must be accompanied by a copy of Bid Security in the form of a certified or bank check made payable to the Owner, or a Bid Bond. The amount of the security shall not be less than five (5) percent of the Bidder's total price indicated in Bid Form. Bidder must be able to deliver original Bid Bond immediately after the bid opening if requested by the City.

No Bid may be withdrawn for a period of 120 days after the scheduled closing date for the receipt of bids except as otherwise provided in Article 13 of the Instructions to Bidders.

The successful Bidder, who is awarded the Contract, shall be required to furnish a 100% Construction Performance Bond and a 100% Construction Payment Bond which meet the requirements of section 255.05, Florida Statutes.

The OWNER reserves the right to reject any or all Bids, to waive all nonmaterial irregularities, to re-advertise, and to cancel any invitation to bid when it is in the best interests of the City.

PUBLISHED: January 1, 2023 – Palm Beach Post & City Website

**City of Lake Worth Beach  
Harold Grimes Memorial Park Improvement Project  
Phase 1B – Parking Lot Resurfacing  
IFB #23-103**

**00100  
INSTRUCTIONS TO BIDDERS**

**1. DEFINED TERMS.**

Terms used in these Instructions to Bidders which are defined in the Standard General Conditions of the Construction Contract (EDCJC C-700, 2013 Edition) have the meanings assigned to them in the General Conditions. The term "Bidder" means one who submits a Bid directly to Owner, as distinct from a sub-bidder, who submits a bid to a Bidder. The term "Successful Bidder" means the lowest, qualified, responsible and responsive Bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award. The term "Bidding Documents" includes the Advertisement or Invitation to Bid, Instructions to Bidders, the Bid Form, and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

**2. COPIES OF BIDDING DOCUMENTS.**

2.1. Complete sets of the Bidding Documents in the number and for the cost, if any, stated in the Advertisement or Invitation to Bid may be obtained from **lakeworthbeachfl.bidsandtenders.net** or **www.lakeworthbeachfl.gov**.

All Bidders shall have a Bidding System Vendor account and be registered as a Plan Taker for this Bid opportunity, which will enable the Bidders to download the Bid Call Document, to receive Addenda email notifications and download all documents without the watermark "preview" on them.

To ensure receipt of the latest information and updates via email regarding this bid, or if a Bidder has obtained this Bid Document from a third party, the onus is on the Bidder to create a Bidding System Vendor account and be register as a Plan Taker for the bid opportunity.

2.2. Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.3. Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

**3. QUALIFICATIONS OF BIDDERS.**

To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five days of Owner's request, written evidence such as financial data, previous experience, present commitments and other such data as may be reasonably specifically requested by Owner or otherwise required in Contract Documents. Each Bid must contain evidence of Bidder's qualification to do business in the state where the Project is located.

**4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE.**

4.1. It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c) consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify Engineer of all conflicts, errors or discrepancies in the Contract Documents.

4.2. Reference is made to Division 1: General Requirements of the Specifications for the identification of:

4.2.1. those reports of explorations and tests of subsurface conditions at the site which have been utilized by Engineer in preparation of the Contract Documents.

4.2.2. those drawings of physical conditions in or relating to existing surface and subsurface conditions (except Underground Facilities) which are at or contiguous to the site which have been utilized by Engineer in preparation of the Contract Documents.

4.2.3. Copies of such reports and drawings (referred to above), if not attached to the Specifications or added on the Drawings, will be made available by Owner to any Bidder on request. Those reports and drawings are not a part of the Contract Documents. Bidder may not rely upon the accuracy of the non-technical data, interpretations or opinions contained in those reports and drawings. Bidder may not rely on the completeness of those reports and drawings for the purposes of bidding or construction. Bidder may rely on any technical data contained in those reports and drawings specifically referenced in Division 1: General Requirements as technical data that can be relied on.

4.3. Information and data reflected in the Contract Documents with respect to Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities or others, and Owner does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

4.4. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders on subsurface conditions, Underground Facilities and other physical conditions, and possible changes in Contract Documents due to differing conditions appear in Paragraphs 5.03 and 5.05 of the General Conditions.

4.5. Before submitting a Bid, each Bidder will, at Bidder's own expense, be responsible to make or obtain such examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

4.6. On request in advance, Owner will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

4.7. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.

4.8. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## 5. INTERPRETATIONS AND ADDENDA.

5.1 All questions about the meaning or intent of the Contract Documents are to be directed to the bid on **lakeworthbeachfl.bidsandtenders.net** or by e-mail to **purchasing1@lakeworthbeachfl.gov**. Interpretations or clarifications considered necessary by the Owner or Engineer in response to such questions will be issued by Addenda. Questions received after **January 13, 2023 at 4 PM** may not be answered. Only questions answered by formal written Addenda will be binding. **Questions or requests for clarification directed to any member of the City staff or Engineer may be grounds for rejection**

**of the bid as being irregular. Oral and other interpretations or clarifications will be without legal effect.**

5.2. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Engineer.

## **6. BID SECURITY.**

6.1. Each Bid must be accompanied by Bid security made payable to Owner in an amount of five percent of the Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions.

6.2. The Bid security of the Successful Bidder will be retained by the Owner until such Bidder has delivered all of the following documents to the Owner:

6.2.1 All required certificates or proof of insurance;

6.2.2 The fully executed Agreement contained in the Contract Documents; and,

6.2.3 The fully executed Public Construction Bond (if required) along with a certified copy of the Public Construction Bond as recorded in the Official Records of Palm Beach County, Florida.

Upon receipt of all of the foregoing documents, the Bid security will be returned to the Successful Bidder. The required certificates or proof of insurance and the fully executed Agreement must be delivered by the Successful Bidder within fifteen days after the Successful Bidder's receipt of the Agreement from the Owner. The Public Construction Bond and certified copy of the same must be delivered to the Owner by the Successful Bidder no later than fifteen (15) days after the Owner approves and executes the Agreement contained in the Contract Documents (as previously executed and delivered by the Successful Bidder).

If the Successful Bidder fails to deliver all of the above documentation to the Owner in the timeframes stated above, the Owner may annul the Notice of Award and/or may immediately terminate the Agreement upon written notice to the Successful Bidder and the Bid security will be forfeited. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the Effective Date of the Agreement or the 120th day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven days after the Bid opening.

## **7. CONTRACT TIME.**

The numbers of days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the Contract Time) are set forth in the Bid Form and the Agreement. If Contract Times are left blank in the Bid Form, the time for Substantial Completion and final completion are to be set forth by Bidder in the Bid and will be included in the Agreement. The times will be taken into consideration by Owner during the evaluation of Bids, and it will be necessary for the Successful Bidder to satisfy Owner of Bidder's ability to achieve Substantial Completion and final completion within the times designated in the Bid.

## **8. LIQUIDATED DAMAGES.**

Provisions for liquidated damages, if any, are set forth in the Agreement.

## **9. SUBSTITUTE OR "OR-EQUAL" ITEMS.**

The contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications. A substitute or "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement. The procedure for submission of any such application by Contractor and consideration by Engineer is set forth in Article 7 of the General Conditions and may be supplemented in Division 1: General Requirements.

## **10. SUBCONTRACTORS, SUPPLIERS AND OTHERS.**

10.1. If the Bid Form or Specifications require (or if Owner requests after Bids are received) the identity of certain Subcontractors, Suppliers and other persons and organizations (including those who are to furnish the principal items of material and equipment) to be submitted to Owner in advance of the specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within seven days after the Bid opening (or seven days after request by Owner) submit to Owner a list of all such Subcontractors, Suppliers and other persons and organizations proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person or organization if requested by Owner. Subcontractors shall be required to meet Contractor's liability insurance requirements as established by the General and Supplementary Conditions or be listed as an additional insured on the apparent successful Bidder's policy. If Owner or Engineer after due investigation has reasonable objection to any proposed Subcontractor, Supplier, other person or organization, either may before the Notice of Award is given request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid price. If apparent Successful Bidder declines to make any such substitution, Owner may award the contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers and other persons and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the Bid security of any Bidder. Any Subcontractor, Supplier, other person or organization listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in the General Conditions.

10.2. No Contractor shall be required to employ any Subcontractor, Supplier, other person or organization against whom Contractor has reasonable objection.

## **11. BID FORM.**

11.1. The Bid Form is included with the Bidding Documents; additional copies may be obtained from the issuing office.

11.2. All blanks on the Bid Form must be completed in ink or by typewriter.

11.3. Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.

11.4. Bids by partnerships must be executed in the partnership name and signed by a general partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

11.5. All names must be typed or printed below the signature.

11.6. The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers of which must be filled in on the Bid Form). All Addenda are a part of the Bid documents and each Bidder will be bound by such Addenda, whether or not received by the Bidder. It is the responsibility of each Bidder to verify that he or she has received all Addenda issued before Bids are opened.

11.7. The address and telephone number for communications regarding the Bid must be shown.

## **12. SUBMISSION OF BIDS.**

Bids shall be submitted at the time and place indicated in the Advertisement or Invitation to Bid marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted) and name and address of the Bidder and accompanied by the Bid security and other required documents. Bids shall not be submitted and will not be accepted in by e-mail, telephone, telegram, facsimile or any other City's address except as notified below. The time of receipt shall be determined by the time clock in Financial Services Department.



**The original and one (1) electronic copy maximum size of 5 MB file on USB drive of the bid must be submitted in a sealed envelope, marked on the outside of the envelope with the Bid number, title, and date and hour bids are scheduled to be received.**

**All bids must be mailed or delivered by February 1, 2023 at 3 p.m. to:**

**City of Lake Worth Beach, City Hall  
Financial Services Office - Procurement  
7 North Dixie Hwy. 2<sup>nd</sup> floor  
Lake Worth Beach, FL 33460**

**SUBJECT LINE MUST BE IDENTIFIED AS IFB # 23-103 City of Lake Worth Beach Harold Grimes Memorial Park Improvement Project, Phase 1B – Parking Lot Resurfacing.**

### **13. MODIFICATION AND WITHDRAWAL OF BIDS.**

13.1. Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

13.2. If, within twenty-four hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

### **14. OPENING OF BIDS.**

Bids will be opened publicly immediately after the bid receipt at **the City Hall, 7 N Dixie Ave, Lake Worth Beach, FL 33460** and as indicated in the Invitation to Bid.

14.1. When Bids are opened publicly they will be read aloud, and the amounts of the base Bids and major alternates (if any) will be made available after the opening of Bids. If applicable, the bid will be opened in accordance with sec. 255.0518, Florida Statutes.

### **15. BIDS TO REMAIN SUBJECT TO ACCEPTANCE.**

All bids will remain subject to acceptance for \_\_\_\_\_ 120 days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to that date.

### **16. AWARD OF CONTRACT.**

16.1. Owner reserves the right to reject any and all Bids, to waive any and all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, nonresponsive, unbalanced or conditional Bids. Also, Owner reserves the right to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make and award to the Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

16.2. In evaluating Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

16.3. Owner may consider the qualifications and experience of Subcontractors, Suppliers and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions (or as requested by Owner after the Bids are received). Owner also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

16.4. Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers, and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

16.5. If the contract is to be awarded, it will be awarded to the lowest, responsive and responsible Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of the Project. No bid shall be accepted from, nor will any Contract be awarded to any Bidder who is in arrears to the Owner upon any debt or Contract or who is a defaulter as surety or otherwise upon any obligation to the Owner or who has failed to perform faithfully any previous Contract with the Owner or other party as determined by the Owner.

16.6. If the contract is to be awarded, Owner will give the Successful Bidder a Notice of Award within 120 days after the day of the Bid opening.

16.7. When Bidder is permitted to designate the Contract Time, Bid prices will be compared after adjusting for differences in the time designated in the Bid for Substantial Completion.

16.8. Any subsequent contract executed as a result of this IFB may be funded, in whole or in part, by the Federal funds. Bidders therefore agree that any work performed pursuant to this IFB and resulting contract will comply with all applicable Federal law, regulations, executive orders, federal policies, procedures, and directives.

## **17. CONTRACT SECURITY.**

Paragraph 6.01 of the General Conditions and the Supplementary Conditions set forth Owner's requirements as to performance and payment Bonds. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by the required performance and payment Bonds.

## **18. SIGNING OF AGREEMENT.**

When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within 15 days thereafter Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required Bonds. In the event the successful Bidder fails to execute the Contract and return same to the Owner within the stipulated fifteen (15) days, the Owner may disqualify the Bid, and said Bidder shall not be permitted to contest to the contrary and does waive such right upon submitting a Bid.

## **19. DISQUALIFICATION OF BIDDER**

19.1 Bidder may be disqualified and its Bid rejected for any of the following:

- a) Bidder does not meet the Competency of Bidder and Reference requirements set forth herein.
- b) Reason to believe that collusion exists among or between Bidders
- c) Unbalanced Bid; that is, Bid in which the prices bid for some items are out of all proportion to those Bids of others.
- d) Bidder's uncompleted workload, which in the judgment of the Owner, may cause detrimental impact or impair the prompt completion of this Contract.

- e) Lack of responsibility on the part of Bidder, (for example, no Bidder would be considered responsible who had failed to carry out any Contract in which the Owner had been directly or indirectly concerned), or to which Bidder failed to perform on other projects.
- f) A determination by Owner of the Contractor's lack of experience or lack of competency as may be revealed by qualification statements, financial statements, experience records, references, or other questionnaires.
- g) Substantial evidence of bad character or dishonesty.
- h) Bidder is involved in any current litigation with Owner.
- i) Bidder has defaulted on any contract or is in arrears on any contract.

## **20. LICENSES, PERMITS, AND CERTIFICATION**

20.1 When applicable, vendor must hold a Certificate of Competency issued by the State of Florida or the Palm Beach County Construction Industry Licensing.

20.2 A business tax receipt obtained from the Owner shall be required of any person maintaining a permanent business location or branch office within the City of Lake Worth Beach.

20.3 A copy of any licenses and permits shall be submitted with the Bid and must be in the name of the vendor shown on the Bid submittal.

## **21. PREPARATION EXPENSE**

21.1 Neither the Owner nor its representatives will be liable for any expenses incurred in connection with the preparation, presentation or submittal of any Bid.

## **22. NON-COLLUSION**

22.1 Bidder certifies that this Bid is made without prior understanding, agreement, or connection with any individual, firm, partnership, corporation or other entity submitting a Bid for the same materials, services, supplies, or equipment and is in all respects fair and without collusion or fraud. No premiums, rebates, or gratuities are permitted with, prior to, or after any delivery of material or provisions of services. Any violation of this provision may result in Contract cancellation, return of materials or discontinuation of services, and the possible removal of Bidder from the vendor Bid list(s).

## **23. CODE OF ETHICS**

23.1 If any Bidder violates or is a party to a violation of the Code of Ethics of the Owner, Palm Beach County, and/or of the State of Florida with respect to this Bid, such Bidder may be disqualified from performing the work described in this Bid or from furnishing the goods or services for which this Bid is submitted and may be further disqualified from bidding on any future Bids for work or for goods or services for the Owner.

## **24. CONFLICT OF INTEREST**

24.1 The award is subject to any and all applicable conflict of interest provisions found in the policies or Code of Ordinances of the City, the Palm Beach County Code of Ethics, and found in the Florida Statutes. All Bidders must complete the Conflict of Interest Form attached hereto.

Further, any Bidder coming before the City Commission for an award of a contract and who has made an election campaign contribution in an amount that is more than one hundred dollars (\$100.00) to any elected official of the City Commission, who is a current sitting member of the Commission, must disclose such election campaign contribution, verbally and in writing, in their responsive proposal to this IFB. **FAILURE TO INCLUDE THE CAMPAIGN CONTRIBUTION STATEMENT WILL CAUSE YOUR BID TO BE REJECTED.**

## **25. DRUG FREE WORKPLACE PROGRAMS**

25.1 Preference may be given to businesses with Drug-Free Work Place Programs. Whenever two or more Bids which are equal with respect to price, quality, and service are received by the Owner for the procurement of commodities or contractual services, a Bid received from a business that completes the attached DFW form certifying that it is a DFW may be given preference in the award process.

## **26. LEGAL REQUIREMENTS**

26.1 Federal, State, County and Owner laws, ordinances, rules, codes, guidelines, directives and regulations that in any manner affect the items covered herein apply. Lack of knowledge by the Bidder shall in no way be a cause for relief from responsibility.

## **27. PUBLIC ENTITY CRIMES**

27.1 By submitting a bid, each bidder acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

### **27.2 SCRUTINIZED COMPANIES**

A. Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the Contractor or any of its subcontractors are found to have submitted a false certification; or if the Contractor or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

B. If this Agreement is for one million dollars or more, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the Contractor, or any of its subcontractors are found to have submitted a false certification; or if the Contractor or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

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

D. The Contractor agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

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

F. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

## **28. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH ACT**

28.1 The Bidder certifies that all equipment and materials contained in this Bid shall meet all O.S.H.A. requirements. Bidder further certifies that, if it is the successful Bidder and the equipment and/or materials delivered are subsequently found to be deficient in any O.S.H.A. requirements in effect on the date of delivery, all costs necessary to bring the equipment and/or materials into compliance with the aforementioned requirements shall be borne by the Bidder.

## **29. NON-APPROPRIATIONS**

29.1 The obligations of the Owner to make a Bid award and sign an agreement under the terms of this "Invitation to Bid" are contingent upon funds lawfully appropriated for this purpose. Should funds not be appropriated for this purpose, the Owner, at its sole discretion, shall have the right to reject all Bids.

## **30. FLORIDA PUBLIC RECORDS ACT AND CONTRACT CONTENT OWNERSHIP**

30.1 All material submitted regarding this Bid becomes the property of the Owner. Pursuant to sec. 119.07(1), Fla. Stat., sealed Bids received by the Owner pursuant to a competitive solicitation are subject to disclosure when the Owner provides notice of an intended decision or until thirty (30) after opening of the Bids, whichever is earlier. If the Owner rejects all bids submitted in response to a competitive solicitation and the Owner concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids remain exempt from sec. 119.07(1), Fla. Stat., until such time as the Owner provides notice of an intended decision concerning the reissued competitive solicitation or until the Owner withdraws the reissued competitive solicitation. A Bid is not exempt from disclosure for longer than 12 months after the initial notice rejecting all Bids made by the Owner. Bidder should take special note of this as it relates to any proprietary information that might be included in their offer. Any resulting contract may be reviewed by any person after the contract has been executed by the Owner. The Owner has the right to use any or all information/material submitted in response to this bid and/or any resulting contract from the same. Disqualification of a Bidder does not eliminate this right.

30.2 Contractor shall comply with Florida's Public Records Laws, and, if applicable, specifically agrees to:

- a) Keep and maintain public records that ordinarily and necessarily would be required by the Owner in order to perform the service.
- b) Provide the public with access to public records on the same terms and conditions that the Owner would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- d) Meet all requirements for retaining public records and transfer, at no cost, to the Owner all public records in possession of the Contractor upon termination of the Contract Documents and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Owner in a format that is compatible with the information technology systems of the Owner.

## **31. E-VERIFY**

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

- a) Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all CONTRACTORs (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the Contractors' newly hired employees;
- b) Secure an affidavit from all CONTRACTORs (providing services or receiving funding under this Agreement) stating that the CONTRACTOR does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;
- c) Maintain copies of all CONTRACTOR affidavits for the duration of this Agreement and provide the same to the City upon request;
- d) Comply fully, and ensure all CONTRACTORs comply fully, with Section 448.095, Florida Statutes;

- e) Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
- f) Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONTRACTOR may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

END OF SECTION

**Bids shall be submitted to:**

**City of Lake Worth Beach, City Hall  
Financial Services Office - Procurement  
7 North Dixie Hwy. 2<sup>nd</sup> floor  
Lake Worth Beach, FL 33460**

**M&M ASPHALT MAINTENANCE INC.,  
BIDDER: D/B/A ALL COUNTY PAVING**

**PROJECT: City of Lake Worth Beach Harold Grimes Memorial Park  
Improvement Project Phase 1B – Parking Lot Resurfacing  
IFB #23-103**

**DATE: 02/01/2023  
(Bid Submitted on)**

**00300  
BID FORM**

THIS BID IS SUBMITTED TO:

1. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

2. BIDDER accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 120 days after the day of Bid opening. BIDDER will sign and submit the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of OWNER's Notice of Award.

3. In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that:

(a) BIDDER has examined copies of all the Bidding Documents and of the following Addenda (receipt of all which is hereby acknowledged):

Date 01/18/2023 Number #01

(b) BIDDER has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

(c) BIDDER has studied carefully all reports and drawings of subsurface conditions and drawings of physical conditions which are identified in the Division 1: General Requirements as provided in paragraph 5.03 of the Supplementary Conditions, and accepts the determination set forth in Division 1: General Conditions of the extent of the technical data contained in such reports and drawings upon which BIDDER is entitled to rely.

(d) BIDDER has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests and studies (in addition to or to

supplement those referred to in (c) above) which pertain to the subsurface or physical conditions at the site or otherwise may affect the cost, progress, performance or furnishing of the Work as BIDDER considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 5.03 of the General Conditions, as amended by the Supplementary Conditions; and no additional examinations, investigations, explorations, tests, reports or similar information or data are or will be required by BIDDER for such purposes.

- (e) BIDDER 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 or similar information or data in respect of said Underground Facilities are or will be required by BIDDER in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 5.05 of the General Conditions.
- (f) BIDDER has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- (g) BIDDER has given ENGINEER written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to BIDDER.
- (h) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; BIDDER has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.

4. BIDDER agrees to perform all the Work described in Contract Documents, subject to adjustments as provided therein, for the Prices BIDDER provides on the Unit Price Schedule (Page 00300-5):

5. BIDDER declares it understands that the unit quantities shown on the Bid Form Unit Price Schedule are approximate only and not guaranteed and are subject to either increase or decrease; and that should the quantities of any of the items of Work be increased, the BIDDER agrees to do the additional Work at the unit prices set out herein, and should the quantities be decreased, BIDDER also understands that final payment shall be made on actual quantities completed at the unit prices, and shall make no claims for anticipated profits for any decrease in the quantities.

6. The BIDDER further declares it understands the OWNER may elect to construct only a portion of the Work covered by these Documents and BIDDER agrees to perform that portion of the Work for which BIDDER is awarded a Contract at the unit prices quoted herein.

7. BIDDER agrees that the Work:

will be substantially complete within 90 calendar days after the date when the Contract Time commences to run as provided in paragraph 4.01 of the General Conditions, and completed and ready for final payment within 120 calendar days after the date when the Contract Time commences to run.

BIDDER accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work on time.

8. The following documents are attached to and made a condition of this Bid:

- (a) Required Bid Security in the form of     Bid Bond    .
- (b) Unit Price Schedule (Page(s) 00300-5).
- (c) Trench Safety Affidavit (Page(s) 00300-6).



- (d) Schedule of Subcontractors (Page(s) 00300-7).
- (e) Schedule of Suppliers, Equipment and Materials (Page(s) 00300-8).
- (f) Sworn Statements Under Section 287.133(3)(a), Florida Statutes, on Public Entity Crimes (Page(s) 00300-9 and 00300-10).
- (g) Certification of Drug Free Workplace Program (Page(s) 00300-11).
- (h) Bidders Qualification Questionnaire (Page(s) 00310-1 thru 00310-5).
- (i) Campaign Contribution Statement (Page(s) 00850-1 and 00850-2).
- (j) Scrutinized Companies Certification Form (Page(s) 00851-1).
- (k) Federal Documents to be Submitted:
  - Non-collusion Affidavit of Prime Bidder
  - Anti-kickback Affidavit
  - Certification of Eligibility of General Contractor
  - Certification of Non-segregated Facilities
  - Workforce Projection
- (l) (List other documents as pertinent):

9. Communications & questions concerning this Bid shall be submitted **lakeworthbeachfl.bidsandtenders.net** or **purchasing1@lakeworthbeachfl.gov**.

The phone number and address of BIDDER indicated below.

Contractor Address: 1180 SW 10TH STREET,  
DELRAY BEACH, FL 33444

Contractor Phone Number: 561-588-0949

10. The terms used in this Bid which are defined in the General Conditions of the Construction Contract included as part of the Contract Documents have the meanings assigned to them in the General Conditions.

11. BIDDER's Florida Contractor's License No. CGC1527974.

12. BIDDER covenants that it is qualified to do business in the State of Florida and has attached evidence of BIDDER's qualification to do business in the State of Florida, or if not attached, BIDDER covenants to obtain such evidence within five days of request by OWNER to provide evidence.

13. BIDDER represents that it is financially solvent and sufficiently experienced and competent to provide all goods and services required under this IFB and that all information provided in the Bid is true and correct in all respects.

14. If BIDDER is:

An Individual

By \_\_\_\_\_ (SEAL)  
(Individual's Name)

\_\_\_\_\_  
(Signature)

doing business as \_\_\_\_\_

Business address: \_\_\_\_\_

\_\_\_\_\_

Phone No. : \_\_\_\_\_ e-mail: \_\_\_\_\_

A Partnership

By \_\_\_\_\_ (SEAL)  
(Firm Name)

\_\_\_\_\_  
(General Partner) (Signature)

Business address: \_\_\_\_\_

\_\_\_\_\_

Phone No. : \_\_\_\_\_ e-mail: \_\_\_\_\_


A Corporation

By M&M ASPHALT MAINTENANCE INC., D/B/A ALL COUNTY PAVING (SEAL)  
(Corporation Name)

FLORIDA  
(State of Incorporation)

By JEFFREY COHEN  
(Name of Person Authorized to Sign)

EXECUTIVE VICE PRESIDENT

 (Title)

\_\_\_\_\_  
(Signature)

(Corporate Seal)

Attest DENISE CAMINERO  
(Secretary)

 (Signature)

Business address: 1180 SW 10TH STREET, DELRAY BEACH, FL 33444

\_\_\_\_\_

Phone No. : 561-588-0949 e-mail: PUBLICWORKS@ALLCOUNTYPAVING.COM

**City of Lake Worth Beach Harold Grimes Memorial Park Improvement Project**  
**Phase 1B – Parking Lot Resurfacing**  
**IFB #23-103**

**UNIT PRICE SCHEDULE**

All bid items shall include prices for furnishing, to the City, all materials, equipment, supplies, and all costs incurred in providing all work shown on the plans and specifications for City of Lake Worth Beach Harold Grimes Memorial Park Improvement Project, Phase 1B, Parking Lot Resurfacing. Said costs shall be complete and inclusive of all labor, permits, inspection, taxes, bond(s), insurance, miscellaneous costs, record drawings, warranty, overhead and profit.

Harold Grimes Memorial Park Improvement Project Phase 1B – Parking Lot Resurfacing					
ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	Total
1	MOBILIZAATION (OVER 100SY)	1	LS	4,500.00	4,500.00
2	1" TYPE S-3 ASPHALIC CONCRETE	2400	SY	9.50	22,800.00
3	MILL EXIST. ASPHALT 1.5" AVG DEPTH	2400	SY	3.50	8,400.00
4	MOBILIZATION (OVER 100 LF)	1	LS	750.00	750.00
5	REMOVE EX. 6" CONCRETE	228	SF	8.20	1,869.60
6	6" CONCRETE SIDEWALK / DRIVEWAY (3,000 PSI)	228	SF	8.20	1,869.60
7	REMOVE EX. CONCRETE CURBING (ALL TYPES)	41	LF	19.00	779.00
8	TYPE D CURBING	41	LF	19.00	779.00
9	MOBILIZATION (OVER 50 LF)	1	LS	750.00	750.00
10	HANDICAP PARKING STALL COMPLETE W/ SIGN (PAINT)	2	EA	450.00	900.00
17	Stall line striping (White) 4" Single Stall Line	1056	LF	0.65	686.40
18	Stop Bars	2	EA	27.00	54.00
19	Hash Line (Yellow)	135	LF	0.65	87.75
20	Yellow curb	25	LF	0.91	22.75
21	Car Stop	51	EA	62.40	3,182.40
22	One Way Signs	4	EA	416.00	1,664.00
23	Stop Signs	2	EA	416.00	832.00
24	Do Not Enter Signs	2	EA	416.00	832.00
25	Custom Signs (Vet Parking, No Dogs Allowed, Park Hours (2ea))	4	EA	416.00	1,664.00
				<b>Contingency:</b>	<b>\$2,500.00</b>
				<b>Total:</b>	<b>\$54,922.50</b>

TIME SEQUENCE: State the approximate number of working days until the project can be started after receipt of notification to proceed. A working day is Monday through Friday. Assume notifications of award within 30 days of bid return date.

**DAYS TO START:** 45 DAYS

**DAYS TO COMPLETE:** 45 DAYS

State the maximum number of working days to complete the project.

**City of Lake Worth Beach  
Harold Grimes Memorial Park Improvement Project  
Phase 1B – Parking Lot Resurfacing  
IFB #23-103**

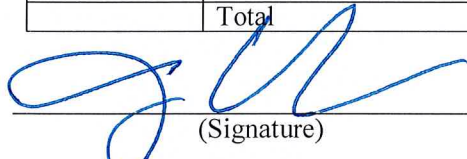
**TRENCH SAFETY AFFIDAVIT**

(FAILURE TO COMPLETE THIS FORM MAY RESULT IN THE BID BEING DECLARED NON-RESPONSIVE)

M&M ASPHALT MAINTENANCE INC.,  
D/B/A ALL COUNTY PAVING (NAME OF CONTRACTOR) hereby provides written assurance that compliance with applicable Trench Safety Standards identified in the Occupational Safety & Health Administration's Excavation Safety Standards, (OSHA) 29 C.F.R.S. 1926.650 Subpart P will be adhered to during trench excavation in accordance with Florida Statutes 553.60 through 553.64 inclusive (1990), "Trench Safety Act".

The undersigned acknowledges that included in the various items of the proposal and in the Total Bid Price are costs for complying with the Florida "Trench Safety Act" as summarized below: (Attach additional sheets as necessary)

Schedule Item	Trench Safety Measure (Slope, Trench Shield, etc.)	Cost
		\$
		\$
N/A	N/A	\$ N/A
		\$
		\$
	Total	\$

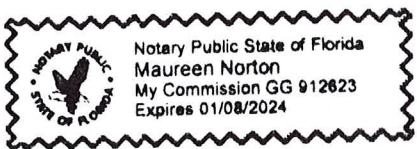
 (Signature) 02/01/2023 (date)

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

THE FOREGOING instrument was acknowledged before me by means of  physical presence or  online notarization on this 1<sup>ST</sup> day of FEBRUARY 2023, by JEFFREY COHEN, as the VICE-PRESIDENT [title] of M&M ASPHALT MAINTENANCE [vendor's name], a [corporate description], who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

  
Notary Public Signature

Notary Seal:



**SCHEDULE OF MAJOR SUBCONTRACTORS**

List Proposed Major Subcontractors

Category of Work

LINE DESIGN AND SOLUTIONS

PAVEMENT MARKINGS

INTERSTATE CONCRETE SERVICES

CONCRETE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SCHEDULE OF MAJOR EQUIPMENT AND MATERIALS**

Description	Manufacturer	Model
PLEASE SEE ATTACHED LIST OF EQUIPMENT OWNED BY M&M ASPHALT MAINTENANCE INC., D/B/A ALL COUNTY PAVING		
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
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**SWORN STATEMENT UNDER SECTION 287.133(3)(a),  
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to CITY OF LAKE WORTH  
[print name of the public entity]  
by JEFFREY COHEN / EXECUTIVE VICE PRESIDENT  
[print individual's name and title]  
for M&M ASPHALT MAINTENANCE INC., D/B/A ALL COUNTY PAVING  
[print name of entity submitting sworn statement]

whose business address is 1180 SW 10TH STREET, DELRAY BEACH, FL 33444

and (if applicable) its Federal Employer Identification Number (FEIN) is 61-1595442

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
1. A predecessor or successor of a person convicted of a public entity crime; or
  2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1)(c), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Please indicate which statement applies.]

N/A Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

N/A The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

N/A The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. [attach a copy of the final order]

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

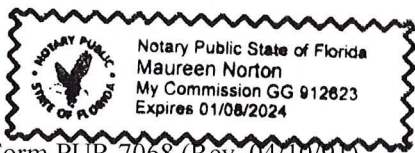
[Signature]  
[signature]  
02/01/2023  
[date]

STATE OF FLORIDA )  
COUNTY OF PAUM BEACH )

THE FOREGOING instrument was acknowledged before me by means of  physical presence or  online notarization on this 1<sup>st</sup> day of FEBRUARY 2023, by JEFFREY COHEN, as the VICE-PRESIDENT [title] of M&M ASPHALT MAINTENANCE [vendor's name], a \_\_\_\_\_ [corporate description], who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

[Signature]  
Notary Public Signature

Notary Seal:



Form PUR 7068 (Rev. 04/10/91)  
M/R 03/06/92



## CERTIFICATION OF DRUG FREE WORKPLACE PROGRAM

I certify the firm of M&M ASPHALT MAINTENANCE INC., D/B/A ALL COUNTY PAVING maintains a drug-free workplace program, and that the following conditions are met:

1. We publish a statement notifying employees that the unlawful manufacturer, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying that actions will be taken against employees for violations of such prohibitions.
2. We inform employees about the dangers of drug abuse in the workplace, the company's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. We give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection one (1).
4. In the statement specified subsection one (1) we notify the employee that; a condition of working in the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty nolo contendere to any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. We impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. We make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

  
\_\_\_\_\_  
Contractor's Signature

**City of Lake Worth Beach  
Harold Grimes Memorial Park Improvement Project  
Phase 1B – Parking Lot Resurfacing  
IFB #23-103**

**00310  
BIDDERS'S QUALIFICATION QUESTIONNAIRE  
(Include in Bid Submission)**

THE UNDERSIGNED GUARANTEES THE TRUTH AND ACCURACY OF ALL STATEMENTS AND ANSWERS HEREIN CONTAINED:

- A. Any information judged by OWNER OR ENGINEER to be false is grounds for rejection of Bid and Cost Proposal. (Use additional sheets as required to provide the required information.)
- B. The individual who holds the General Contractor's License certified in Florida shall be active in the management and ownership of the firm awarded the work and be available to provide their expertise for the project on an ongoing-basis. Provide the name of this individual for the complete duration of this project.

ANDY PLOETZ

- 1a. State the numbers of years your organization has been doing business in Florida.

13 YEARS

- 1b. State the numbers of years your organization has been doing business as a Licensed General Contractor in Florida. 13 YEARS

2. We normally perform 90 % of the work with our own forces.

List trades below: ASPHALT MILLING, PAVING, SEALCOATING, PAVEMENT MARKINGS, CONCRETE

REPAIRS, ASPHALT REPAIRS, BRICK PAVERS, ROOT DAMAGE REPAIRS.

3. Have you ever failed to complete work awarded to you? If so, state where when and why  
NO, WE HAVE ALWAYS COMPLETED PROJECTS IN A TIMELY MANNER

4. BIDDER shall have successfully constructed, completed and certified, the following:
1. A minimum of three (3) similar parking lot resurfacing projects within the past 5 years.
  2. Managed a project on \$50,000 - \$100,000 dollar scale.
- List these projects below (or attach).

Project #1 Name: SOUTH BEACH PARKING LOT IMPROVEMENTS -CITY OF FORT LAUDERDALE

Contract Amount: \$254,411.96

Owner: DIANA CARILLO Phone No: 954-828-3760

Consultant /Engineer N/A Phone No. N/A

Owner Contact: N/A Phone No. N/A

Description of Project: ASPHALT MILLING & RESURFAING

Date Completed: 10/25/2022

Contract Schedule (days): 60 DAYS

Actual Completion Schedule: 30 DAYS

Project #2 Name: WELLEBY PARK- CITY OF SUNRISE

Contract Amount: \$148,458.95

Owner: EARL PRIZLEE Phone No: 954-888-6002

Consultant /Engineer N/A Phone No. N/A

Owner Contact: N/A Phone No. N/A

Description of Project: ASPHALT RESURFACING AND CONCRETE PAD

Date Completed: 10/21/2021

Contract Schedule (days): 60 DAYS

Actual Completion Schedule: 45 DAYS

Project #3 Name: JOHN I. LEONARD HIGH SCHOOL-THE SCHOOL BOARD OF PALM BEACH COUNTY

Contract Amount: \$298,725.00

Owner: LOUIS FELDKAMP Phone No: 561-882-1937

Consultant /Engineer N/A Phone No. N/A

Owner Contact: N/A Phone No. N/A

Description of Project: PARKING LOT RESURFACING

Date Completed: 04/13/2022

Contract Schedule (days): 60 DAYS

Actual Completion Schedule: 35 DAYS

5. BIDDER shall demonstrate the ability to complete projects on time within the contract completion dates. List ALL projects within the last three years (started, underway, or completed):

Project: SOUTH BEACH PARKING LOT IMPROVEMENTS -CITY OF FORT LAUDERDALE

Contract Schedule (days) 45 DAYS

Actual Completion Schedule (days) 30

PLEASE SEE ATACHED PROJECTS

6. List ALL projects within the past five years (started, underway, or completed) in which liquidated damages (LD) were incurred, either directly or indirectly:

Project: N/A -NONE

LD Amount: \_\_\_\_\_

LD Unit Price: \_\_\_\_\_

7. BIDDER shall specifically name proposed superintendents to be utilized on this project and identify years of experience completed by the proposed superintendents within the previous five years. It must be demonstrated that the experience is with the current bidder.

Name: HERB MILLER

Position: DIRECTOR OF PROJECT MANAGEMENT

Years of Experience with BIDDER: 6 YEARS

Type of Work Responsible For: PLEASE SEE ATTACHED RESUME

License: N/A -NONE

9. BIDDER shall provide information related to the job safety and safety rating of the corporation: CURRENT SAFETY RATING FOR M&M ASPHALT MAINTENANCE INC.,

D/B/A ALL COUNTY PAVING IS 1.02

10. Bonding Capacity

(a) Please state your bonding capacity per project. 20,000,000.00 SINGLE PROJECTS

(b) Please state your total bonding capacity. 50,000,000.00 AGGREGATE

(c) Please provide name, address and contact person of your bonding company.

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12. What equipment do you own that is available for the proposed work?

PLEASE SEE ATTACHED LIST OF EQUIPMENT OWNED BY

M&M ASPHALT MAINTENANCE INC., D/B/A ALL COUNTY PAVING

13. What equipment will you purchase for the proposed work?

N/A -NONE

14. What equipment will you rent for the proposed work?

N/A -NONE

15. List and describe all successful Performance or Payment Bond claims made to your surety(ies) during the last five (5) years. The list and descriptions should include claims against the bond of the Bidder and its predecessor organization(s).

N/A -NONE

16. List all claims, arbitrations, administrative hearings and lawsuits brought by or against the Bidder or its predecessor(s) during the last five (5) years. The list shall include all case names; case, arbitration or hearing identification numbers; the name of the project over which the dispute arose; and a description of the subject matter of the dispute and the resolution of the same.

NONE

17. State the true, exact, correct and complete name of the partnership, corporation or trade name under which you do business. (If corporation, state the name of the president and secretary. If a partnership, state the name of all partners. If a trade name, state the name of the individuals who do business under the trade name).

M&M ASPHALT MAINTENANCE INC., D/B/A ALL COUNTY PAVING

(a) The business is a CORPORATION

(b) The address of the principal place of business is: 1180 SW 10TH STREET, DELRAY BEACH, FL 33444

(c) The name of the corporate officers, or partners, or individuals doing business under a trade name are as follows:


KENNETH GOLDBERG/ PRESIDENT

JEFFREY COHEN / EXECUTIVE VICE PRESIDENT

If a Corporation, attach a copy of the most recent good standing certificate issued by the Secretary of State of Florida.

Date 02/01/2023

M&M ASPHALT MAINTENANCE INC.,  
Bidder: D/B/A ALL COUNTY PAVING

By: 

Title: EXECUTIVE VICE PRESIDENT

Mailing Address: 1180 SW 10TH STREET

DELRAY BEACH, FL 33444

END OF BIDDER'S QUALIFICATION QUESTIONNAIRE

**00500**  
**AGREEMENT**

THIS AGREEMENT is dated and will be effective on the \_\_\_\_\_, by and between the **City of Lake Worth Beach** (hereinafter called Owner) and **M & M Asphalt Maintenance Inc. dba All County Paving** (hereinafter called Contractor).

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**ARTICLE 1. WORK.**

Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: City of Lake Worth Beach Harold Grimes Memorial Park Improvement Project Phase 1B – Parking Lot Resurfacing IFB #23-103, and all else necessary for a complete and functional project that meet or exceeds all requirements of the City of Lake Worth Beach Public Works Department.

The Project, of which the Work under the Contract Documents is a part, shall be referred to as: City of Lake Worth Beach Harold Grimes Memorial Park Improvement Project, Phase 1B Parking Lot Resurfacing.

This Agreement may be funded, in whole or in part, by the Federal funds. Contractor therefore agrees that any work performed pursuant to this agreement will comply with all applicable Federal law, regulations, executive orders, federal policies, procedures, and directives.

**ARTICLE 2. ENGINEER**

The Project has been designed by the City, who is hereinafter called Engineer and who is to act as Owner's representative, assume all duties and responsibilities and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

**ARTICLE 3. CONTRACT TIME.**

3.1 The Work will be substantially completed within 90 days from the date when the Contract Time commences to run as provided in paragraph 4.01 of the General Conditions and shall be finally complete and ready for final payment in accordance with paragraph 15.06 of the General Conditions within 120 days from the date when the Contract Time commences to run.

3.2 All time limits for Milestones, if any, Substantial Completion and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

**3.3 LIQUIDATED DAMAGES. Owner and Contractor recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with the Contract Documents. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such**

**proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner Two Hundred and 00/100 dollars (\$ 200.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion if Contractor shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner Two Hundred and 00/100 dollars (\$200.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.**

3.4 In the Owner's sole discretion, a requested extension of time may be denied for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last five (5) years of weather recorded or otherwise established by the Owner.

#### **ARTICLE 4. CONTRACT PRICE.**

4.1 Owner shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents, subject to adjustment as provided therein, in current funds as follows:

- A. For all Work other than Unit Price Work, a lump sum of: \$ \_\_\_\_\_ n/a \_\_\_\_\_.
- B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

**TOTAL OF ALL UNIT PRICES Fifty Four Thousand Nine Hundred Twenty-Two Dollars and Fifty Cents (\$54,922.50)**

which is based on the unit price(s) in the Bid Form Unit Price Schedule.

#### **ARTICLE 5. PAYMENT PROCEDURES.**

Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

5.1 PROGRESS PAYMENTS. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the 10<sup>th</sup> day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values established in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided elsewhere in the Contract Documents.

- 5.1.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or Owner may withhold, in accordance with the General Conditions, less liquidated damages, if any.

100% of Work completed.



100% of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to Owner as provided in the General Conditions).

5.1.2 Upon Substantial Completion, in an amount sufficient to increase total payments to Contractor to 98% of the Contract Price, less such amounts as Engineer shall determine, or Owner may withhold, in accordance with the General Conditions, less liquidated damages, if any.

5.2 FINAL PAYMENT. Upon final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions, and settlement of all claims, including liquidated damages, if any, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraph 15.06.

#### **ARTICLE 6. INTEREST.**

6.1 All payments due and not made within the time prescribed by section 218.735, Florida Statutes, shall bear interest at the rate of 1 percent per month in accordance with section 218.735, Florida Statutes, as amended from time to time.

#### **ARTICLE 7. CONTRACTOR'S REPRESENTATIONS.**

In order to induce Owner to enter into this Agreement Contractor makes the following representations:

7.1 Contractor has examined and carefully studied the Contract Documents and any data and reference items identified in the Contract Documents.

7.2 Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress and performance of the Work.

7.3 Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress and performance of the Work.

7.4 Contractor has studied carefully all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical data in such reports and drawings, and (2) reports and drawings related to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical data in such reports and drawings. Contractor accepts the determination set forth in the Contract Documents of the extent of the technical data contained in such reports and drawings upon which Contractor is entitled to rely, if any.

7.5 Contractor has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies, if any, (in addition to or to supplement those referred to in paragraph 7.4 above) which pertain to the subsurface or physical conditions at or adjacent 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 Contract Price, within the Contract Time and in

accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.

7.6 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents, if any, with respect to existing Underground Facilities at or adjacent 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 will be required by Contractor in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.

7.7 Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress and performance of the work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

7.8 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 and based on the information and observations referred to above, the Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

7.9 Contractor has given Engineer written notice of all conflicts, errors or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor.

7.10 Contractor acknowledges that the Contract Documents are generally sufficient to indicate and convey an adequate understanding of all terms and conditions for performance and furnishing of the Work.

7.11 Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

7.12 Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

#### **ARTICLE 8. CONTRACT DOCUMENTS.**

The Contract Documents which comprise the entire Agreement between Owner and Contractor concerning the Work consist of the following:

8.1 This Agreement consisting of 11 pages.

8.2 Exhibits to this Agreement identified as:

a. The Project Manual (pages 1 to xx, inclusive);

- b. Contractor's Bid (page 00300-X, inclusive);
- c. Permits (pages \_\_\_\_ to \_\_\_\_, inclusive);
- d. Other: \_\_\_\_\_

8.3 Performance Bond and Payment Bond consisting of 3 pages (plus Power of Attorney Forms as applicable).

8.4 Notice of Award and Notice to Proceed.

8.5 General Conditions consisting of 72 pages.

8.6 Supplementary Conditions consisting of 6 pages.

8.7 Palm Beach County Department of Housing & Economic Development Requirements for Federally Funded Projects Documentation consisting of 72 pages

8.8 Bid documents as listed in the table of contents of the Project Manual.

8.9 Project Specifications consisting of \_\_ pages.

8.10 Drawings not attached hereto but are listed in Specifications.

8.11 Addenda numbers \_\_\_\_\_ to \_\_\_\_\_, inclusive.

8.12 Contractor's Bid consisting of \_ page.

8.13 Documentation submitted by Contractor prior to Notice of Award.

8.14 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.

8.15 The documents listed under Article 8 above are attached to this Agreement (except as expressly noted otherwise above).

8.16 Any other document attached hereto or incorporated herein by the Owner.

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

*Governing Order of Contract Documents* - The Contract Documents include various divisions, sections and conditions which are essential parts for the work to be provided by the Contractor. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, the following precedence will govern the interpretation of the Contract Documents prior to award of the contract.

1. Agreement
2. Addenda
3. Instructions to Bidders
4. Special Conditions

5. Supplementary Conditions
6. General Conditions
7. Technical Specifications
8. Details
9. City Standard Details
10. Drawings/Plans
11. Bid Form

After award, Work Change Directives, Change Orders, amendments and revisions to plans and specifications will take precedence over any of the above. In case of discrepancy among technical specifications, drawings and plans, the most restrictive shall govern. Detailed plans shall have precedence over general plans. In the event that any conflicts cannot be resolved by reference to this Governing Order of Contract Documents provision, then City shall resolve the conflict in any manner which is acceptable to City and which comports with the overall intent of the Contract Documents.

#### **ARTICLE 9. MISCELLANEOUS.**

9.1 *Terms.* Terms used in this Agreement will have the meanings indicated in the General Conditions.

9.2 *Assignment.* Unless expressly agreed to elsewhere in the Contract documents, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3 *Successors and assigns.* Owner and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

9.4 *Severability.* Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replaced such stricken provision or part thereof with a valid and enforceable provisions that comes as close as possible to expressing the intention of the stricken provision.

9.5 *Public entity crimes.* 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 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.

AGREEMENT

00500-6

9.6 *Inspector General.* In accordance with Palm Beach County ordinance number 2011-009, the Contract Documents may be subject to investigation and/or audit by the Palm Beach County Inspector General. Contractor should review such ordinance in order to be aware of its rights and/or obligations under such ordinance and as applicable.

9.7 *Waiver.* Failure of either party to enforce or exercise any right(s) under the Contract Documents shall not be deemed a waiver of either party's right to enforce said right(s) at any time thereafter.

9.8 *Waiver of jury trial.* TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THE CONTRACT DOCUMENTS.

9.9 *Independent Contractor.* The Contractor is, and shall be, in the performance of all Work under the Contract Documents, an Independent Contractor, and not an employee, agent, or servant of the Owner. All persons engaged in any of the Work performed pursuant to the Contract Documents shall at all times and in all places be subject to the Contractor's sole direction, supervision and control.

9.10 *Access and audits.* The Contractor shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the Work for at least five (5) years after final payment is made. The Owner shall have access to such books, records, and documents as required for the purpose of inspection or audit during normal business hours at the Contractor's place of business. Under no circumstances will Contractor be required to disclose any confidential or proprietary information regarding its products and service costs.

9.11 *Preparation.* The Contract Documents shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

9.12 *Public Records Law.* Contractor shall comply with Florida's Public Records Laws, and specifically agrees to:

- a) Keep and maintain public records required by the Owner to perform the service.
- b) Upon request from the Owner's custodian of public records, provide the Owner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the Owner.
- d) Upon completion of the contract, transfer, at no cost, to the Owner all public records in possession of the Contractor or keep and maintain public records required by the Owner to perform the service. If the Contractor transfers all public records to the Owner upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall

meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Owner, upon request from the Owner's custodian of public records, in a format that is compatible with the information technology systems of the Owner.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT: ATTENTION CITY CLERK, (561) 586-1660 OR [CITYCLERK@LAKEWORTHBEACHFL.GOV](mailto:CITYCLERK@LAKEWORTHBEACHFL.GOV) OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.**

9.13 *Enforcement costs.* If any legal action or other proceeding is brought for the enforcement of the Contract Documents, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of the Contract Documents, the parties agree that each party shall be responsible for its own attorney's fees.

9.14 *Binding authority.* Contractor's representative below has full power, authority and legal right to execute and deliver these Contract Documents and perform all of its obligations under the Contract Documents. By signing the Contract Documents, the representative hereby represents to the Owner that he/she has the authority and full legal power to execute the Contract Documents and any and all documents necessary to effectuate and implement the terms of the Contract Documents on behalf of the party for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in the Contract Documents.

9.15 *Assignment of warranties.* Contractor shall assign to Owner all warranties extended to Contractor by material suppliers. If an assignment of warranty requires the material supplier to consent to same, then Contractor shall secure the material supplier's consent to assign said warranties to Owner.

9.16 *Contractor's certifications.* Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract Documents. For the purposes of this paragraph:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract Documents to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract Documents.

9.17 *Construction defects.* PURSUANT TO SECTION 558.005, FLORIDA STATUTES, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

9.18 *Delays; Contractor's remedies.* NOTWITHSTANDING ANY PROVISION ELSEWHERE IN THE CONTRACT DOCUMENTS, NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST OWNER BY REASON OF ANY DELAYS. Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from Owner for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance, be it reasonable or unreasonable, foreseeable or avoidable or unavoidable. Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delays, in accordance with and the extent specifically provided herein.

9.19 *Termination for failure to provide Public Construction Bond.* If a Public Construction Bond is required under the Construction Documents and the Contractor fails to provide the fully executed Public Construction Bond, including a certified copy of the Public Construction Bond as recorded in the Official Records for Palm Beach County, within fifteen (15) calendar days after the Contractor's and Owner's execution of this Agreement, the Owner may immediately terminate this Agreement upon written notice to the Contractor and the Owner shall have no further obligation to the Contractor under the Contract. In the event of such termination, the Contractor shall also forfeit its bid security to the Owner.

9.20 *E-Verify.* Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONTRACTOR shall:

- a. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all CONTRACTORS (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the Contractors' newly hired employees;
- b. Secure an affidavit from all CONTRACTORS (providing services or receiving funding under this Agreement) stating that the CONTRACTOR does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;
- c. Maintain copies of all CONTRACTOR affidavits for the duration of this Agreement and provide the same to the City upon request;
- d. Comply fully, and ensure all CONTRACTORS comply fully, with Section 448.095, Florida Statutes;
- e. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
- f. Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONTRACTOR may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

9.21 *Scrutinized Companies.* CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

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

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



IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in four parts. Two counterparts have been delivered to Owner, and one counterpart each to Contractor and Engineer. All portions of the Contract Documents have been signed or identified by Owner and Contractor or by Engineer on their behalf.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

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

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

CONTRACTOR:

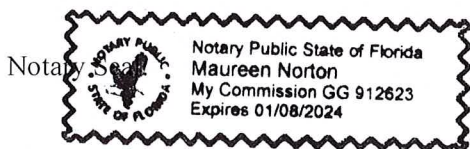
[Corporate Seal]

By: \_\_\_\_\_  
Print Name: Jeffrey Cohen  
Title: Executive Vice President

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

THE FOREGOING instrument was acknowledged before me by means of  physical presence or  online notarization on this 16<sup>TH</sup> day of MARCH 2023, by JEFFREY COHEN, as the VICE PRESIDENT [title] of \_\_\_\_\_ [vendor's name], a \_\_\_\_\_ [corporate description], who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

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



**City of Lake Worth Beach  
Harold Grimes Memorial Park Improvement Project  
Phase 1B – Parking Lot Resurfacing  
IFB #23-103**

**00501  
OPINION OF ATTORNEY**

This is to certify that I have examined the attached Contract Documents, that after such examination I am of the opinion that the execution of the Agreement, the Performance Bond and Payment Bond are in due and proper form.

\_\_\_\_\_  
Attorney for Owner

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**CITY OF LAKE WORTH BEACH**  
**PAYMENT AND PERFORMANCE BOND**  
(Pursuant to secs. 255.05 and 337.18, Fla. Stat.)

Surety Bond No. \_\_\_\_\_

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**CONTRACTOR:**

Name:

Principal Business Address:

Telephone Number:

**SURETY:**

Name:

Principal Business Address

Telephone Number:

**OWNER:**

City of Lake Worth Beach

7 North Dixie Highway

Lake Worth Beach, FL 33460

(561) 586-1600

**CONTRACT:**

Date:

Amount:

Description (Name and Location):

**BOND**

Date (Not earlier than Contract Date):

Amount:

Modifications to this Bond Form:

This Bond is issued in favor of the City of Lake Worth Beach/Owner conditioned on the full and faithful performance of the Contract.

1. Contractor has entered into Project No. \_\_\_\_\_ with the City for the project titled “\_\_\_\_\_” (the “Contract”), with conditions and provisions as are further described in the aforementioned Contract, which Contract, including all of its attachments, exhibits and incorporated documents (hereinafter, collectively, the “Contract Documents”) is by reference made a part hereof for the purposes of explaining this bond.
2. Principal and Surety are bound to the Owner in the sum of the Contract Amount set forth above for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.
3. THE CONDITION OF THIS BOND is that if Principal:

a. Performs the Work required of and in accordance with the Contract Documents at the times and in the manner prescribed in the Contract Documents, which are made a part of this bond by reference; and

b. In accordance with sec. 255.05 and sec. 337.18, Florida Statutes, promptly makes payments to all persons, defined in sec. 713.01, Florida Statutes, who furnish labor, services or materials for prosecution of the work set forth in the Contract Documents described above; and

c. Pays Owner all losses, damages (including liquidated damages), expenses, costs, and professional fees, including but not limited to attorneys' fees, including appellate proceedings, that Owner sustains because of a default by Principal under the Contract Documents; and

d. Performs the warranty and guarantee of all work and materials furnished under the Contract Documents for the time specified in the Contract Documents, then this bond is void; otherwise it remains in full force.

4. Section 255.05, Fla. Stat., as amended, together with all notice and time provisions contained therein, is incorporated herein by reference.

5. Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in secs. 255.05(2) and (10), Fla. Stat., and those of sec. 337.18, Fla. Stat.

6. Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract Documents or the changes does not affect Surety's obligation under this bond, and Surety waives notice of such changes.

7. Principal and Surety expressly acknowledge that any and all provisions relating to consequential, delay and liquidated damages contained in the contract are expressly covered by and made a part of this Performance, Labor and Material Payment Bond. Principal and Surety acknowledge that any such provisions lie within their obligations and within the policy coverages and limitations of this instrument.

8. Any action brought under this instrument shall be brought in the state court of competent jurisdiction in Palm Beach County, Florida, and not elsewhere.

Surety and Contractor, intending to be legally bound hereby, subject to the terms included herein and as required under Florida Statutes, do each cause this Performance and Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Title

(Corporate Seal)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Attorney-in-Fact  
(Attach Power of Attorney)

\_\_\_\_\_  
Print Name

(Corporate Seal)

City of Lake Worth Beach  
Harold Grimes Memorial Park Improvement Project  
Phase 1B – Parking Lot Resurfacing  
IFB #23-103

SECTION 00630  
NOTICE OF COMPLIANCE WITH CHAPTER 556, FLORIDA STATUTES

The undersigned Contractor does hereby confirm to the Owner and Engineer that the Contractor has reviewed the provisions of Chapter 556, Florida Statutes, and has provided to “Sunshine State One-Call of Florida, Inc.” the information required under F.S. 556.105 before the commencement of any excavation or demolition required for the Work.

Executed this 6<sup>th</sup> day of March, 2023.

M&M Asphalt Maintenance inc DBA All  
(name of Contractor) County Paving

[Signature]  
(signature)

Jeffrey Colten  
(print name)

Executive Vice President  
(title)

END OF SECTION

**00670**  
**CONTRACTOR'S AFFIDAVIT TO OWNER**

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, authorized to administer oaths and take acknowledgements, personally appeared \_\_\_\_\_, who, being by me first duly sworn, on oath depose(s) and say(s):

(1) He/she is/They are a (Corporation, Partnership or Individual) of \_\_\_\_\_ (State), doing business as \_\_\_\_\_ (Company Name), hereinafter called "Contractor".

(2) Contractor heretofore entered into a Contract with \_\_\_\_\_ hereinafter called "Owner" to do Work (furnish material, labor and services) for the construction of \_\_\_\_\_, located at \_\_\_\_\_ County, Florida.

(3) Contractor has fully completed construction in accordance with the terms of the Contract, and all lienors have been paid in full, except:

NAME OF LIENOR

AMOUNT DUE AND UNPAID

\$

(4) All Workmen's Compensation claims have been settled and no liability claims are pending, in connection with, arising out of or resulting from the Contract.

(5) Receipt by the Contractor of the final payment, under the aforementioned Contract, shall constitute a full release and discharge by the Contractor to the Owner of any and all claims of the Contractor against the Owner, arising out of, connected with, or resulting from performance of the obligations of the Contractor pursuant to the Contract Documents.

(6) The term "lienor" as used in this affidavit means any person having a lien or a prospective lien, under the Mechanics Lien Law of Florida, on the land and property of the Owner referred to in paragraph (2) of this affidavit.

(7) This affidavit is given pursuant to the provisions of Florida Statutes Section 713.06 or Section 255.05, whichever is applicable.  
Signed and sealed in the presence of:

\_\_\_\_\_  
(ENTITY)

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

[Corporate Seal]

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

THE FOREGOING instrument was acknowledged before me by means of  physical presence or  online notarization on this \_\_\_\_ day of \_\_\_\_\_ 2023, by \_\_\_\_\_, as the \_\_\_\_\_ [title] of \_\_\_\_\_ [vendor's name], a \_\_\_\_\_ [corporate description], who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

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

Notary Seal:

**00680**  
**APPLICATION FOR PAYMENT NO. \_\_\_\_\_**

**Project: IFB#23-103 City of Lake Worth Beach Harold Grimes Memorial Park Improvement Project Phase 1B – Parking Lot Resurfacing**

Application is made for payment, as hereinafter shown, in connection with this Agreement:

Total Work to Date - see attached schedule	\$ _____
Work performed from _____	(date) to _____ (date)
Total Material Suitably Stored - see attached schedule	\$ _____
Gross Amount Due	\$ _____
Less _____ % Retainage	\$ _____
Amount Due to Date	\$ _____
Less Previous Applications	\$ _____
Amount Due This Application	\$ _____
<hr/>	
Original Contract Price	\$ _____
Net Change Orders	\$ _____
Current Contract Price	\$ _____
Value of Work Remaining to be Done	\$ _____

**Contractor's Certification:**

The undersigned Contractor certifies that (1) all previous progress payments received from Owner on account of Work done under the Agreement referred to above have been applied to discharge in full all obligations of Contractor incurred in connection with Work covered by prior Applications for Payment numbered 1 through \_\_\_\_\_, inclusive; and (2) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all liens, claims, security interests and encumbrances (except such as covered by Bond acceptable to Owner).

Dated \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
 Contractor and Mailing Address

By \_\_\_\_\_  
 (Name and Title)

STATE OF \_\_\_\_\_ )  
 COUNTY OF \_\_\_\_\_ )

THE FOREGOING instrument was acknowledged before me by means of  physical presence or  online notarization on this \_\_\_\_ day of \_\_\_\_\_ 2023, by \_\_\_\_\_, as the \_\_\_\_\_ [title] of \_\_\_\_\_ [vendor's name], a \_\_\_\_\_ [corporate description], who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

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

Notary Seal:

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

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

By: \_\_\_\_\_  
 (Name) (Title)

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

CITY OF LAKE WORTH BEACH  
 By \_\_\_\_\_  
 (Name) (Title)



00681

**SCHEDULE OF VALUES AND WORK COMPLETED**

**PROJECT TITLE:** City of Lake Worth Beach  
Harold Grimes Memorial Park Improvement Project  
Phase 1B – Parking Lot Resurfacing  
IFB #23-103

CONTRACTOR \_\_\_\_\_

FOR PERIOD BEGINNING \_\_\_\_\_ ENDING \_\_\_\_\_

TO ACCOMPANY APPLICATION NO. \_\_\_\_\_

ITEM	CONTRACTOR'S Schedule of Values			Work Completed	
	Unit Price	Quantity	Amount	Quantity	Amount
	\$		\$		\$
NOTE: CONTRACTOR SHALL PREPARE APPROPRIATE SCHEDULE WITH ALL CONTRACT ITEMS					
SHOWN FOR ATTACHMENT TO EACH APPLICATION FOR PAYMENT.					
			Total (Original Contract)		\$ _____
C.O. No. 1					
C.O. No. 1	NOTE: CHANGE ORDER(S) SHALL BE ITEMIZED AS APPLICABLE.				

TOTAL WORK TO DATE \$ \_\_\_\_\_

MATERIALS SUITABLY STORED

NOTE: CONTRACTOR TO ITEMIZE AND ATTACH APPROPRIATE INVOICES

TOTAL MATERIAL SUITABLY STORED \$ \_\_\_\_\_

Accompanying Documentation (Contractor to itemize):

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

## STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## TABLE OF CONTENTS

	Page
Article 1 – Definitions and Terminology .....	1
1.01 Defined Terms .....	1
1.02 Terminology .....	5
Article 2 – Preliminary Matters .....	6
2.01 Delivery of Bonds and Evidence of Insurance .....	6
2.02 Copies of Documents .....	6
2.03 Before Starting Construction.....	6
2.04 Preconstruction Conference; Designation of Authorized Representatives .....	7
2.05 Initial Acceptance of Schedules.....	7
2.06 Electronic Transmittals.....	7
Article 3 – Documents: Intent, Requirements, Reuse .....	8
3.01 Intent.....	8
3.02 Reference Standards .....	8
3.03 Reporting and Resolving Discrepancies .....	8
3.04 Requirements of the Contract Documents .....	9
3.05 Reuse of Documents .....	10
Article 4 – Commencement and Progress of the Work.....	10
4.01 Commencement of Contract Times; Notice to Proceed .....	10
4.02 Starting the Work.....	10
4.03 Reference Points .....	10
4.04 Progress Schedule .....	10
4.05 Delays in Contractor’s Progress.....	11
Article 5 – Availability of Lands; Subsurface and Physical Conditions; Hazardous Environmental Conditions.....	12
5.01 Availability of Lands.....	12
5.02 Use of Site and Other Areas .....	12
5.03 Subsurface and Physical Conditions.....	13
5.04 Differing Subsurface or Physical Conditions .....	14
5.05 Underground Facilities .....	15

5.06	Hazardous Environmental Conditions at Site.....	17
Article 6 – Bonds and Insurance .....		19
6.01	Performance, Payment, and Other Bonds .....	19
6.02	Insurance—General Provisions .....	19
6.03	Contractor’s Insurance .....	20
6.04	Owner’s Liability Insurance .....	23
6.05	Property Insurance.....	23
6.06	Waiver of Rights .....	25
6.07	Receipt and Application of Property Insurance Proceeds.....	25
Article 7 – Contractor’s Responsibilities.....		26
7.01	Supervision and Superintendence .....	26
7.02	Labor; Working Hours .....	26
7.03	Services, Materials, and Equipment.....	26
7.04	“Or Equals” .....	27
7.05	Substitutes.....	28
7.06	Concerning Subcontractors, Suppliers, and Others .....	29
7.07	Patent Fees and Royalties .....	31
7.08	Permits .....	31
7.09	Taxes.....	32
7.10	Laws and Regulations .....	32
7.11	Record Documents.....	32
7.12	Safety and Protection.....	32
7.13	Safety Representative .....	33
7.14	Hazard Communication Programs .....	33
7.15	Emergencies .....	34
7.16	Shop Drawings, Samples, and Other Submittals.....	34
7.17	Contractor’s General Warranty and Guarantee.....	36
7.18	Indemnification .....	37
7.19	Delegation of Professional Design Services .....	37
Article 8 – Other Work at the Site .....		38
8.01	Other Work.....	38
8.02	Coordination.....	39
8.03	Legal Relationships.....	39

Article 9 – Owner’s Responsibilities .....	40
9.01 Communications to Contractor .....	40
9.02 Replacement of Engineer .....	40
9.03 Furnish Data .....	40
9.04 Pay When Due .....	40
9.05 Lands and Easements; Reports, Tests, and Drawings .....	40
9.06 Insurance .....	40
9.07 Change Orders.....	40
9.08 Inspections, Tests, and Approvals .....	41
9.09 Limitations on Owner’s Responsibilities .....	41
9.10 Undisclosed Hazardous Environmental Condition .....	41
9.11 Evidence of Financial Arrangements .....	41
9.12 Safety Programs .....	41
Article 10 – Engineer’s Status During Construction .....	41
10.01 Owner’s Representative .....	41
10.02 Visits to Site .....	41
10.03 Project Representative .....	42
10.04 Rejecting Defective Work.....	42
10.05 Shop Drawings, Change Orders and Payments .....	42
10.06 Determinations for Unit Price Work .....	42
10.07 Decisions on Requirements of Contract Documents and Acceptability of Work .....	42
10.08 Limitations on Engineer’s Authority and Responsibilities.....	42
10.09 Compliance with Safety Program .....	43
Article 11 – Amending the Contract Documents; Changes in the Work.....	43
11.01 Amending and Supplementing Contract Documents.....	43
11.02 Owner-Authorized Changes in the Work .....	44
11.03 Unauthorized Changes in the Work .....	44
11.04 Change of Contract Price.....	44
11.05 Change of Contract Times .....	45
11.06 Change Proposals .....	45
11.07 Execution of Change Orders.....	46
11.08 Notification to Surety .....	47
Article 12 – Claims .....	47

12.01	Claims .....	47
Article 13	– Cost of the Work; Allowances; Unit Price Work .....	48
13.01	Cost of the Work .....	48
13.02	Allowances .....	50
13.03	Unit Price Work .....	51
Article 14	– Tests and Inspections; Correction, Removal or Acceptance of Defective Work .....	52
14.01	Access to Work.....	52
14.02	Tests, Inspections, and Approvals.....	52
14.03	Defective Work.....	53
14.04	Acceptance of Defective Work.....	53
14.05	Uncovering Work.....	53
14.06	Owner May Stop the Work .....	54
14.07	Owner May Correct Defective Work.....	54
Article 15	– Payments to Contractor; Set-Offs; Completion; Correction Period.....	55
15.01	Progress Payments .....	55
15.02	Contractor’s Warranty of Title .....	58
15.03	Substantial Completion .....	58
15.04	Partial Use or Occupancy .....	59
15.05	Final Inspection .....	59
15.06	Final Payment.....	59
15.07	Waiver of Claims.....	61
15.08	Correction Period .....	61
Article 16	– Suspension of Work and Termination.....	62
16.01	Owner May Suspend Work .....	62
16.02	Owner May Terminate for Cause .....	62
16.03	Owner May Terminate For Convenience .....	63
16.04	Contractor May Stop Work or Terminate .....	63
Article 17	– Final Resolution of Disputes.....	64
17.01	Methods and Procedures.....	64
Article 18	– Miscellaneous.....	64
18.01	Giving Notice .....	64
18.02	Computation of Times.....	64
18.03	Cumulative Remedies.....	64

18.04	Limitation of Damages .....	65
18.05	No Waiver.....	65
18.06	Survival of Obligations.....	65
18.07	Controlling Law.....	65
18.08	Headings.....	65



## ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
  2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
  3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
  5. *Bidder*—An individual or entity that submits a Bid to Owner.
  6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
  7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
  8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
  9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
  10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer

has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner’s acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor’s plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or “RPR” includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

## 1.02 *Terminology*

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
  1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
  1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
  1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
    - a. does not conform to the Contract Documents; or
    - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
    - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
  1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
  2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## **ARTICLE 2 – PRELIMINARY MATTERS**

### **2.01 *Delivery of Bonds and Evidence of Insurance***

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

### **2.02 *Copies of Documents***

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

### **2.03 *Before Starting Construction***

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
  1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
  2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

#### 2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

#### 2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
  1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
  2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
  3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

#### 2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or

computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

### ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

#### 3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

#### 3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
  - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
  - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

#### 3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
  - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict,



error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
  - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
  - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

### 3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
  - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
  - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

## **ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK**

### 4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

### 4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

### 4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

### 4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
  - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

#### 4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
  2. abnormal weather conditions;
  3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
  4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

## **ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS**

### **5.01 Availability of Lands**

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

### **5.02 Use of Site and Other Areas**

#### **A. Limitation on Use of Site and Other Areas:**

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part

by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

### 5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
  - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
  - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
  - 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
  - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
  - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
  - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

#### 5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
  2. is of such a nature as to require a change in the Drawings or Specifications; or
  3. differs materially from that shown or indicated in the Contract Documents; or
  4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
    - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

- c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
    - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
    - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
    - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
  3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
  4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

#### 5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
  1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
  2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
    - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
    - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
    - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
    - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after

becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
  - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
    - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
    - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
    - d. Contractor gave the notice required in Paragraph 5.05.B.
  - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
  - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.



5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings*: The Supplementary Conditions identify:
1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
  2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
  2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.H shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

## ARTICLE 6 – BONDS AND INSURANCE

### 6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

### 6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is

maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

### 6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
  - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
  - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
  - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).

4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
  2. claims for damages insured by reasonably available personal injury liability coverage.
  3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage:
    - a. Such insurance shall be maintained for three years after final payment.
    - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
  2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
  3. Broad form property damage coverage.
  4. Severability of interest.
  5. Underground, explosion, and collapse coverage.
  6. Personal injury coverage.
  7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
  8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability:* Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result

of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
  - 1. include at least the specific coverages provided in this Article.
  - 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
  - 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
  - 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
  - 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

#### 6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

#### 6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
  - 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
  - 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
  - 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
  - 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).

5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
  6. extend to cover damage or loss to insured property while in transit.
  7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
  8. allow for the waiver of the insurer's subrogation rights, as set forth below.
  9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
  10. not include a co-insurance clause.
  11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
  12. include performance/hot testing and start-up.
  13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.



## 6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
  - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
  - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

## 6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the

policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

## **ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES**

### **7.01 *Supervision and Superintendence***

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

### **7.02 *Labor; Working Hours***

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

### **7.03 *Services, Materials, and Equipment***

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and

guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

#### 7.04 "Or Equals"

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
  - 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
    - a. in the exercise of reasonable judgment Engineer determines that:
      - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
      - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
      - 3) it has a proven record of performance and availability of responsive service; and
      - 4) it is not objectionable to Owner.
    - b. Contractor certifies that, if approved and incorporated into the Work:
      - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
      - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
  - B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
  - C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

#### 7.05 *Substitutes*

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
  - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
  - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
  - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
    - a. shall certify that the proposed substitute item will:
      - 1) perform adequately the functions and achieve the results called for by the general design,
      - 2) be similar in substance to that specified, and
      - 3) be suited to the same use as that specified.
    - b. will state:
      - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
      - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
      - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
    - c. will identify:
      - 1) all variations of the proposed substitute item from that specified, and

- 2) available engineering, sales, maintenance, repair, and replacement services.
- d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

#### 7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

#### 7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

#### 7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

#### 7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

#### 7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;



2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
  - C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
  - D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
  - E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
  - F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
  - G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

#### 7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

#### 7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or

exchanged between or among employers at the Site in accordance with Laws or Regulations.

#### 7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

#### 7.16 *Shop Drawings, Samples, and Other Submittals*

##### A. *Shop Drawing and Sample Submittal Requirements:*

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
  - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
  - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
  - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
  - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

##### 1. *Shop Drawings:*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to

provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples:*
  - a. Contractor shall submit the number of Samples required in the Specifications.
  - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
  1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
  2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
  3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
  4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
  5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
  6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
  7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
  1. observations by Engineer;
  2. recommendation by Engineer or payment by Owner of any progress or final payment;
  3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
  4. use or occupancy of the Work or any part thereof by Owner;
  5. any review and approval of a Shop Drawing or Sample submittal;
  6. the issuance of a notice of acceptability by Engineer;
  7. any inspection, test, or approval by others; or
  8. any correction of defective Work by Owner.

- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

#### 7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
  - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
  - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

#### 7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop

- Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
  - D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
  - E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

## **ARTICLE 8 – OTHER WORK AT THE SITE**

### **8.01 *Other Work***

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

## 8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
  - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
  - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
  - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

## 8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## **ARTICLE 9 – OWNER'S RESPONSIBILITIES**

### **9.01 *Communications to Contractor***

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

### **9.02 *Replacement of Engineer***

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

### **9.03 *Furnish Data***

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

### **9.04 *Pay When Due***

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

### **9.05 *Lands and Easements; Reports, Tests, and Drawings***

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

### **9.06 *Insurance***

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

### **9.07 *Change Orders***

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.



9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

**ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION**

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during

or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

#### 10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

### **ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK**

#### 11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
  - 1. *Change Orders:*
    - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
    - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
  - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an

adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

#### 11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

#### 11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

#### 11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
  1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
  2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
  3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on

the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
  2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
    - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
    - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
    - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
    - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
    - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

#### 11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

#### 11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under

the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
  2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
  3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

#### 11.07 Execution of Change Orders

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
  2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
  3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
  4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

**ARTICLE 12 – CLAIMS**

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
  - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
  - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
  - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
  - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
  - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim

submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

## **ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

### **13.01 *Cost of the Work***

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
  1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
  2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
  1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable



thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
  - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
  - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
  - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes

other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

## 13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

- B. *Cash Allowances*: Contractor agrees that:
  - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
  - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

### 13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
  - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
  - 2. there is no corresponding adjustment with respect to any other item of Work; and
  - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

## ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

### 14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

### 14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
  - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
  - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
  - 3. by manufacturers of equipment furnished under the Contract Documents;
  - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
  - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

cover the same and Engineer had not acted with reasonable promptness in response to such notice.

#### 14.03 *Defective Work*

- A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

#### 14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

#### 14.05 *Uncovering Work*

- A. Engineer has the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
  - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
  - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

#### 14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

#### 14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will

include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

## **ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD**

### **15.01 Progress Payments**

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
  2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
  3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
  2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

- a. the Work has progressed to the point indicated;
  - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
    - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
    - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
  4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
    - a. to supervise, direct, or control the Work, or
    - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
    - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
    - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
    - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
  5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
  6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
    - a. the Work is defective, requiring correction or replacement;
    - b. the Contract Price has been reduced by Change Orders;
    - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
    - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or



- e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.
- D. *Payment Becomes Due:*
- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.
- E. *Reductions in Payment by Owner:*
- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
    - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
    - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
    - c. Contractor has failed to provide and maintain required bonds or insurance;
    - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
    - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
    - f. the Work is defective, requiring correction or replacement;
    - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
    - h. the Contract Price has been reduced by Change Orders;
    - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
    - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
    - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
    - l. there are other items entitling Owner to a set off against the amount recommended.
  - 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount

remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

#### 15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

#### 15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

#### 15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
  - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
  - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
  - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
  - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

#### 15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### 15.06 *Final Payment*

- A. *Application for Payment:*
  - 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
  - d. a list of all disputes that Contractor believes are unsettled; and
  - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

**B. *Engineer's Review of Application and Acceptance:***

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

**C. *Completion of Work:*** The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

**D. *Payment Becomes Due:*** Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation,

including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. correct the defective repairs to the Site or such other adjacent areas;
  - 2. correct such defective Work;
  - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
  - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

## **ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION**

### **16.01 *Owner May Suspend Work***

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

### **16.02 *Owner May Terminate for Cause***

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
  - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
  - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
  - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
  - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
  - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
  - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses,

and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

#### 16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
  - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
  - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

#### 16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

## **ARTICLE 17 – FINAL RESOLUTION OF DISPUTES**

### *17.01 Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
  2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
  2. agree with the other party to submit the dispute to another dispute resolution process; or
  3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

## **ARTICLE 18 – MISCELLANEOUS**

### *18.01 Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
  2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

### *18.02 Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

### *18.03 Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.



18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

**00800**  
**SUPPLEMENTARY CONDITIONS**

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2013 Edition) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect. The General Conditions may also be supplemented elsewhere in the Contract Documents.

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract, EJCDC C-700 (2013 Edition) have the meanings assigned to them in the General Conditions.

**PART 1 - MODIFICATIONS AND SUPPLEMENTS TO GENERAL CONDITIONS**

**SC-2.01 Delivery of Bonds and Evidence of Insurance**

**Delete paragraph 2.01 C. of the General Conditions in its entirety and insert the following in its place:**

C. This subsection is not needed.

**SC-3.03 Reporting and Resolving Discrepancies**

**Delete the paragraph 3.03 A.3 in its entirety and insert the following in its place:**

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof or unless Contractor reasonably should have known of such conflict, error, ambiguity or discrepancy.

**SC-4.01 Commencement of Contract Time; Notice to Proceed**

**Delete the last sentence of paragraph 4.01 A. of the General Conditions and insert the following in its place:**

In no event will the Contract Time commence to run later than the 120th day after the day of the Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier, unless agreed otherwise by Owner and Contractor in writing.

**SC-5.03 Subsurface and Physical Conditions**

**Delete paragraphs 5.03 A. and 5.03 B. in of the General Conditions in their entirety and insert the following in their place:**

**5.03 Subsurface and Physical Conditions**

A. Reports and Drawings: Division 1: General Requirements of the Specifications shall identify those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the site and drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the site that have been utilized by Engineer in preparation of the Contract Documents. Contractor may rely upon the accuracy of any Technical Data contained in such reports that is specifically referenced in Division 1: General Requirements as Technical Data that can be relied on by Contractor. Except as indicated above, Contractor shall have full responsibility with respect to subsurface and physical conditions at the site.

B. Contractor may rely on the technical data as set forth in subsection A above, but such reports and drawings are not Contract Documents. Except for such reliance on Technical Data, Contractor may

not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. The completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. Other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. Any Contractor interpretation of or conclusion drawn from any Technical data or any such other data, interpretations, opinions, or information.

#### **SC-5.06 Hazardous Environmental Conditions at Site**

**Delete paragraphs 5.06 A., 5.06 B. and 5.06 I. in of the General Conditions in their entirety and insert the following in their place:**

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. This subsection is not needed.
- I. This subsection is not needed.

#### **SC-6.01 Performance, Payment and Other Bonds**

**Add the following language at the end of Paragraph 6.01 A.:**

In accordance with section 255.05(1), Fla. Stat., as amended from time to time, before commencing the Work or before recommencing the Work after a default or abandonment, the Contractor shall execute and record in the public records of Palm Beach County a payment and performance bond with a surety insurer authorized to do business in the State of Florida, and the Contractor shall be required to provide to the Owner a certified copy of the recorded bond. The Owner may not make a payment to the Contractor until the Contractor has complied with section 255.05(1)(b), Fla. Stat.

#### **SC-6.02 Insurance – General Provisions**

**Add the following language at the end of Paragraph 6.02 C.:**

Contractor shall deliver the required certificates of insurance prior to the commencement of any Work at the site. All of the policies of insurance (or the certificates or other evidence thereof) required to be purchased and maintained by Contractor shall be "claims made" and contain the name of the Project.

#### **SC-6.03 Contractor's Insurance**

**Delete the following language in Paragraph 6.03 G.:**

*G. Additional insureds:* The Contractor's commercial general liability, ~~automobile liability~~, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.

**Replace with:**

G. *Additional insured*: The Commercial General Liability policy shall be endorsed to include “Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents” as an Additional Insured. A copy of the endorsement shall be provided to County upon request.

**Add the following new paragraph immediately after Paragraph 6.03 J.:**

K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Worker's Compensation, and related coverages under Paragraphs 6.03 A.1. and 6.03 A.2. of the General Conditions:

State:	<u>Statutory</u>
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Applicable Federal (e.g. Longshoreman's and Harbor Workers' Compensation, Maritime, Jones Act, etc.):	<u>Statutory</u>
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Employer's liability:

Bodily injury, each accident	\$1,000,000
Bodily injury by disease, each employee	\$1,000,000
Bodily injury/disease aggregate	\$1,000,000

2. Contractor's Commercial General Liability under paragraphs 6.03 B. and 6.03 C. of the General Conditions:

General Aggregate	\$3,000,000
Products and Completed Operations Aggregate	\$3,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence (Bodily Injury and Property Damage)	\$1,000,000

3. Automobile Liability under paragraph 6.03 D. of the General Conditions:

Combined Single Limit of	\$1,000,000
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4. Excess or Umbrella Liability under paragraph 6.03 E. of the General Conditions:

Per Occurrence	\$If applicable
General Aggregate	\$If applicable

**SC-6.04 Owner's Liability Insurance**

**Delete paragraphs 6.04 A. and 6.04 B. of the General Conditions in their entirety and insert the following in their place:**

- A. This Subsection is not needed.

B. This subsection is not needed.

#### **SC-6.05 Property Insurance**

**Add the following language at the end of paragraph 6.05 C.:**

The maximum deductible amount for any insurance required under paragraph 6.05 shall be \$5,000.00.

#### **SC-6.06 Waiver of Rights**

**Delete paragraphs 6.06 B. and 6.06 C. of the General Conditions in their entirety and insert the following in their place:**

- B. This Subsection is not needed.
- C. This subsection is not needed.

#### **SC-7.01 Supervision and Superintendence**

**Add the following language at the end of paragraph 7.01 B.:**

The superintendent will be Contractor's representative at the site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor.

#### **SC-7.07 Patent Fees and Royalties**

**Delete paragraph 7.07 B. and insert the following in its place:**

- B. This subsection is not needed.

#### **SC-7.08 Permits**

**Add the following language at the end of paragraph 7.08 A.:**

Contractor shall obtain and pay for the following permits:

1. City of Lake Worth Building Permit. Include in the bid amount a 3-percent of appropriate items permit fee based on the bid cost. This permit fee amount will be adjusted based on the actual fee charged and the difference credited, as applicable.
2. Any other applicable permits.

#### **SC-7.18 Indemnification**

**Delete paragraph 7.18 A. and insert the following in its place:**

- A. Contractor shall indemnify and hold harmless Owner and Engineer and their respective officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract Documents. Compliance with any insurance requirements required elsewhere in the Contract Documents shall not relieve Contractor of its liability and obligation to hold harmless and indemnify the City as set forth in this section. It is the specific intent of the parties hereto that the foregoing indemnification complies with section 725.06, Florida Statutes. It is further the specific intent and agreement of the parties that all of the Contract Documents on this Project are hereby amended to include the foregoing indemnification and the required "Specific Consideration" therefore. Nothing contained in the Contract Documents shall be construed or interpreted as consent by the City to be sued, nor shall the Contract Documents be construed as a waiver of sovereign immunity beyond the waiver provided in section 768.28, Fla. Stat., as amended from time to time.

### **SC-10.03 Project Representative**

**Add the following new paragraph immediately after paragraph 10.03 A.:**

- B. On this Project, by agreement with the Owner, Engineer will not furnish a Resident Project Representative to represent Engineer at the Site or assist Engineer in observing the progress and quality of the Work. However, if the Engineer does furnish a Resident Project Representative per paragraph 10.03 of the General Conditions, the duties, etc. of the representative shall be as provided in the Listing of the Duties, Responsibilities and Limitations of Authority of the Resident Project Representative as included in the Project Manual. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity shall be presented at the Preconstruction Conference or as otherwise set forth in the Project Manual.

### **SC-10.04 Rejecting Defective Work**

**Add the following language at the end of paragraph 10.04 A.:**

- A. Engineer also has the authority to disapprove or reject Work which Engineer believes will not produce a completed Project that conforms to the Contract documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

### **SC-11.04 Change of Contract Price**

**Delete paragraphs 11.04 C.2.c. and 11.04 C.2.e. in their entirety and insert the following in their place:**

- c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the maximum allowable to Contractor on account of overhead and profit of all Subcontractors shall be fifteen percent;
- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to ten percent of such net decrease; and

### **SC-13.03 Unit Price Work**

**Delete paragraph 13.03 E. in its entirety and insert the following in its place:**

- E. Contractor may not make a claim for additional expenses incurred as a result of a difference between final quantity of any item(s) of Unit Price Work and the estimated quantity of such item(s) in the Contract Documents, unless specifically allowed in the Bid Form. Any adjustments specifically allowed shall be made in accordance with directions in the Bid Form.

### **SC-16.03 Owner May Terminate for Convenience**

**Add the following new paragraph immediately after paragraph 16.03 B.:**

- C. If a court of competent jurisdiction finds that the Owner wrongfully terminated this Contract, then in such event, this Contract shall be deemed terminated for convenience as provided for in this paragraph, and the Contractor shall not be entitled to loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination but may be entitled to all items as authorized herein.

### **SC-18.07 Controlling Law**

**Delete paragraph 18.07 A. in its entirety and insert the following in its place:**

- A. This Contract is to be governed by the laws of the State of Florida. The venue for any and all legal action necessary to enforce the Contract Documents will be in Palm Beach County, Florida.

## **PART 2 - ADDITIONAL SUPPLEMENTARY CONDITIONS**

### **1. ATTACHMENTS:**

The following forms included in the Project Manual shall be used by Contractor for submittals required by the Contract Documents (unless Owner accepts other form):

- a. Construction Payment And Performance Bond (00620).
- b. Notice of Compliance with Chapter 556, Florida Statutes (00630).
- d. Contractor's Affidavit to Owner (00670).
- e. Form of Application for Payment (00680).

END OF SECTION

**00820**  
**SPECIAL CONDITIONS**

**CITY OF LAKE WORTH BEACH PROCUREMENT DIVISION REQUIREMENTS**

**SPC-1 APPROVAL OF ACCOUNTING SYSTEM**

Except with respect to firm fixed-price contracts, no contract type shall be used unless the Purchasing Manager has determined in writing that:

- 1) The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
- 2) The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

**SPC-2 RIGHT TO INSPECT PLANT**

The City may, at reasonable times, inspect any part of the plant, place of business, or work site of a contractor or subcontractor which is pertinent to the performance of any contract awarded or to be awarded by the City.

**SPC-3 RIGHT TO AUDIT RECORDS**

- 1) **Audit of Cost or Pricing Data:** The City may, at reasonable times and places audit the books, documents, papers and records of any contractor who has submitted cost or pricing data to the extent that such books, documents, papers and records are pertinent to such cost or pricing data. Any person who receives a contract, change order or contract modifications for which cost or pricing data is required, shall maintain such books, documents, papers and records that pertinent to such costs or pricing data for five (5) years from the date of the final payment under the contract.
- 2) **Contract Audit:** The City shall be entitled to audit the books, documents, papers and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, papers and records are pertinent to the performance of such contract or subcontract. Such books, documents, papers and records shall be maintained by the contractor for a period of five (5) years from the date of final payment under the prime contract and by the subcontractor for a period of five (5) years from the date of final payment under the subcontract.
- 3) **Contractor Records:** If a contract is being funded in whole or in part by assistance from a federal agency, then the contract shall include provisions:
  - A) Requiring the contractor and subcontractor at any tier to maintain for five (5) years from the date of final payment under the contract all books, documents, papers and records pertinent to the contract; and



- B) Requiring the contractor and subcontractor at any tier to provide to the City, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives access to such books, documents, papers and records for the purposes of examining. Auditing and copying them.

**SPC-4 CONTRACTOR’S START OF WORK & CHANGE OF SCOPE**

- 1) The Contractor shall not perform work without a Purchase Order.
- 2) The Contractor shall not work out of scope without a signed, issued change order to the purchase order, authorizing the additional work and any change to the period of performance (Construction Contract Time).

**SPC-5 APPROPRIATION OF FUNDS**

This project is subject to approval and appropriation of funds by the City of Lake Worth Beach City Commission.

**SPC-6 BUILDING PERMIT FEE**

A building permit fee equal to 3-percent of the accepted bid shall be included in the project costs. See Supplemental Conditions paragraph SC-7.08 for further details.

**SPC-7 CONE OF SILENCE**

All communications shall be in accordance with the City of Lake Worth Beach Code of Ordinances, Section 2-112(k), Cone of Silence.

**SPC-8 ADDITIONAL AND SUPPLEMENTAL DISCLOSURE REQUIREMENTS**

Any applicant coming before the City of Lake Worth Beach City Commission for an award of a contract with the City and who has made an election campaign contribution in an amount that is more than one hundred dollars (\$100.00) to any elected official of the City Commission, who is a current sitting member of the Commission, must disclose such election campaign contribution, verbally and in writing, during the application or bidding process and before the award of the contract in accordance with the City of Lake Worth Beach Code of Ordinances, Chapter 2, Article XII Code of Ethics, Section 2-101(2). All applicants shall complete the City’s Campaign Contribution Statement.

**00840**  
**LISTING OF THE DUTIES, RESPONSIBILITIES AND**  
**LIMITATIONS OF AUTHORITY OF THE**  
**RESIDENT PROJECT REPRESENTATIVE**

ENGINEER may furnish a Resident Project Representative (RPR), assistants and other field staff to assist ENGINEER in observing performance of the Work of the Contractor. RPR may only be part time on site, and CONTRACTOR shall coordinate with RPR as required in the Contract Documents.

Through on-site observations of the Work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the Work; but, the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of ENGINEER in ENGINEER's agreement with the OWNER and in the construction Contract Documents, and are further limited and described as follows:

**A. GENERAL**

RPR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with ENGINEER and CONTRACTOR keeping OWNER advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of CONTRACTOR. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

**B. DUTIES AND RESPONSIBILITIES OF RPR**

1. **SCHEDULES:** Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.
2. **CONFERENCES AND MEETINGS:** Attend meetings with CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. **LIAISON:**
  - a. Serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent and assist in understanding the intent of the Contract Documents; and assist ENGINEER in serving as OWNER's liaison with CONTRACTOR when CONTRACTOR's operations affect OWNER's on-site operations.
  - b. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.
4. **SHOP DRAWINGS AND SAMPLES:**
  - a. Record date of receipt of Shop Drawings and samples.
  - b. Receive samples which are furnished at the site by CONTRACTOR, and notify ENGINEER of availability of samples for examination.

- c. Advise ENGINEER and CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by ENGINEER.
5. REVIEW OF WORK, REJECTION OF DEFECTIVE WORK, INSPECTIONS AND TESTS:
  - a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to ENGINEER whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
  - c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof; and observe, record and report to ENGINEER appropriate details relative to the test procedures and startups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.
6. INTERPRETATION OF CONTRACT DOCUMENTS: Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.
7. MODIFICATIONS: Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to CONTRACTOR decisions as issued by ENGINEER.
8. RECORDS:
  - a. Maintain at the job site or ENGINEER's office files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
  - b. Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.
9. REPORTS:
  - a. Furnish ENGINEER periodic reports as required of progress of the Work and of CONTRACTOR's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
  - b. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
  - c. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommend to ENGINEER Change Orders, Work Directive Changes, and Field Orders.
  - d. Report immediately to ENGINEER and OWNER upon the occurrence of any accident witnessed by RPR or that was otherwise made known to RPR.
10. PAYMENT REQUESTS: Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to

ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.

11. CERTIFICATES, MAINTENANCE AND OPERATION MANUALS: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.

12. COMPLETION:

- a. Before ENGINEER issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring completion or correction.
- b. Conduct final inspection in the company of ENGINEER, OWNER and CONTRACTOR and prepare a final list of items to be completed or corrected.
- c. Observe that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

### **C. LIMITATIONS OF AUTHORITY**

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER.
2. Shall not exceed limitations of ENGINEER's authority as set forth in the Contract Documents.
3. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawing or sample submittals from anyone other than Contractor.
7. Shall not authorize OWNER to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

END OF SECTION

**00850**  
**CAMPAIGN CONTRIBUTION STATEMENT**

This solicitation is subject to Section 2-101 of the City of Lake Worth Beach Code of Ordinances regarding campaign contributions.

**Sec. 2-101. - Additional and supplemental disclosures requirements.**

- (a) Any elected official of the City of Lake Worth Beach, who is a current sitting member of the city commission and has accepted an election campaign contribution in an amount that is more than one hundred dollars (\$100.00) from an individual or business entity having an interest in a matter before the city commission in which the city commission will take action, must publicly disclose, both verbally and in writing, such contribution prior to any discussion or vote on the matter. The written disclosure must be submitted to the city clerk.
- (b) Any applicant coming before the city commission for an award of a contract with the city and who has made an election campaign contribution in an amount that is more than one hundred dollars (\$100.00) to any elected official of the city commission, who is a current sitting member of the commission, must disclose such election campaign contribution, verbally and in writing, during the application or bidding process and before the award of the contract.

**Vendor to complete:** Check which statement applies, fill in the requested information, if applicable, and sign below.


Neither the undersigned business nor any of its owners or officers contributed more than \$100.00 to the campaign of a sitting City Commission member. [If you checked this statement, you are done and may sign below.]

The undersigned business or one or more of its owners or officers contributed more than \$100.00 to the campaign of a sitting City Commission member. All such contributions are listed below and on the attached sheet of paper (if more room is needed). [If you checked this statement, please fill in the information requested below and sign below.]

1. \_\_\_\_\_ contributed a total of \$ \_\_\_\_\_ to the campaign of City Commission member \_\_\_\_\_.
2. \_\_\_\_\_ contributed a total of \$ \_\_\_\_\_ to the campaign of City Commission member \_\_\_\_\_.
3. \_\_\_\_\_ contributed a total of \$ \_\_\_\_\_ to the campaign of City Commission member \_\_\_\_\_.
4. \_\_\_\_\_ contributed a total of \$ \_\_\_\_\_ to the campaign of City Commission member \_\_\_\_\_.

**Signature:**

I hereby certify that the above statements are true and correct to the best of my knowledge and I understand that a false or inaccurate statement may result in the rejection of this bid/proposal/submittal or the immediate termination of any resulting agreement with the City of Lake Worth Beach.

By: 

Print Name: JEFFREY COHEN

Print Title: EXECUTIVE VICE PRESIDENT

Print Name of Business: M&M ASPHALT MAINTENANCE INC.,  
D/B/A ALL COUNTY PAVING

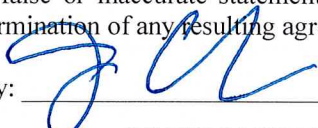
**Commissioner/Mayor to complete:** Check which statement applies, fill in the requested information, if applicable, and sign below.

Neither the above referenced business nor any of its owners or officers contributed more than \$100.00 to my campaign. [If you checked this statement, you are done and may sign below.]

The above referenced business or one or more of its owners or officers contributed more than \$100.00 to my campaign. All such contributions are listed below and on the attached sheet of paper (if more room is needed). [If you checked this statement, please fill in the information requested below and sign below.]

- \_\_\_\_\_ contributed a total of \$ \_\_\_\_\_ to my campaign.
- \_\_\_\_\_ contributed a total of \$ \_\_\_\_\_ to my campaign.
- \_\_\_\_\_ contributed a total of \$ \_\_\_\_\_ to my campaign.
- \_\_\_\_\_ contributed a total of \$ \_\_\_\_\_ to my campaign.

**Signature:**  
I hereby certify that the above statements are true and correct to the best of my knowledge and I understand that a false or inaccurate statement may result in the rejection of this bid/proposal/submittal or the immediate termination of any resulting agreement with the City of Lake Worth Beach.

By: 

Print Name: JEFFREY COHEN

**For City Clerk's Use Only.**

**THIS SECTION SHALL BE COMPLETED ONLY IF THERE IS A CAMPAIGN CONTRIBUTION LISTED ABOVE BY THE VENDOR OR COMMISSION MEMBER.**

Applicable campaign contributions were disclosed in writing above, and prior to the award of the contract, the following statements were verbally made at the City Commission Meeting on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

- Check all that apply.
- \_\_\_\_\_ Commissioner/Mayor \_\_\_\_\_ verbally disclosed the campaign contribution(s) set forth above.
- \_\_\_\_\_ Vendor, \_\_\_\_\_, verbally disclosed the campaign contribution(s) set forth above.

City of Lake Worth Beach  
Harold Grimes Memorial Park Improvement Project  
Phase 1B – Parking Lot Resurfacing  
IFB #23-103

00851  
SCRUTINIZED COMPANIES CERTIFICATION FORM

By execution below, I, JEFFREY COHEN, on behalf of M&M ASPHALT MAINTENANCE INC.,  
D/B/A ALL COUNTY PAVING (hereinafter,  
the “Contractor”), hereby swear or affirm to the following certifications:

The following certifications apply to all procurements:

1. The Contractor has reviewed section 215.4725, Florida Statutes, section 215.473, Florida Statutes and section 287.135, Florida Statutes, and understands the same.
2. The Contractor is not on the Scrutinized Companies that Boycott Israel List nor is the Contractor engaged in a boycott of Israel.
3. If awarded a contract, the Contractor agrees to require these certifications for applicable subcontracts entered into for the performance of work/services under this procurement.
4. If awarded a contract, the Contractor agrees that the certifications in this section shall be effective and relied upon by the City for the entire term of the contract, including any and all renewals.

If the contract awarded hereunder is for one million dollars or more, the following additional certifications apply:

1. The Contractor is not on the Scrutinized Companies with Activities in Sudan List.
2. The Contractor is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.
3. The Contractor is not engaged in business operations in Cuba or Syria.
4. If awarded a contract, the Contractor agrees to require these certifications for applicable subcontracts entered into for the performance of work/services under this procurement.
5. If awarded a contract, the Contractor agrees that the certifications in this section shall be effective and relied upon by the City for the entire term of the contract, including any and all renewals.

CONTRACTOR:

By: [Signature]

Name: JEFFREY COHEN Title: EXECUTIVE VICE PRESIDENT

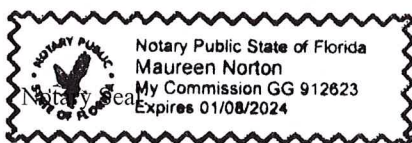
Date: 02/01/2023

STATE OF FLORIDA )

COUNTY OF PALM BEACH )

THE FOREGOING instrument was acknowledged before me by means of  physical presence or  online notarization on this 1<sup>ST</sup> day of FEBRUARY 2023, by JEFFREY COHEN, as the VICE - PRESIDENT [title] of \_\_\_\_\_ [vendor's name], a \_\_\_\_\_ [corporate description], who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

[Signature]  
Notary Public Signature





**INVITATION FOR BID  
IFB 23-103  
Addendum No. 1**

**Harold Grimes Memorial Park Improvement Project Phase 1B – Parking Lot Resurfacing**

This addendum shall modify, clarify, change, or add information and clarification and become part of the above referenced IFB.

**Questions & Answers:**

**Question 1:** Does the project require any lighting?

**Answer 1: No**

**Question 2:** What's the Estimated Budget?

**Answer 2: \$60,000**

**Question 3:** Bid item 5 & 6- 6" Concrete: The quantity appears to only cover replacing the aprons to the nearest joint in the existing sidewalk. The four ramps at the entrance to the parking lot, on either side of the apron, are not currently ADA. 1 Ramp specifically is only about 1 foot long. Do you want to add an f curb bid item so the curb can be removed and replaced 6' long at each ramp?

**Answer 3: No, this will be part of an internal sidewalk repair**

**Question 4:** There is no bid item for 4" concrete. Some of the sidewalk in front of the park is cracked pretty bad. Do you want to add a contingency item for 4" concrete?

**Answer 4: No, this will be part of an internal sidewalk repair**

**Question 5:** Bid item 18. There is currently only one 24" stop bar.

**Answer 5: Yes, there is only one 24" stop bar at the exit of the parking lot.**

**Question 6:** Bid item 22 One Way Signs: You have a quantity of 4. There are currently 7 out there (one appears to be missing so there should be 8). Please clarify if you would like 4 only, or are we to match existing?

**Answer 6: Yes, only 4 signs need replacing 3 of them are in good condition**



**Question 7:** Will asbuilts be required as there are not actual plans / elevations?

**Answer 7:** No, asbuilts will not be required for this project.



FINANCE DEPARTMENT  
7 NORTH DIXIE HIGHWAY  
LAKE WORTH BEACH, FL 33460

**NOTICE OF INTENT TO AWARD**

**TO:** All Interested Parties  
**FROM:** Anthony Hernandez, Purchasing Agent II  
**DATE:** February 7, 2023  
**REF:** IFB#23-103 Harold Grimes Memorial Park Phase 1B Parking Lot Resurfacing  
**SUBJECT:** Notice of Intent to Award

Based on the results and the thorough review of the proposals submitted in response to the above-referenced solicitation, the City of Lake Worth Beach has determined that **M&M Asphalt Maintenance Inc., D/B/A All County Paving** is of the best value to the City and is being recommended for award of this solicitation. The effective date of this posting is February 7, 2023.

The City will be advising you of the required documents needed so that contract documents can be completed and prepared for the Commission approval.

If you have any additional questions, feel free to contact me via email, at [ahernandez@lakeworthbeachfl.gov](mailto:ahernandez@lakeworthbeachfl.gov). If you are unable to contact me via email, please call at (561) 586-1770.

Attachment: IFB#23-103 Harold Grimes Memorial Park Phase 1B Parking Lot Resurfacing- Bid Tab

# Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

## Bid Bond

### CONTRACTOR:

(Name, legal status and address)

M & M Asphalt Maintenance, Inc.  
DBA All County Paving  
1180 SW 10th Street  
Delray Beach, FL 33444

### SURETY:

(Name, legal status and principal place of business)

Hartford Fire Insurance Company  
One Hartford Plaza  
Hartford, CT 06155-0001

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

### OWNER:

(Name, legal status and address)

City of Lake Worth Beach  
7 North Dixie Hwy, 2nd Floor  
Lake Worth Beach, FL 33460

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**BOND AMOUNT:** \$ 5%

Five Percent of Amount Bid

### PROJECT:

(Name, location or address, and Project number, if any)


Harold Grimes Memorial Park Improvement Project, Phase 1B - Parking Lot Resurfacing, IFB #23-103

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

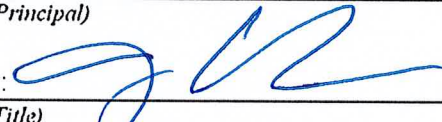
If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 1st day of February, 2023

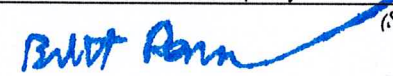
  
\_\_\_\_\_  
(Witness)

M & M Asphalt Maintenance, Inc. DBA All County Paving  
(Principal) \_\_\_\_\_ (Seal)

By:   
\_\_\_\_\_  
(Title)

  
\_\_\_\_\_  
(Witness) Rita Lazarides

Hartford Fire Insurance Company  
(Surety) \_\_\_\_\_ (Seal)

By:   
\_\_\_\_\_  
(Title) Brett Rosenhaus Attorney-in-Fact

# POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD  
BOND, T-12  
One Hartford Plaza  
Hartford, Connecticut 06155  
[Bond.Claims@thehartford.com](mailto:Bond.Claims@thehartford.com)

call: 888-266-3488 or fax: 860-757-5835

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: NIELSON HOOVER & COMPANY INC  
Agency Code: 21-229752

- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of Unlimited** :

D. A. Belis, Tracey C. Brown-Boone, Natalie C. Demers, David R. Hoover, Stephanie McCarthy, Laura D. Mosholder, John R. Neu, Charles D. Nielson, Charles J. Nielson, Joseph Penichet Nielson, Daniel Frank Oaks, Brett Rosenhaus, Kevin Wojtowicz of MIAMI LAKES, Florida

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**In Witness Whereof**, and as authorized by a Resolution of the Board of Directors of the Companies on May 6, 2015 the Companies have caused these presents to be signed by its Senior Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*John Gray*

John Gray, Assistant Secretary

*M. Ross Fisher*

M. Ross Fisher, Senior Vice President

STATE OF CONNECTICUT }  
COUNTY OF HARTFORD } ss. Hartford

On this 5th day of January, 2018, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Senior Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Kathleen T. Maynard*

Kathleen T. Maynard  
Notary Public

My Commission Expires July 31, 2021

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of February 1, 2023.

Signed and sealed at the City of Hartford.



*Kevin Heckman*

Kevin Heckman, Assistant Vice President

# Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

## Bid Bond

### CONTRACTOR:

(Name, legal status and address)

M & M Asphalt Maintenance, Inc.  
DBA All County Paving  
1180 SW 10th Street  
Delray Beach, FL 33444

### SURETY:

(Name, legal status and principal place of business)

Hartford Fire Insurance Company  
One Hartford Plaza  
Hartford, CT 06155-0001

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

### OWNER:

(Name, legal status and address)

City of Lake Worth Beach  
7 North Dixie Hwy, 2nd Floor  
Lake Worth Beach, FL 33460

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**BOND AMOUNT:** \$ 5%

Five Percent of Amount Bid

### PROJECT:

(Name, location or address, and Project number, if any)

Harold Grimes Memorial Park Improvement Project, Phase 1B - Parking Lot Resurfacing, IFB #23-103

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 1st day of February, 2023


  
\_\_\_\_\_  
(Witness)

M & M Asphalt Maintenance, Inc. DBA All County Paving  
(Principal) \_\_\_\_\_ (Seal)

By:   
\_\_\_\_\_  
(Title)

  
\_\_\_\_\_  
(Witness) Rita Lazarides

Hartford Fire Insurance Company  
(Surety) \_\_\_\_\_ (Seal)

By:   
\_\_\_\_\_  
(Title) Brett Rosenhaus Attorney-in-Fact

# POWER OF ATTORNEY

Direct Inquiries/Claims to:

**THE HARTFORD**  
 BOND, T-12  
 One Hartford Plaza  
 Hartford, Connecticut 06155  
 Bond.Claims@thehartford.com

call: 888-266-3488 or fax: 860-757-5835

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: NIELSON HOOVER & COMPANY INC  
 Agency Code: 21-229752

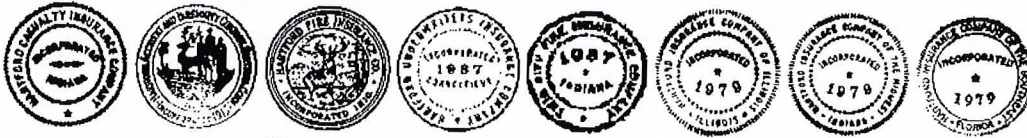
- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of Unlimited :

D. A. Belis, Tracey C. Brown-Boone, Natalie C. Demers, David R. Hoover, Stephanie McCarthy, Laura D. Mosholder, John R. Neu, Charles D. Nielson, Charles J. Nielson, Joseph Penichet Nielson, Daniel Frank Oaks, Brett Rosenhaus, Kevin Wojtowicz of MIAMI LAKES, Florida

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 6, 2015 the Companies have caused these presents to be signed by its Senior Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*John Gray*

John Gray, Assistant Secretary

*M. Ross Fisher*

M. Ross Fisher, Senior Vice President

STATE OF CONNECTICUT }  
 COUNTY OF HARTFORD } ss. Hartford

On this 5th day of January, 2018, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Senior Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Kathleen T. Maynard*

Kathleen T. Maynard  
 Notary Public  
 My Commission Expires July 31, 2021

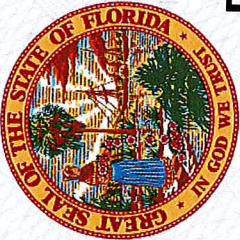
I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of February 1, 2023.  
 Signed and sealed at the City of Hartford.



*Kevin Heckman*

Kevin Heckman, Assistant Vice President

Ron DeSantis, Governor



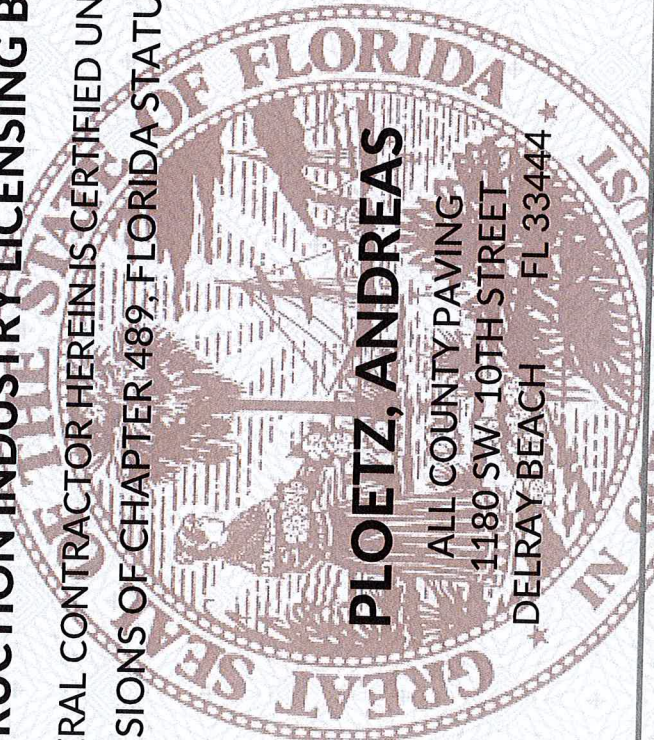
Melanie S. Griffin, Secretary



**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**CONSTRUCTION INDUSTRY LICENSING BOARD**

THE GENERAL CONTRACTOR HEREIN IS CERTIFIED UNDER THE  
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES



**PLOETZ, ANDREAS**

ALL COUNTY PAVING  
1180 SW 10TH STREET  
DELRAY BEACH FL 33444

**LICENSE NUMBER: CGC1527974**

**EXPIRATION DATE: AUGUST 31, 2024**

Always verify licenses online at [MyFloridaLicense.com](http://MyFloridaLicense.com)



Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.

Certification for E-Verify

VENDOR hereby certifies compliance with the following:

Vendor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Vendor while performing work or providing services for the School Board of Palm Beach County, Florida. Vendor shall also include in any related subcontracts a requirement that subcontractors performing work or providing services for the School Board of Palm Beach County, Florida on its behalf utilize the EVerify system to verify the employment eligibility of all new employees hired by subcontractors.

VENDOR:

**M&M Asphalt Maintenance Inc., dba All County Paving**  
Business Name

**Jeffrey Cohen**  
Signature Name:

**Jeffrey Cohen**  
Printed Name:

**Executive Vice President**  
Printed Title

**3-17-20**  
Date





**Construction Industry Licensing Board of  
Palm Beach County**

(561) 233-5525

Planning, Zoning & Building Department  
Contractors Certification Division  
2300 N. Jog Road, 2nd Floor, Suite 2W-61  
West Palm Beach, FL 33411

JEFFREY S COHEN  
16420 BRIDLEWOOD CIR  
DELRAY BEACH, FL 33445

Congratulations on obtaining your **PAVING CONTRACTOR** Certificate and for applying for certification in Palm Beach County. With this Certificate of Competency, you become or continue to be one of thousands of Floridians certified by the Construction Industry Licensing Board (CILB) of Palm Beach County. Our Construction certificates range from General, Building, and Residential to Specialty trades unique to our County. The following is proof of your Certificate of Competency along with your scope of work.

Peter Ringle, Chair

Construction Industry Licensing Board  
of Palm Beach County

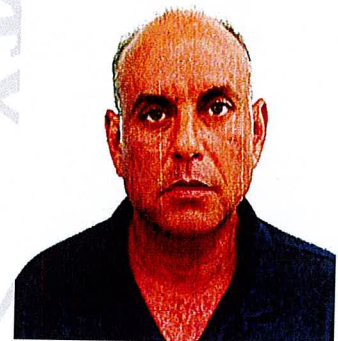
Oscar Alvarez, Director

License Number	Type of Competency Certification
U-21491	PAVING CONTRACTOR



Named below is a Certified Contractor as outlined in the Standards to perform under the provisions of Special Act Chapter 67-1876, Laws of Florida as amended and as mandated by State Statute.

**NAME :** JEFFREY S COHEN  
**FIRM :** M & M ASPHALT MAINTENANCE INC  
**DBA :** ALL COUNTY PAVING  
1180 SW 10TH ST  
DELRAY BEACH, FL 33444-1243



**Issued :** 08/09/2021

**Expiration date:** 09/30/2023

**PAVING CONTRACTOR** contractor are those who are qualified with the experience and skill to construct roads, alter or repair, airport runways, parking lots, sidewalks, curbs, gutters, modular retaining walls, storm drainage facilities, residential driveways, using port land cement, concrete or asphaltic concrete paver brick/paver systems and to perform the excavating, clearing and grading incidental thereto. Electrical work for lighting that area may be included in the contract, but must be subcontracted to a Certified Electrical Contractor. Scope also includes the work of the Seal Coating/Striping Contractor. (Rev. 6/1/14)

**HERBERT L. MILLER**  
**Project Manager / Project Superintendent**  
**6112 NW 22<sup>nd</sup> Street Margate, Florida 33063**  
**(954) 478-6474 – HMCMC17@gmail.com**

## ***CAREER SUMMARY***

I have 17 years of experience in the construction industry. I am currently working as a Project Manager for All County Paving.

I am well versed in all phases of facilities management and new construction work procedures. I am a skilled and experienced, hands-on manager with a proven background in all disciplines and a recognized ability to manage a number of diversified activities simultaneously. I am a people-oriented manager who combines communication, technical and analytical skills to consistently produce high quality results.

## ***RESPONSIBILITIES*** ***PROJECT MANAGER***

- Perform takeoff for civil estimating
- Procurement and review of material submittals
- Review and approve subcontract agreements
- Lead and communicate with on-site supervisors, subcontractors & vendors to assist them in working to the project schedule.
- Direct & coordinate day-to-day activities to insure work is being done as per required schedule & specifications.
- Coordinate site testing and inspection efforts
- Generate & maintain project schedules
- Conduct quality inspections as per the approved submittals
- Review safety reports & take necessary action if required
- Review 4- week look ahead schedule prepared by Project engineer & submit it to the Owner
- Attend all schedule & management meetings necessary to monitor & manage the project
- Manage work force payroll hours & handle equipment rentals
- Review the work performed at the end of each month & prepare payment requisition.
- Computer skills in Outlook, Excel, Word, Project.

## ***WORK EXPERIENCE***

### **DOUGLAS PARK REMEDIATION** **PROJECT MANAGER – (2017)**

- \$ 7 million Remediation of Miami Park containing arsenic materials. Site Preparation, grading, building and pavement demolition, construction of concrete and asphalt pavement, base course, pavement markings, air field lighting, electrical communication duct banks, storm drainage, underground water and sanitary sewer services, landscaping, fencing and sports field modifications.

## **FORT LAUDERDALE INTERNATIONAL AIRPORT**

### **PROJECT MANAGER – (2014 – 2016)**

- \$38 million Terminal 4 Expansion Project: Site Preparation, grading, building and pavement demolition, construction of concrete and asphalt pavement, base course, pavement markings, air field lighting, electrical communication duct banks, storm drainage, underground water and sanitary sewer services, landscaping, fencing and retaining walls.

## **CITY OF MIAMI**

### **PROJECT MANAGER / SUPERINTENDENT – (2008 – 2014)**

- **\$35 million** job order contract work for repair and renovation to various roadway projects. The jobs consisted of “horizontal” and “vertical” projects including, but not limited to, fire stations, park renovations, intersection improvements, storm water drainage, and roadway improvements.
- **City of Homestead** – SW 4<sup>th</sup> Street Roadway Improvements  
This project consisted new concrete, pavers, landscaping, irrigation, milling, and paving.
- **City Of Tamarac** – NW 108<sup>th</sup> Avenue Drainage Improvements  
This project consisted new concrete, pavers, landscaping, irrigation, and drainage installation
- **City of Miami** – Museum Park \$9 million  
This project consisted of new drainage, restroom building, parking lot, pavers, concrete walkways, concrete wave walls, landscaping, irrigation, and electrical lighting.
- **City Of Fort Lauderdale** –NW 14<sup>th</sup> Street Improvements  
This project consisted of new drainage, concrete, milling, paving, landscaping, striping, and signage.
- **City of Miami** – Greenway Roadway Improvements  
This project consisted of new drainage, concrete, milling, paving, landscaping, striping, and signage.
- **City of Homestead** - Mowry Drive (SW 320th Street) Improvements  
This project consisted of the conversion of Mowry Drive (SW 320rd Street), from SW 152<sup>nd</sup> Ave. to SW 157<sup>th</sup> Ave., from a 2-lane to 4-lane road.
- **Abrika Pharmaceutical, Sunrise, Florida; \$4 million**, 22,000 sf. design/build lab and clean room build out. Position: Project Superintendent.
- **NABI Biopharmaceutical, Boca Raton, Florida; \$20 million**, 32,000 sf. design/build buildout of clean room manufacturing area and equipment installation. Position: Project Superintendent.
- **Andrx Pharmaceutical, Davie, Florida; \$18 million**, 140,000 sf. design/build clean room production facility with a 42,000 sf. equipment platform. Position: Project Superintendent.

## ***EDUCATION (1997 - 2000)***

- **Tallahassee Community College**  
A.S. Business Administration & Management

## ***LICENSES & CERTIFICATIONS***

- OSHA 30 Hour
- Maintenance of Traffic DOT
- Asphalt Paving Level 1, State of Florida
- Effective Construction Management, State of Florida



## Florida Department of Transportation

RON DESANTIS  
GOVERNOR

605 Suwannee Street  
Tallahassee, FL 32399-0450

JARED W. PERDUE, P.E.  
SECRETARY

May 11, 2022

M&M ASPHALT MAINTENANCE INC  
1180 SW 10TH STREET  
DELRAY BEACH, FLORIDA 33444

### RE: CERTIFICATE OF QUALIFICATION

The Department of Transportation has qualified your company for the type of work indicated below.

#### FDOT APPROVED WORK CLASSES:

DRAINAGE, FLEXIBLE PAVING, GRADING, HOT PLANT-MIXED BITUM. COURSES

Unless notified otherwise, this Certificate of Qualification will expire **6/30/2023**.

In accordance with Section 337.14(4), Florida Statutes, changes to Ability Factor or Maximum Capacity Rating will not take effect until after the expiration of the current certificate of prequalification (if applicable).

In accordance with Section 337.14(1), Florida Statutes, an application for qualification must be filed within (4) months of the ending date of the applicant's audited annual financial statements.

If the company's maximum capacity has been revised, it may be accessed by logging into the Contractor Prequalification Application System via the following link:  
[HTTPS://fdotwpl.dot.state.fl.us/ContractorPreQualification](https://fdotwpl.dot.state.fl.us/ContractorPreQualification)

Once logged in, select "View" for the most recently approved application, and then click the "Manage" and "Application Summary" tabs.

The company may apply for a Revised Certificate of Qualification at any time prior to the expiration date of this certificate according to Section 14-22.0041(3), Florida Administrative Code (F.A.C.), by accessing the most recently approved application as shown above and choosing "Update" instead of "View." If certification in additional classes of work is desired, documentation is needed to show that the company has performed such work.

All prequalified contractors are required by Section 14-22.006(3), F.A.C., to certify their work underway monthly in order to adjust maximum bidding capacity to available bidding capacity. You can find the link to this report at the website shown above.

Sincerely,

for Alan Autry, Manager  
Contracts Administration Office

AA:cg



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

## Detail by Entity Name

Florida Profit Corporation

M & M ASPHALT MAINTENANCE INC.

### Filing Information

<b>Document Number</b>	P09000035507
<b>FEI/EIN Number</b>	61-1595442
<b>Date Filed</b>	04/21/2009
<b>Effective Date</b>	04/21/2009
<b>State</b>	FL
<b>Status</b>	ACTIVE
<b>Last Event</b>	AMENDMENT
<b>Event Date Filed</b>	09/26/2016
<b>Event Effective Date</b>	NONE

### Principal Address

1180 SW 10TH STREET  
DELRAY BEACH, FL 33444

Changed: 01/07/2015

### Mailing Address

1180 SW 10TH STREET  
DELRAY BEACH, FL 33444

Changed: 01/07/2015

### Registered Agent Name & Address

COHEN, JEFFREY  
1180 SW 10TH STREET  
DELRAY BEACH, FL 33444

Address Changed: 01/07/2015

### Officer/Director Detail

#### **Name & Address**

Title SVP

COHEN, JEFFREY  
1180 SW 10TH STREET  
DELRAY BEACH, FL 33444

Title P/D

GOLDBERG, KENNETH R  
1180 SW 10TH STREET  
DELRAY BEACH, FL 33444

#### Annual Reports

<b>Report Year</b>	<b>Filed Date</b>
2020	01/23/2020
2021	01/08/2021
2022	01/24/2022

#### Document Images

<a href="#">01/24/2022 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/08/2021 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/23/2020 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/03/2019 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/15/2018 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/19/2017 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">09/26/2016 -- Amendment</a>	View image in PDF format
<a href="#">01/15/2016 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/07/2015 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/10/2014 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/16/2013 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">03/16/2012 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/04/2012 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/05/2011 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">01/08/2010 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">04/21/2009 -- Domestic Profit</a>	View image in PDF format
<a href="#">04/21/2009 -- Off/Dir Resignation</a>	View image in PDF format



**CITY OF LAKE WORTH BEACH  
IFB #23-103**

**Harold Grimes Memorial Park  
Improvement Project  
Phase 1B – Parking Lot Resurfacing**

**Scope of Work**

**Asphalt Work**

- Mobilize necessary equipment to the jobsite.
- Mill 2,400 square yards of existing asphalt to an average depth of 1.5 inches.
- Dispose of milled asphalt in a manner consistent with all City, County, and State regulations and environmental requirements.
- Repave parking lot with 2,400 square yards of 1" of type 3-S Asphaltic Concrete.

**Concrete Work**

- Mobilize necessary equipment to the jobsite.
- Demolish 228 square feet of 6" concrete and 41 linear feet of concrete curb.
- Dispose of demolished concrete in a manner consistent with all City, County, and State regulations and environmental requirements.
- Construct 2 new driveway aprons utilizing 228 square feet of 3,000 PSI pressure rated concrete.
- Construct 41 linear feet of type D curbing utilizing 3,000 PSI pressure rated concrete.
- Install 21 new car stops.

**Striping Work**

- Mobilize necessary equipment to the jobsite.
- Install 1,056 linear feet of parking stall lines.
- Install 2 new ADA parking stalls.
- Install 1 new Veteran parking stall.
- Install 2 new stop bars.
- Install 135 linear feet of yellow hash lines.
- Paint 25 linear feet of curb yellow.

**Sign Work**

- Install 4 new "One Way" signs.
- Install 2 new "Stop" signs.
- Install 2 new "Do Not Enter" signs.

Sunrise

Sunrise Ct

Sunrise Ct

t

Apron Repair

Sunrise Ct

Apron Repair

Curb Repair

Curb Repair

Curb Repair

One way Signs

Park Hours  
Sunrise to Sunet

One Way (1)  
Stop Sign/Do  
Not Enter  
Park Hours  
No Dogs  
Allowed

One Way (2)  
Stop Sign/Do  
Not Enter  
Violation Sign

Harold Grimes Memorial Park



Harold Grimes Memorial Park

Veteran Parking

ADA Parking

ADA Parking

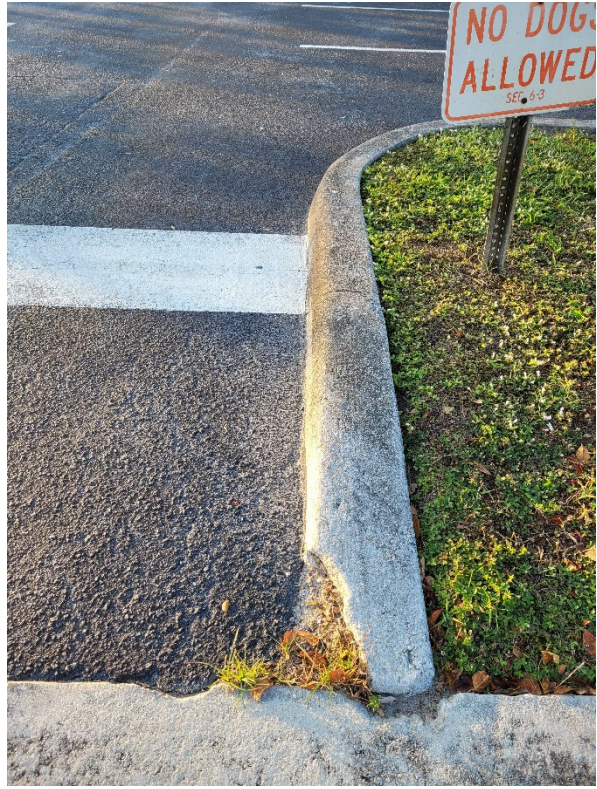
Curb Repair

Curb Repair

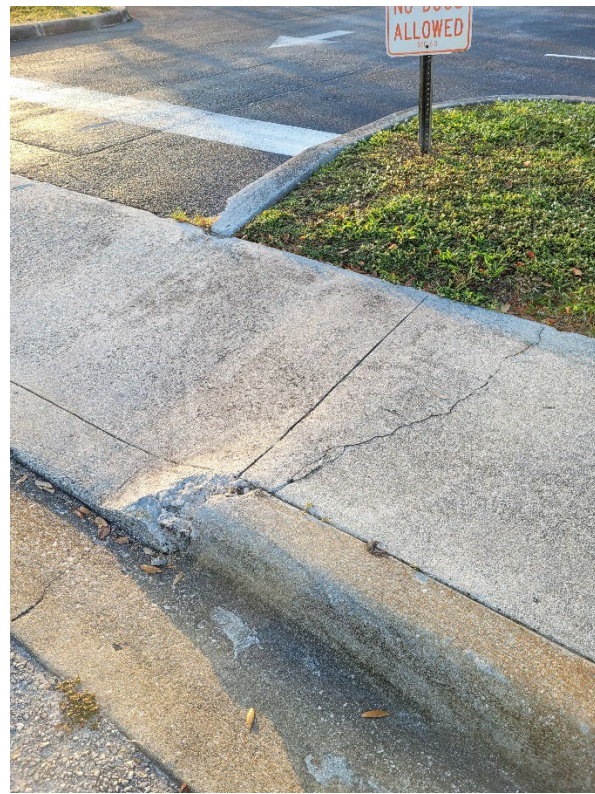
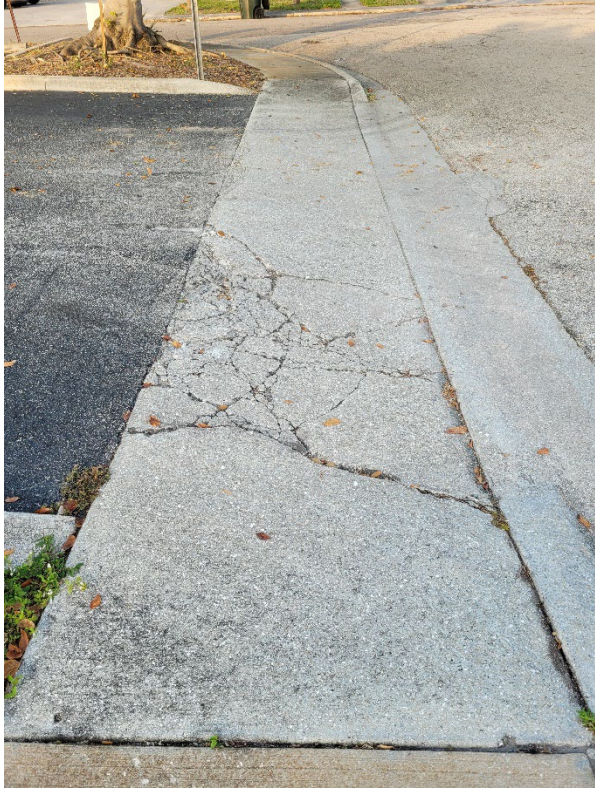
Data SIO, NOAA, U.S. Navy, NGA, GEBCO

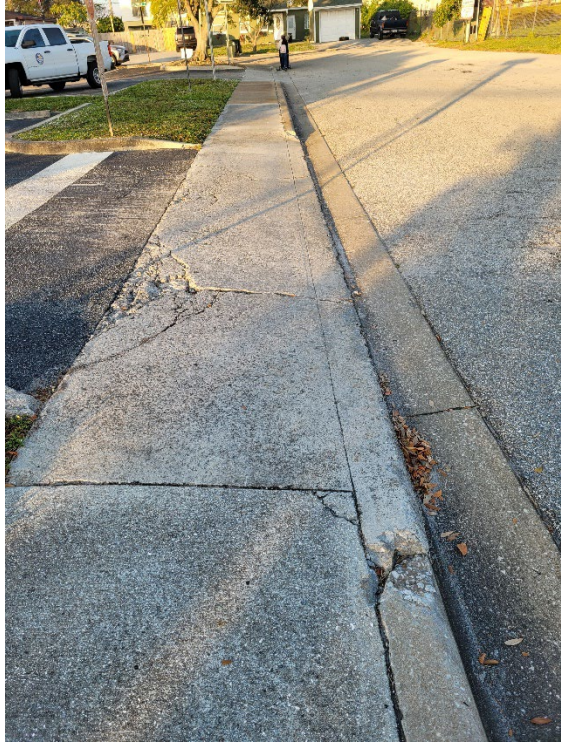


















**IFB#23-103**

**Harold Grimes Memorial Park  
Improvement Project  
Phase 1B – Parking Lot Resurfacing**

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**01000**

**Palm Beach County Department of Housing & Economic Development  
Requirements for Federally Funded Projects Documentation**

**REQUIREMENTS FOR FEDERALLY FUNDED PROJECTS**

<b>PROJECT NAME:</b>	City of Lake Worth Beach - Harold Grimes Memorial Park
----------------------	--

This project is funded in part, or in whole, with Federal funds and is subject to the requirements listed below. The requirements contained in this document are intended to cooperate with, to supplement, and to modify the general conditions and other specifications for this project. In case of disagreement with any other section of this bid document/ contract, the requirements contained herein shall govern. **Note: This document shall be included in the bid documents and contracts/ subcontracts for the project.**

**1. General Requirements:**

The following requirements are attached:

- Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)
- Equal Employment Opportunity Clause for Contracts Subject to Executive Order 11246
- Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)
- Bonding Requirements for Construction Contracts
- Public Entity Crimes - Section 287.133, Florida Statute
- Section 109 Housing and Community Development Act of 1974
- Nondiscrimination under the Age Discrimination Act of 1975, As Amended
- Title VI of the Civil Rights Act of 1964
- Section 3 Clause
- Work on Nights, Weekends and Holidays
- Lead-based Paint Poisoning Prevention Act
- Compliance with Clean Air and Water Acts
- Other Requirements: E-Verify Employment Eligibility

**2. Forms to be completed and submitted by all bidders with their bids:**

The following forms are attached:

- Non-collusion Affidavit of Prime Bidder
- Anti-kickback Affidavit
- Certification of Eligibility of General Contractor
- Certification of Non-segregated Facilities
- Workforce Projection

**3. Forms for the successful bidder, to be submitted after contract award:**

- Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Participant
- Contractor/ Subcontractor Statement and Acknowledgement

**4. Reports to be submitted to DHED by Subrecipient/ Contractor after contract award:**

- Contract Award Report (HUD Form 2516) to be submitted as follows:
  - with the first payment request, but no later than September 30 of the year during which the construction contract was awarded, and
  - with the final payment request
- Section 3 Report and Letter of Efforts – to be submitted with the final payment request

**5. Davis-Bacon Act:**

Federal labor standards provisions of the Davis-Bacon Act apply to construction projects valued over \$2,000. The following requirements are attached:

- Required Use of the Labor Compliance Reporting System (LCRS)
- Display of Posters and Wage Decision
- Federal Labor Standards Provisions - Form HUD-4010
- Guidance to Contractor for Compliance with Labor Standards Provisions
- The applicable wage decision(s) shown below is attached:

<b>Wage Decision(s) No.:</b>	FL20220180 Highway Mod 1 02252022
------------------------------	-----------------------------------

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION**  
**TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY**  
**(EXECUTIVE ORDER 11246)**

1. The Bidder’s attention is called to the “Equal Opportunity Clause” and the “Standard Federal Equal Employment Specification” set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor’s aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation for each trade	Goals for female participation in each trade
	22.4%	6.9%

Area covered:                      Palm Beach County                      All trades for the life of the project

These goals are applicable to all the Contractor’s construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor’s compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR-60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor’s goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notifications to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the “covered area” is Palm Beach County, Florida.

**EQUAL EMPLOYMENT OPPORTUNITY CLAUSE**  
**FOR CONTRACTS SUBJECT TO EXECUTIVE ORDER 11246**

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensating; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or order of the Secretary of Labor pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY**  
**CONSTRUCTION CONTRACT SPECIFICATIONS**  
**(EXECUTIVE ORDER 11246)**

1. As used in these specifications:
  - a. “Covered area” means the geographical area described in the solicitation from which this contract resulted;
  - b. “Director” means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. “Employer identification number” means the Federal Social Security number used on the Employer’s Quarterly Federal Tax Return, U. S. Treasury Department Form 941.
  - d. “Minority includes:
    - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origins);
    - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
    - (iii) Asian and Pacific Island (all persons having origins in any or the original people of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - (iv) American Indian or Alaskan Native (all persons having origins in any of the original people of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in the approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor’s failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federally or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the FEDERAL REGISTER in notice form, and such notices may be obtained from any Office of Federal Contract and Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources provide written notification to minority and female organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with what-ever additional actions the Contractor may have taken.



- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-site-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7a above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper; annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.



12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violating of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at last as extensive as those standards prescribed I paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to company with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out; to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**BONDING REQUIREMENTS FOR CONSTRUCTION CONTRACTS**

The requirements of 2 CFR Part 200 are applicable to this project as it relates to bid guarantees, performance bonds, and payment bonds for construction contracts exceeding the Simplified Acquisition Threshold as defined in 2 CFR 200.88. As of the publication of this part, the **Simplified Acquisition Threshold is \$250,000.**

2 CFR 200.325, Bonding Requirements, established minimum requirements as follows:

**1. BID GUARANTEE**

A bid guarantee from each bidder equivalent to five percent (5%) of the bid price.

Each bid shall be accompanied by a bid bond, certified check, cashiers check or other negotiable instrument in the amount of five percent (5%) of the total bid. Said check or bond shall be made payable to the entity soliciting the bid as the owner of the project, and shall be given as a guarantee that the bidder, upon receipt of the notice of intent to award the contract, will enter into an agreement with the owner, and will furnish the necessary documents including, but not limited to: insurance certificates, Payment Bond and Performance Bond; each of the said bonds to be in the amount stated herein. In case of refusal or failure to enter into said agreement, the check or bid bond, as the case may be, shall be forfeited to the owner. All bonds shall be written by a surety company of recognized standing, authorized to conduct business in the State of Florida, and shall have a registered agent in the State of Florida.

**2. PERFORMANCE BOND**

A performance bond on the part of the contractor for 100 percent (100%) of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

**3. PAYMENT BOND**

A payment bond on the part of the contractor for 100 percent (100%) of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

When the successful bidder delivers the executed agreement to the owner, it must be accompanied by a Performance Bond and a Payment Bond, each in the amount of one hundred percent (100%) of the contract price, executed by a corporate surety company of recognized standing, authorized to do business in the State of Florida. The bidder shall state in the bid proposal the name, address, telephone number and full name of the authorized agent of the surety or sureties who will sign these bonds in the event the contract is awarded to the bidder. During the bidding and construction periods the surety company shall hold a current certificate of authority as an acceptable surety on Federal Bonds, in accordance with U. S. Department of Treasury Circular 570, Current Revision.

**PUBLIC ENTITY CRIMES**

As provided in F.S. 287.133 by entering into this contract or performing any work in furtherance hereof, the contractor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a)."

\*\*\*\*\*

**SECTION 109 HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974**

The Nondiscrimination Clause of the Housing and Community Development Act of 1974 applies to all sections of Title 1 of the Act.

"No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title."

The contractor certifies that the above Section 109 statement forms part of the contract and is in compliance with Section 570.601 of the Community Development Block Grant Regulations.

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**NONDISCRIMINATION UNDER THE AGE DISCRIMINATION ACT OF 1975, AS AMENDED**

To the extent required by law, the Contractor shall comply with the requirements of the Age Discrimination Act of 1975 (P.L. 94-135), as amended, which provides that no person in the United States shall, on the basis of age, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

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**TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

To the extent applicable to this agreement, the contractor will comply with, and agrees to include this provision in every subcontract:

Title VI of the Civil Rights Act of 1964 (P. L. 88-352), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate This assurance/ If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

**SECTION 3 CLAUSE**

1. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U. S.C. 170 lu (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
2. The parties to this contract agree to comply with HUD’s requirements in 24 CFR Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.
3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers representative of the contractor’s commitment under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
4. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor’s obligations under 24 CFR Part 75.
6. Noncompliance with HUD’s regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

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**WORK ON NIGHTS, WEEKENDS, AND HOLIDAYS**

Neither the prime contractor nor any subcontractor shall be allowed to perform one hundred percent (100%) of their work on this project on nights, weekends, or Palm Beach County recognized holidays. The prime contractor and all subcontractors shall, at a minimum, perform work on this project for the duration of one regular working day. The prime contractor may request a waiver to the above requirement should the nature of the project so necessitate.

**LEAD-BASED PAINT POISONING PREVENTION ACT**

- References:
- 24 CFR Part 570
  - 24 CFR Part 35
  - Lead-Based Paint Poisoning Prevention Act, as amended
  - Residential Lead-Based Paint Hazard Reduction Act of 1992
  - 40 CFR Part 745

The aforementioned Acts and the referenced regulations prohibit the use of lead-based paint in housing receiving Federal assistance, and in child occupied facilities. In addition, these regulations require elimination of lead-based paint hazards in housing constructed prior to 1978 which receives Federal assistance.

\* \* \* \* \*

**COMPLIANCE WITH CLEAN AIR AND WATER ACTS**

In compliance with the Clean Air Act, as amended, 42 U.S.C. 1857(R) et. Seq., Section 508 of Clean Water Pollution Control Act, as amended 33 U.S.C. 1368 and Executive Order 11738.

1251 et. Seq., and the regulations of the Environmental Protection Agency with respect thereto, the appropriate parts of 40 CFR as amended from time to time. Contractor agrees that:

- (1) No facility to be utilized in the performance of this Contract or any subcontract shall not be a facility listed on the EPA list of Violating Facilities pursuant to 40 CFR 15.20.
- (2) He will comply with all requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1368 relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308. And all regulations and guidelines issued there under.
- (3) He will promptly notify the Owner of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
- (4) He will comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 49-163).
- (5) He will include or cause to be included the provisions of paragraph (1) through (5) of this section in every nonexempt subcontract and that he will take such action as the Government may direct as a means of enforcing such provisions.

\* \* \* \* \*

**OTHER REQUIREMENTS**

**E-VERIFY EMPLOYMENT ELIGIBILITY**

Pursuant to section 448.095, Florida Statutes, Beginning January 1, 2021, every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

Contractor must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of a copy of their proof of registration in the E-Verify system.

If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined in section 448.095, Florida Statutes.

The contractor shall maintain a copy of such affidavit for the duration of the contract.

A public employer, contractor, or subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated s. 448.09(1) shall terminate the contract with the person or entity.

A public employer that has a good faith belief that a subcontractor knowingly violated this subsection, but the contractor otherwise complied with this subsection, shall promptly notify the contractor and order the contractor to immediately terminate the contract with the subcontractor.

A contract terminated under subparagraph 1. or subparagraph 2. is not a breach of contract and may not be considered as such.



**NON-COLLUSION AFFIDAVIT OF PRIME BIDDER**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, personally appeared JEFFREY COHEN, who, after being by me first duly sworn, deposes and says of his/her personal knowledge that:

(1) He is EXECUTIVE VICE PRESIDENT of M&M ASPHALT MAINTENANCE INC., D/B/A ALL COUNTY PAVING, the Bidder that has submitted a Bid to perform work for the following project:

Contract #: N/A Project Name: N/A

- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against Palm Beach County or any person interested in the proposed Contract: and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

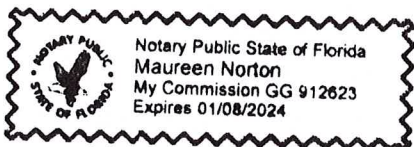
Signature: [Handwritten Signature]

Subscribed and sworn to (or affirmed) before me, by means of  physical presence or  online

notarization, this 1<sup>ST</sup> day of FEBRUARY 2023 by

JEFFREY COHEN, who is  personally known to me or  who has produced \_\_\_\_\_ as identification.

NOTARY SEAL:



Notary Signature: [Handwritten Signature]

Notary Name: MAUREEN NORTON  
Notary Public-State of Florida

Commission No. \_\_\_\_\_

**ANTI-KICKBACK AFFIDAVIT**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, personally appeared JEFFREY COHEN, who, after being by me first duly sworn, deposes and says:

(1) I am EXECUTIVE VICE PRESIDENT of M&M ASPHALT MAINTENANCE INC., D/B/A ALL COUNTY PAVING, the bidder that has submitted a proposal to perform work for the following project:

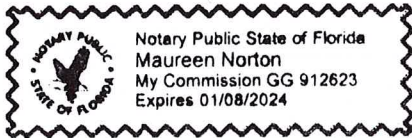
Contract #: N/A Project Name: N/A

(2) I, the undersigned, hereby depose and say that no portion of the sum bid in connection with the work to be performed at the property identified above will be paid to any employee of Palm Beach County or, \_\_\_\_\_ as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

Signature: [Handwritten Signature]

Subscribed and sworn to (or affirmed) before me, by means of  physical presence or  online notarization, this 1<sup>ST</sup> day of FEBRUARY 2023 by JEFFREY COHEN, who is  personally known to me or  who has produced \_\_\_\_\_ as identification.

NOTARY SEAL:



Notary Signature: [Handwritten Signature]

Notary Name: MAUREEN NORTON  
Notary Public-State of Florida

Commission No. \_\_\_\_\_

CERTIFICATION OF ELIGIBILITY OF GENERAL CONTRACTOR

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, personally appeared JEFFREY COHEN, who, after being by me first duly sworn, deposes and says of his/her personal knowledge that

(1) He/she is the EXECUTIVE VICE PRESIDENT of M&M ASPHALT MAINTENANCE INC., D/B/A ALL COUNTY PAVING, hereinafter referred to as the "General Contractor"; with State of FL Contractor License or Palm Beach County Contractors Certificate of Competency

License/ Certification No: CGC1527974 Expiration Date: \_\_\_\_\_  
who submitted a proposal to perform work for the following project:

Contract #: N/A Project Name: N/A

- (2) He/she is fully informed that the Proposal submitted for work to be performed under the above mentioned contract, is being funded, in whole or in part, by a Federally-assisted or insured contract; and
- (3) The General Contractor nor any of its officers, partners, owners or parties of interest is not named on the current General Services Administration List of Parties Excluded from Federal Procurement or Non-procurement Programs prior to award of the contract; and
- (4) The General Contractor acknowledges that should the contractor be subsequently found ineligible after award of the contract, its Construction Contract shall be terminated and the matter referred to the Department of Labor, the Department of Housing and Urban Development, or the General Services Administration for its action; and
- (5) The General Contractor acknowledges the responsibility of informing all of its subcontractors that this contract is being funded, in whole or in part, by a Federally-assisted or insured contract; and
- (6) The General Contractor acknowledged the responsibility that all of its subcontractors are to sign a "Certification Regarding Debarment Suspension, Ineligibility and Voluntary Exclusion-Lower-Tier Participant" as a part of its contract with such subcontractors, and that the "General Contractor" will retain such certifications in its files. Furthermore, should the subcontractor be subsequently found ineligible after award of the Construction Contract, its contract with the "General Contractor" shall be terminated and the matter referred to the Department of Labor, the Department of Housing and Urban Development, or the General Services Administration, for its action.

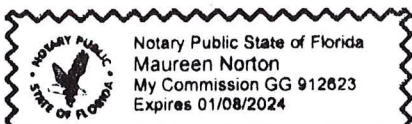
Signature: [Handwritten Signature]

Subscribed and sworn to (or affirmed) before me, by means of  physical presence or  online notarization, this 1<sup>ST</sup> day of FEBRUARY 2023 by JEFFREY COHEN, who is  personally known to me or  who has produced \_\_\_\_\_ as identification.

NOTARY SEAL:

Notary Signature: [Handwritten Signature]

Notary Name: MAUREEN NORTON  
Notary Public-State of Florida



Commission No. \_\_\_\_\_


CERTIFICATION OF NONSEGREGATED FACILITIES

The Bidder certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control where segregated facilities are maintained. The bidder certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder agrees that a breach of this certification will be a violation of the Equal Opportunity clause in any contract resulting from acceptance of this bid. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The bidder agrees that (except where he/she has obtained identical certification from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he/she will retain such certifications in his/her files.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

Project Name: HLA

Company Name and Address: McMansh Maintenance Inc / DBA All  
1180 SW 10th Street County  
Delton Beach, FL 33444 Delton

  
\_\_\_\_\_  
Signature

Jeffrey Colton | Executive Vice President.  
\_\_\_\_\_  
Name and Title

02/01/2023  
\_\_\_\_\_  
Date

WORKFORCE PROJECTION

PROJECT NAME: Harold Gaines Memorial Park Improvement Project PH I

Instructions: Check below all the work classifications that you anticipate will be working on this project including the prime contractor's work force and all subcontractors' work forces.

POWER EQUIPMENT OPERATORS

- Asphalt Distributor
Asphalt Paving Machine
Asphalt Screed
Backhoe
Boom Auger Operator
Bulldozer
Concrete Curb Machine Operator
Concrete Joint Saw Operator
Concrete Pump
Cranes with boom length less than 150 ft
Cranes with boom length 150 ft and over
Cranes, all tower cranes, and all
Derrick, or Dragline
Earthmover
Excavator
Forklift
Front End Loader
Grader/Blade
Guardrail Erector
Guardrail Erector
Guardrail Post Driver
Mechanic (type: )
Milling Machine Grade Checker
Milling Machine Operator
Motor Grader
Mulching Machine
Oiler, Greaseman
Pavement Striping Machine
Pavement Striping Machine Nozzleman
Pile driver
Power Sub-grade Mixer
Roller
Scraper
Sign Erector
Small Tool Operator
Tractor
Trenching Machine
Truck Driver (type: TRI-AXEL)
Other: SKID STEER
Other: TRACTOR BROOM

OTHER WORK CLASSIFICATIONS

- Acoustical Tile Installer
Air Tool Operators
Asphalt Rakers
Bricklayer/Brickmason/Blocklayer
Carpenter
Cement Mason/Concrete Finisher
Drywall Hanger
Drywall Finisher/Taper
Electrician
Elevator Mechanic
Fence Erector
Form Setter
Glazier
Grade Checker
HVAC Mechanic (type: )
Ironworker - Ornamental
Ironworker - Reinforcing
Ironworker - Structural
Laborer - Common or General
Laborer - Roof Tear off
Landscape and Irrigation laborer
Lather
Mason Tenders
Painter
Pipefitter (excluding HVAC pipe work)
Pipelayer
Plasterer
Plasterers Tenders
Plumber (excluding HVAC pipe)
Plumber (including HVAC pipe)
Roofer (including built-up, composition and single ply)
Sheet Metal Worker (including HVAC duct work)
Sprinkler Fitter (fire sprinkler)
Terrazzo Worker Mechanic
Tile Setter
Traffic Control Specialist
Traffic Signalization - Installer
Traffic Signalization - Mechanic
Unskilled Laborer
Welder
Other:

Submitted by: Jeffrey Cohen

Date: 02/01/23

**SECTION 00310-03- #5**

Project Name: John Leonard Parking Lot Resurfacing-The School Board of Palm Beach County

Contracted Scheduled: 90 days.

Actual Completion Schedule: completed project in 60 days.

Project Name: Lake Worth Middle-State Contracting and Engineering Corp

Contracted Scheduled: 120 days.

Actual Completion Schedule: completed in 90 days.

## EQUIPMENT LIST

Equipment Name	Category
Blower - Backpack	Small Tools
Blower - Walkbehind	Small Tools
Broom - 3 Wheel	Broom
Broom - Power Sweeper	Broom
Broom Tractor	Broom
Buffalo Turbine BT-CKB4	Misc. Equipment
Bulldozer - Large	Bulldozer
Bulldozer - Medium	Bulldozer
Bulldozer - Small	Bulldozer
Chainsaw	Small Tools
Curb Machine	Concrete Curb Machine
Distributor Truck	Distributor Truck
Excavator - Small	Excavator
Forklift	Misc. Equipment
Golf Cart	Misc. Equipment
Grader - Large	Grader
Grader - Rental	Rental Equipment
Light Tower	Misc. Equipment
Lightboard	Misc. Equipment
Loader - Combo	Loader
Loader - Large	Loader
Loader - Medium	Loader
Loader - Rental	Rental Equipment
Loader - Small	Loader
Low Boy Tractor	Low Boy
Low Boy Trailer	Low Boy
Mack CV713	Tri Axle Dump Truck
Mack GU713 Dump Truck	Tri Axle Dump Truck
Mack RD688S	Tri Axle Dump Truck
Milling Machine - Wirtgen	Milling Machine
Paver - Large 190 Paver	Paver
Paver - Medium 170 Paver	Paver
Paver - Rental	Rental Equipment
Paver - Sidewalk	Paver
Paver - Weiler	Paver
Plate Compactor - Large	Small Tools
Plate Compactor - Small	Small Tools

Plate Tamper - Rental	Rental Equipment
Pressure Washer	Misc. Equipment
Reclaimer	Reclaimer
Roller - 2 Ton Steel	Roller
Roller - 3-5 Ton Steel	Roller
Roller - 8-12 Ton Steel	Roller
Roller - 9 Wheel Rubber Tire	Roller
Roller - Rental	Rental Equipment
Roller - Rock	Roller
Roller- 1 Ton Wacker Neuson RD12	Roller
Sandblaster	Misc. Equipment
Saw - Handheld	Small Tools
Saw - Walkbehind	Small Tools
Sealcoat Service Truck	Service Vehicle
Service Truck - Milling	Service Vehicle
Service Truck - Paving	Service Vehicle
Service Truck - Rock	Service Vehicle
Service Van - Personnel Transport	Service Vehicle
Single Axle Dump Truck	Truck
Skidsteer - Rental	Rental Equipment
Skidsteer Attachment - Misc.	Attachment
Skidsteer Bucket Attachment	Attachment
Skidsteer Fork Attachment	Attachment
Skidsteer Grapple Attachment	Attachment
Skidsteer Mill Head Attachment	Attachment
Skidsteer Pnumatic Impact Breaker	Attachment
Skidsteer Sweeper Box Broom Attachment	Attachment
Skidsteer Tracked	Skid Steer
Skidsteer Wheel	Skid Steer
Squeegee Machine	Misc. Equipment
Storage Container	Misc. Equipment
Trailer - 1500 Gal. Sealcoat	Trailer
Trailer - 1500 Gal. Sealcoat W/ Spraybar	Trailer
Trailer - Misc.	Trailer
Trailer - Patching	Trailer
Trailer - Tack 750 Gal.	Trailer
Trencher - Vermeer RTX100	Small Tools
Truck - HD Pickup	Truck
Truck - LD Pickup	Truck
Truck - Misc. Service Pickup	Service Vehicle
Water Truck	Water Truck



**CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION, INELIGIBILITY, AND VOLUNTARY  
EXCLUSION-LOWER TIER PARTICIPANT**

**(SUBCONTRACTORS)**

Certification Regarding Debarment Suspension, Ineligibility and Voluntary Exclusion-Lower-Tier Covered Transactions pursuant to 24 CFR, Code of Federal Regulations, Part 24.510(b) and HUD Handbook 1300.13 REV.1:

By signing and submitting this proposal, the prospective lower-tier participant, certifies that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Further, I, we, provide the certification set out below:

1. I, and any principals of my firm, understand that the certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that I, we, knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department or agency with which this transaction originated may pursue available remedies.
2. Further, I, and any principal of my firm, shall provide immediate written notice to the person to which this proposal is submitted if at any time I, we, learn that my/our certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. By submitting this proposal, I, and any principals of my firm, agree that should the proposed covered transaction be entered into, I, we, will not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation. In this covered transaction unless authorized by the agency with which this transaction originated.
4. I, and any principals of my firm, further agree by submitting this proposal that I/we, will include this Certification, without modification, in all lower tier covered transactions and in all solicitations for lower-tier covered transacting.

Project Name: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

Address: \_\_\_\_\_

State of FL Contractor License or Palm Beach County Contractors Certificate of Competency

License/ Certification No: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

By:

Name and Title	Signature	Date

**STATEMENT AND ACKNOWLEDGMENT**

OMB Control Number: 9000-0066  
Expiration Date: 4/30/2022

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0066. We estimate that it will take .05 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

**PART I - STATEMENT OF PRIME CONTRACTOR**

1. PRIME CONTRACT NUMBER		2. DATE SUBCONTRACT AWARDED		3. SUBCONTRACT NUMBER	
4. PRIME CONTRACTOR			5. SUBCONTRACTOR		
a. NAME		a. NAME			
b. STREET ADDRESS		b. STREET ADDRESS			
c. CITY	d. STATE	e. ZIP CODE	c. CITY	d. STATE	e. ZIP CODE
6. The prime contract <input type="checkbox"/> does, <input type="checkbox"/> does not contain the clause entitled "Contract Work Hours and Safety Standards Act -- Overtime Compensation."					
7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:					
a. NAME OF AWARDDING FIRM					
b. DESCRIPTION OF WORK BY SUBCONTRACTOR					

**SUBMIT THIS FORM IN ELECTRONIC FORMAT  
USING THE FILE PROVIDED**

8. PROJECT		9. LOCATION	
10a. NAME OF PERSON SIGNING		11. BY (Signature)	
10b. TITLE OF PERSON SIGNING		12. DATE SIGNED	

**PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR**

13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:

Contract Work Hours and Safety Standards Act - Overtime Compensation (If included in prime contract see Block 6) Payrolls and Basic Records Withholding of Funds Disputes Concerning Labor Standards Compliance with Construction Wage Rate Requirements and Related Regulations	Construction Wage Rate Requirements Apprentices and Trainees Compliance with Copeland Act Requirements Subcontracts (Labor Standards) Contract Termination - Debarment Certification of Eligibility
--	--

14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY

A		C	
B		D	
15a. NAME OF PERSON SIGNING		16. BY (Signature)	
15b. TITLE OF PERSON SIGNING		17. DATE SIGNED	

AUTHORIZED FOR LOCAL REPRODUCTION  
PREVIOUS EDITION IS NOT USABLE

**STANDARD FORM 1413 (REV. 4/2013)**  
Prescribed by GSA/FAR (48 CFR) 53.222(e)



**Section 3 - Acknowledgment and Intent to Comply**

*(HUD Regulation, 24 CFR Part 75)*

<b>Name of Subrecipient</b>			
<b>Business Address, City, State, &amp; Zip</b>			
<b>Business Phone Number</b>		<b>Contact Email</b>	
<b>Primary Contact Name</b>			
<b>Primary Contact Phone Number</b>		<b>Title</b>	

<b>Name of Contractor or Subcontractor</b>			
<b>Business Address, City, State, &amp; Zip</b>			
<b>Business Phone Number</b>		<b>Contact Email</b>	
<b>Primary Contact Name</b>			
<b>Primary Contact Phone Number</b>		<b>Title</b>	

**If awarded a HUD funded agreement and/or contract:**

- A. Insert the required Section 3 Clause language into all contracts and subcontracts associated with the federal funded projects;
- B. Is under no contractual or other impediment that would prevent it from complying with the requirements of Section 3 as set forth in 24 CFR Part 75; and
- C. Comply with HUD’s regulations in 24 CFR Part 75; and
- D. Submit all required and/or requested Section 3 documentation to include, but not limited to, total labor hours performed by Section 3 and Targeted Section 3 workers, total labor hours for the project, certifications of Section 3 and Targeted section 3 workers, and certifications for Section 3 business concerns; and
- E. Will not contract/subcontract with any contractor/subcontractor where the Recipient/Contractor has notice or knowledge that the contractor/subcontractor has been found in violation of any provision of 24 CFR Part 75; and
- F. Maintain documentation for the time period required for record retention or in the absence of applicable program regulations in accordance with 2 CFR Part 200.

We are (I am) committed to comply with the HUD Section 3 regulation and DHED Section 3 requirements. It is our (my) desire to ensure compliance, *to the greatest extent feasible*, through the awarding of contracts for work and services to Section 3 business concerns and to provide employment and training to Section 3 workers and Targeted Section 3 workers.

<p><b>Subrecipient:</b></p> <p>Print Name: _____</p> <p>Signature: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p><b>Contractor/Subcontractor:</b></p> <p>Print Name: _____</p> <p>Signature: _____</p> <p>Title: _____</p> <p>Date: _____</p>
---	---

### Section 3 Business Concern Application

A Section 3 Business concern is defined in 24 CFR 75.5 as a business that meets at least one of the following criteria, documented within the last six-month period: 1. At least 51 percent owned and controlled by low- or very low-income persons, 2. More than 75 percent of the labor hours performed for the business over the previous 3-month period are performed by Section 3 workers, or 3. At least 51 percent owned and controlled by current residents of public housing or Section 8-assisted housing.

Business Information				
Business Name				
Business Address, City, State, & Zip				
Business Phone Number		Business Website		
Primary Contact Name				
Primary Contact Phone Number		Email		
Type of Business (Check applicable box):				
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation	<input type="checkbox"/> Joint Venture (JV)	<input type="checkbox"/> Non-profit

Business – Number of Employees:			
Full-time: _____	Part-time: _____	Total: _____	Section 3 Employees: _____

#### Section 3 Certification Category

Please select one of the three categories below to complete your Section 3 Business Concern verification including all required documentation *as documented within the last six months.*

<input type="radio"/> <b>Category 1 - 51% or more ownership by low- or very low income persons (required information):</b>
<input type="checkbox"/> Complete Section 3 Worker Certification for each Business Owner

<input type="radio"/> <b>Category 2 – Over 75% of Labor Hours Performed by Section 3 Workers for previous 3 month period (required information):</b>	
<input type="checkbox"/> List of all current employees	<input type="checkbox"/> Complete Attachment 3 – Worker Verification
<input type="checkbox"/> Complete Labor Hours Verification (Excel File)	

<input type="checkbox"/> <b>Category 3 – 51% or more ownership by Public Housing or Section 8 Residents (required information):</b>	
<input type="checkbox"/> Complete Section 3 Worker Certification for each Business Owner	<input type="checkbox"/> Submit public housing or Sec. 8 documentation

Name & Title		Ownership %	Section 3 Owner	
Name		%	Yes	No
Title			<input type="checkbox"/>	<input type="checkbox"/>

<b>Name</b>			Yes	No
<b>Title</b>		%	<input type="checkbox"/>	<input type="checkbox"/>
<b>Name</b>			Yes	No
<b>Title</b>		%	<input type="checkbox"/>	<input type="checkbox"/>
<b>Name</b>			Yes	No
<b>Title</b>		%	<input type="checkbox"/>	<input type="checkbox"/>
<b>Name</b>			Yes	No
<b>Title</b>		%	<input type="checkbox"/>	<input type="checkbox"/>

**Signature and Acknowledgement**

I, being a duly authorized representative of the applicant, do hereby attest that the statements, documents, and responses provided with this Section 3 Business concern certification are true and correct to the best of my knowledge. I further understand that additional information prior to, during, and at any time after Section 3 Certification has been submitted may be requested.

Name of Applicant (Business): \_\_\_\_\_

Print Name of Authorized Representative: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

Authorized Representative's Title: \_\_\_\_\_ Date of Signature: \_\_\_\_\_

**Section 3 Worker Certification**

A Section 3 worker is any worker who currently fits, or when hired **within the past five years** fit, at least one of the following categories, as documented: 1. The worker’s income for the previous or annualized calendar year is below the income limit established by HUD (see chart below); 2. The worker is employed by a Section 3 business concern; or 3. The worker is a YouthBuild participant.

A Section 3 Targeted worker for Housing and Community Development Financial Assistance projects is a Section 3 worker who: (1) is employed by a Section 3 business concern; or (2) currently fits or when hired fit at least one of the following categories, as documented within the past five years: (i) Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5; or (ii) A YouthBuild participant.

**West Palm Beach and Boca Raton MSA FY2021 - \$80,200 Median Family Income Effective Date: April 1, 2021**

Family Size	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
<b>Income Very Low</b>	\$30,000	\$34,250	\$38,550	\$42,800	\$46,250	\$49,650	\$53,100	\$56,500
<b>Income Low</b>	\$47,950	\$54,800	\$61,650	\$68,500	\$74,000	\$79,500	\$84,950	\$90,450

Individual Information			
Name			
Home Street Address			
City, State & Zip			
Phone Number		Email Address	

Certification – Income and Residency			
Individual Income (is based on your previous or annualized calendar year and your family size)	Family Size		
Is your annual household income at or below the above listed incomes for low- and very low-income?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
I am currently a participant in a YouthBuild program or was on or after 11/30/2020.		<input type="checkbox"/> Yes	<input type="checkbox"/> No
I am currently working for a certified Section 3 business concern.		<input type="checkbox"/> Yes	<input type="checkbox"/> No
I currently live within the service area or the neighborhood of the project based on a 1-mile radius or within an <u>area</u> that encompasses a population of 5,000 people.		<input type="checkbox"/> Yes	<input type="checkbox"/> No

Section 3 workers’ labor hours may count for five years from when their status as a Section 3 worker is established, pursuant to 24 CFR 75.31. For purposes of reporting the labor hours for Section 3 workers, an employer may choose whether to define the workers as Section 3 workers for a five-year period at the time of the workers’ hire, or when the workers are first certified as meeting the Section 3 worker definition. The five-year period for a worker cannot begin before November 30, 2020; therefore, Section 3 workers hired prior to November 30, 2020 may be certified for a five-year period beginning November 30, 2020.

I certify that my answers are true and complete to the best of my knowledge.

Employed with \_\_\_\_\_ Hire Date: \_\_\_\_\_  
(Business Name)

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

**Section 3 Labor Hours Summary Report** *(regulation 24 CFR Part 75)*

<b>1. Submitting Business Name:</b>	<b>2. Project Name:</b>	<b>3. Project Address / Location</b>

<b>4. Contact Person</b>	<b>5. Contact Number:</b>	<b>6. Contact Email Address</b>

<b>7. Reporting Period (Pay Week):</b>	<b>8. Date Report Submitted:</b>	<b>9. Project Dates:</b> (Start Date - End Date)

<b>10. Total Awarded Amount:</b>	<b>11. Funding Program Name and Amount: (HOME, CDBG, &amp; CDBG-CV)</b>		
	HOME:	CDBG:	CDBG-CV:

Columns A,B, C, E, and F are automatically filled in from their corresponding excel sheet/tab.

	A	B	C	D	E	F
	Business Name	All Workers Labor Hours	Section 3 Workers Labor Hours	% of Section 3 Worker Labor Hours	Targeted Section 3 Workers Labor Hours	Section 3 Trainees (If yes, enter "1")
1		0	0	#DIV/0!	0	0
2		0	0	#DIV/0!	0	0
3		0	0	#DIV/0!	0	0
4		0	0	#DIV/0!	0	0
5		0	0	#DIV/0!	0	0
6		0	0	#DIV/0!	0	0
7		0	0	#DIV/0!	0	0
8		0	0	#DIV/0!	0	0
9		0	0	#DIV/0!	0	0
10		0	0	#DIV/0!	0	0
11		0	0	#DIV/0!	0	0
12		0	0	#DIV/0!	0	0
	<b>TOTAL</b>	0	0	#DIV/0!	0	0

**SUBMIT THIS FORM IN ELECTRONIC FORMAT  
USING THE FILE PROVIDED**



**Section 3 Labor Hours Verification (prior 3-month period) (24 CFR Part 75)**

Please complete the form below for your entire workforce labor hours for a 3-month period.

**1. Submitting Business Name:**      **2. Business Street Address, City, State, and Zip Code**

--	--

**4. Contact Person**                      **5. Contact Number**                      **6. Contact Email Address**

--	--	--

**7. Reporting Period (prior 3-months -"Month, Month, and Month")**                      **8. Date Report Submitted**

--	--

	A	B	C	D	E	F	G
	Months	Enter the Month		Enter the Month		Enter the Month	
Worker Name	All Workers Labor Hours	Section 3 Workers Labor Hours	All Workers Labor Hours	Section 3 Workers Labor Hours	All Workers Labor Hours	Section 3 Workers Labor Hours	Section 3 Workers Labor Hours
1 Worker Name 1							
2 Worker Name 2							
3 Worker Name 3							
4 Worker Name 4							
5 Worker Name 5							
6 Worker Name 6							
7 Worker Name 7							
8 Worker Name 8							
9 Worker Name 9							
10 Worker Name 10							
11 Worker Name 11							
12 Worker Name 12							
13 Worker Name 13							
14 Worker Name 14							
15 Worker Name 15							
16 Worker Name 16							
17 Worker Name 17							
18 Worker Name 18							
19 Worker Name 19							
20 Worker Name 20							
21 Worker Name 21							
22 Worker Name 22							
23 Worker Name 23							
24 Worker Name 24							
25 Worker Name 25							
26 Worker Name 26							
27 Worker Name 27							
28 Worker Name 28							
29 Worker Name 29							
30 Worker Name 30							
	<b>TOTAL</b>	0	0	0	0	0	0
	<b>Section 3 Labor Hours Percentage</b>		#DIV/0!		#DIV/0!		#DIV/0!

I certify that the total workforce labor hours and Section 3 workers labor hours provided are true and accurate. I will provide supporting documentation (i.e. certified payrolls, etc.) if requested.

**Print Name**

**Title**

**Signature**

**Date**

**SUBMIT THIS FORM IN ELECTRONIC FORMAT  
USING THE FILE PROVIDED**

**REQUIRED USE OF THE LABOR COMPLIANCE  
REPORTING SYSTEM (LCRS)**

As part of the County's commitment to assist the Subrecipient and its contractors/ subcontractors to conveniently comply with legal and contractual requirements including Davis Bacon and Related Acts (DBRA), the Department of Housing & Economic Sustainability has established a Labor Compliance Reporting System (LCRS) for this project. The Subrecipient's contractors/ subcontractors will no longer be required to submit paper copies of fringe benefits statements, weekly-certified payroll reports and/ or work performance reports, and shall instead use the LCRS for all DBRA reporting and tracking. The LCRS is available for use 24-hours a day, 7 days a week, at no cost for reporting weekly certified payrolls and labor compliance related documents. Utilization of this system should also prove helpful in expediting the process of reviewing payrolls, approving progress payments to contractors and reimbursement payments to subrecipients/ developers.

**USER RESPONSIBILITIES**

1. Subrecipients, and its contractors/subs shall NOT create internet links to the Service or Frame or mirror any content on any other server or wireless or internet-based device.
2. Subrecipient and its contractors/subs are responsible for all activity occurring under User account and shall abide by all applicable local, state, national laws, treaties and regulations in connection with the use of the service, including those related to data privacy, international communications and the transmission of technical data. The LCRS Web Address for contractors/subs use will be provided by DHED, along with Federal Requirements and Wage Decision(s).
3. Subrecipient shall require its contractor and subs to register through the Labor Compliance Reporting System. This language shall be contained in the subrecipient's Bid and Construction documents.
4. Subrecipient shall require All fringe benefits statements, weekly-certified payroll reports to be submitted through the LCRS and this language shall be contained in the Subrecipient's Bid and Construction documents.

**DISCLAIMER OF WARRANTIES FOR LCRS**

LCRS and its licensors make no representation, warranty, or guaranty as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of the service or any content. LCRS and its licensors do not represent or warrant that:

1. The use of the service will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data.
2. The service will meet PBC/DHED's Requirements or expectations.
3. Any stored data will be accurate or reliable.
4. The quality of any products, services, information or other material purchased or obtained by PBC/DHED through the service will meet PBC/DHED's requirements or expectations.
5. Errors or defects will be corrected.
6. The service or the servers that make the service available are free of viruses or other harmful components.

All content is provided to PBC/DHED strictly on an "AS IS" basis. All conditions, representations and warranties, whether expressed or implied, statutory or otherwise, including, without limitation, any implied warranty of merchantability or fitness for a particular purpose are hereby disclaimed to the maximum extent permitted by applicable law by LCRS and its licensors.

**DISPLAY OF POSTERS AND WAGE DECISION**

The contractor shall, for each federally funded project, supply and install a minimum (1) 4 ft x 4 ft display surface with clear acrylic cover sheet for all-weather protection and easy visibility on the job site.

Said panel shall be mounted on a substantial post of steel, aluminum, or wood, with the bottom edge of the panel at 48" from ground level. Exceptions to this mounting system may be approved by Palm Beach County Department of Housing and Economic Sustainability.

The contractor shall supply a standard display of posters at the job site, including but not limited to:

- Employee Rights Under the Davis- Bacon Act (English)
- Employee Rights Under the Davis-Bacon Act (Spanish)
- applicable Wage Decision(s)
- Palm Beach County seal

The above posters, wage decision and Palm Beach County seal for display will be provided by Palm Beach County Department of Housing and Economic Sustainability at the pre-construction conference and shall be in a prominent location for the ease of exposure to all employees.

The contractor shall be responsible for all other Federal, State and/ or local poster requirements.

The cost of poster mounting boards and posts are to be paid for by the contractor.

Display board must be maintained in a legible condition throughout the entire project duration. Failure to provide the above could result in suspension of contract payments until violation(s) are corrected as directed by Palm Beach County Department of Housing and Economic Sustainability.

**FEDERAL LABOR STANDARDS PROVISIONS****U. S. Department of Housing and Urban Development**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1: (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2)** The classification is utilized in the area by the construction industry; and
- (3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, Washington, D. C. 20210.

The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the view of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30 day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**A.2: Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employee to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**A.3: (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanic working at the site of the work. Such records shall contain

the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborer or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage raises prescribed in the applicable programs. (Approved by the Office of Management of Budget under OMB Control Number 1215-0140 and 1215-0017.)

**(ii)(a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(I) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional form WH-347 is available for this purpose from the Wage and Hour Division Web Site at <https://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submissions to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance." signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(I), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages

earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3(ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A.3(i) of this section available for inspection, copying or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

#### **A.4: Apprentices and Trainees.**

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U. S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship and Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not register or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice, performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes

shall be paid in accordance with that determination. In the event the Office of Apprenticeship and Training, Employer and Labor Services or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U. S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program.

If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR Part 30.

**A.5: Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

**A.6: Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in Subparagraphs 1 through 11 in this Paragraph A, and such other clauses as HUD or its designee may by appropriate instructions require and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**A.7: Contracts termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**A.8: Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon Acts contained in 29 CFR Part 1, 3, and 5 are herein incorporated by reference in this contract.



**A.9: Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5,6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**A.10: (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S.C., Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions, provides in part "Whoever, for the purpose of ... influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years or both."

**A.11: Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act**

The provisions of this Paragraph B are applicable where the amount of prime contract exceeds \$100,000. As used in this paragraph, the term "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontracting contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in case of work done under contract for the District of Columbia or a territory, to such District or such territory), for liquidated damages.

Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

- (3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.
- (4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety**

The provisions of this Paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

- (1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
- (2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.
- (3)** The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions

**GUIDANCE TO CONTRACTOR FOR COMPLIANCE WITH LABOR STANDARDS PROVISIONS****A. Contracts with Two Wage Decisions**

If the contract includes two wage decisions, the contractor, and each subcontractor who works on the site, must submit either two separate payrolls (one for each wage decision) or one payroll which identifies each worker twice and the hours worked under each wage decision. One single payroll, reflecting each worker once, may be submitted provided the Contractor uses the higher rate in the wage decisions for each identical job classification. However, where a job classification is not listed in a wage decision and is needed for that portion of the work, the classification must be added to the wage decision. A worker may not be paid at the rate for a classification using the hourly rate for that same classification in another wage decision. After the additional classification is approved, the contractor may pay the higher of the two rates and submit one payroll, if desired.

**B. Complying with Minimum Hourly Amounts**

(1) The minimum hourly amount due to a worker in each classification is the total of the amounts in the "Rates" and "Fringe Benefits" (if any) columns of the applicable wage decision.

(2) The contractor may satisfy this minimum hourly amount by any combination of cash and bona fide fringe benefits, regardless of the individual amounts reflected in the "Rates" and "Fringe Benefits" columns.

(3) A contractor payment for a worker which is required by law is not a fringe benefit in meeting the minimum hourly amount due under the applicable wage decision. For example, contractor payments for FICA or unemployment insurance are not a fringe benefit; however, contractor payments for health insurance or retirement are a fringe benefit. Generally, a fringe benefit is bona fide if (a) it is available to most workers and (b) involves payments to a third party.

(4) The hourly value of the fringe benefit is calculated by dividing the contractor's annual cost (excluding any amount contributed by the worker) for the fringe benefit by 2080. Therefore, for workers with overtime, an additional payment may be required to meet the minimum hourly wages since generally fringe benefits have no value for any time worked over 40 hours weekly. (If a worker is paid more than the minimum rates required by the wage decision, this should not be a problem. As long as the total wages received by a worker for straight time equals the hours worked times the minimum hourly rate in the wage decision, the requirement of the Davis-Bacon and Related Acts has been satisfied.)

**C. Overtime**

For any project work over 40 hours weekly, a worker generally must be paid 150% of the actual hourly cash rate received, not the minimum required by the wage decision. (The Davis-Bacon and Related Acts only establishes minimum rates and does not address overtime; the Contract Work Hours Act contains the overtime requirement and uses "basic rate of pay" as the base for calculation, not the minimum rates established by the Davis-Bacon and Related Acts.)

**D. Deductions**

Workers who have deductions, not required by law, from their pay must authorize these deductions in writing. The authorization must identify the purpose of each deduction and the amount, which may be a specific dollar amount or a percentage. A copy of the authorization must be submitted with the first payroll containing the deduction. If deducted amounts increase, another authorization must be submitted. If deducted amounts decrease, no revision to the original authorization is needed. Court-ordered deductions, such as child support, may be identified by

the responsible payroll person in a separate document. This document should identify the worker, the amount deducted and the purpose. A copy of the court order should be submitted.

#### **E. Classifications Not Included in the Wage Decision**

If a classification not in the wage decision is required, please advise the owner's representative in writing and identify the job classification(s) required. In some instances, the State agency may allow the use of a similar classification in the wage decision.

Otherwise, the contractor and affected workers must agree on a minimum rate, which cannot be lower than the lowest rate for any trade in the wage decision. Laborers (including any subcategory of the laborer classification) and truck drivers are not considered a trade for this purpose. If the classification involves a power equipment operator, the minimum cannot be lower than the lowest rate for any power equipment operator in the wage decision. The owner will provide forms to document agreement on the minimum rate by the affected workers and contractor.

The U.S. Department of Labor (USDOL) must approve the proposed classification and rate. The contractor may pay the proposed rate until the USDOL makes a determination. Should the USDOL require a higher rate, the contractor must make wage restitution to the affected worker(s) for all hours worked under the proposed rate.

#### **F. Supervisory Personnel**

Foremen and other supervisory personnel who spend at least 80% of their time supervising workers are not covered by the Davis-Bacon and Related Acts. Therefore, a wage decision will not include such supervisory classifications and their wages are not subject to any minimums under the Davis-Bacon and Related Act or overtime payments under the Contract Work Hours and Safety Standards Act. However, foremen and other supervisory personnel who spend less than 80% of their time engaged in supervisory activities are considered workers/mechanics for the time spent engaged in manual labor and must be paid at least the minimum in the wage decision for the appropriate classification(s) based on the work performed.

#### **G. Sole Proprietorships/ Independent Contractors/ Leased Workers**

The nature of the relationship between a prime contractor and a worker does not affect the requirement to comply with the labor standards provisions of this contract. The applicability of the labor standards provisions is based on the nature of the work performed.

If the work performed is primarily manual in nature, the worker is subject to the labor standards provisions in this contract. For example, if John Smith is the owner of ABC Plumbing and performs all plumbing work himself, then Mr. Smith is subject to the labor standards provisions, including minimum wages and overtime. His status as "owner" is irrelevant for labor standards purposes.

If a worker meets the IRS standards for being an independent contractor, and is employed as such, this means that the worker must submit a separate payroll as a subcontractor rather than be included on some other payroll. The worker is still subject to the labor standards provisions in this contract, including minimum wages and overtime.

If a contractor or subcontractor leases its workers, they are subject to the labor standards provisions in this contract, including minimum wages and overtime. The leasing firm must submit payrolls and these payrolls must reflect information required to determine compliance with the labor standards provisions of this contract, including a classification for each worker based on the nature of the work performed, number of regular hours worked, and number of overtime hours worked.

#### **H. Apprentices / Helpers**

A worker may be classified as an apprentice only if participating in a federal or state program. Documentation of participation must be submitted. Generally, the apprentice program specifies that the apprentice will be compensated at a percentage of journeyman rate. For Davis-Bacon Act purposes, the hourly rate cannot be lower than the percentage of the hourly rate for the classification in the applicable wage decision.

If the worker does not participate in a federal or state apprentice program, then the worker must be classified according to duties performed. This procedure may require classification in the "trade" depending on tools used, or as a laborer if specialized tools of the trade are not used. The contractor may want to consult with the Wage and Hour Division of the U.S. Department of Labor located in most large cities regarding the appropriate classification.

Presently, no worker may be classified as a "helper". As with apprentices not participating in a formal apprentice program, the worker must be classified according to duties performed and tools used.



**Department of Housing &  
Economic Development**

Capital Improvements, Real Estate,  
& Inspection Services

100 Australian Avenue, Suite 500

West Palm Beach, FL 33406

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□

**Palm Beach County  
Board of County  
Commissioners**

Robert S. Weinroth, Mayor

Gregg K. Weiss, Vice Mayor

Maria G. Marino

Dave Kerner

Maria Sachs

Melissa McKinlay

Mack Bernard

**County Administrator**

Verdenia C. Baker

January 4, 2022

Felipe Lofaso  
Assistant Director, Public Works  
City of Lake Worth Beach  
1749 3<sup>rd</sup> Ave South  
Lake Worth, FL 33460

**Re: City of Lake Worth Beach  
CDBG - Harold Grimes Memorial Park Improvements  
Technical Assistance Advisement**

Mr. Lofaso,

This letter is to advise you that technical assistance is available to you for the review of your proposed Bid Package and Procurement requirements for your project. Before awarding the project, DHED recommends that you submit your proposed bid package for the above referenced project for Review/ Technical Assistance. Failure to follow proper Procurement and Bid processes may result in the County not being able to reimburse you for any funds paid out for the project.

The Bid & Award Process is subject to the following:

1. Procurement Requirements: All bid packages shall comply with all applicable procurement requirements established in our agreement for this project.
2. Federal Requirements: A set of "Requirements for Federally Funded Projects" including but not limited to, applicable wage decision(s), forms to be completed and submitted by all bidders, reports, forms for subcontractors, and regulations has been issued for this project. The set of "Requirements for Federally Funded Projects" must be incorporated into your bid package and be provided to all contractors responding to the bid solicitation. The set of requirements must be included in the prime contract and all sub-contracts.
3. Performance Dates: Notify DHED of the bid advertising date and the bid opening date. Ensure that the project duration per your bid documents, is in correlation with meeting the performance requirements of our Agreement.
4. Wage Decision: Confirm the current wage decision with DHED before finalizing your bid documents. If the applicable wage decision(s) changes more than 10 days before the bid opening date, the changes are required to be incorporated into the bid and contract documents in lieu of the previous wage decision(s) originally used. If a contract is not awarded within 90 days after bid opening, a new wage decision may apply.

5. Bid Addenda: All addenda must be included in the bid package
6. Bonds: The use of Federal funds triggers the requirement for bid guarantees, performance bonds, and payment bonds. For contracts exceeding the Simplified Acquisition Threshold, or the Subrecipient's threshold, whichever is lower, a bid guarantee (equivalent to five percent (5%) of the bid price) is required from each bidder. The "bid guarantee" needs to consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will execute such contractual documents as may be required, within the time specified upon acceptance of the bid. In addition, for contracts exceeding the Simplified Acquisition Threshold, or the Subrecipient's threshold, whichever is lower, Performance Bond and a Payment Bond (each for one hundred percent (100%) of the contract amount) are required. A corporate surety company of recognized standing, authorized to do business in the State of Florida, needs to execute all bonds. The above requirements for bid guarantees, performance bonds, and payment bonds do not apply to contracts not exceeding the Simplified Acquisition Threshold or the Subrecipient's threshold, whichever is lower.
7. Observing the Published Bid Opening Time and Place: Your procurement for this project needs to follow the formal competitive bid process as established in 2 CFR Part 200. In the grant agreement for projects you agree to comply with the stated code. Accordingly, you must scrupulously observe the published bid opening time and place. It is the sole responsibility of the bidder to ensure that their bid arrives at the designated location prior to the published bid opening time. Any bid delivered after the precise time of bid opening shall not be considered, and shall be returned to the bidder unopened if bidder identification is possible without opening. Bidders shall not be allowed to modify their bids after the published bid opening time.
8. Posting of Award Recommendation: You must publicly post recommended awards for review at the location where bids were received prior to final approval. Award recommendations shall remain posted for a period of five (5) business days. You must provide a copy of the bid posting summary to bidders who request such a copy.
9. Protest Procedures: Bid protest procedures are provided by the Subrecipient's Policies and Procedures in accordance with 2 CFR Part 200. Protests must be submitted in accordance with the Subrecipient's purchasing requirements. Protest procedures should be outlined in the bid and/ or a link provided where the bidders can find and review the required protest procedures.
10. Contract Award Approval: Upon the receipt of bids, the posting of your award recommendation, and upon completion of the protest procedure, please request DHED approval to award the construction contract. Please ensure that you do not send your request to us until after you have made a recommendation to award and allowed for protests.

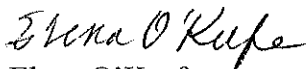
Your request shall be in the form of a letter as follows:

- identify the entity to whom you recommend contract award
- state the contract amount that you recommend
- state whether any bids were rejected and why
- provide a bid summary sheet
- provide a copy of the recommended contractor's bid bond, if applicable
- provide a copy/ proof of your newspaper advertisement
- provide a copy of the Federal forms included in "Requirements for Federally Funded Projects" fully executed by the recommended contractor.

11. Section 3: Assure that Section 3 requirements are followed, and advise DHED of your efforts to comply with the Section 3 requirements applicable to this project. In this regard, please see the section referencing Section 3 in the "Requirements for Federally Funded Projects" included with the Agreement.
12. Monthly Narrative Report and Monthly Meeting: Monthly reports are required per our agreement, to be submitted by the 5th of each month, beginning from the Agreement start date. Monthly reports should contain a projection of project expenditure. There will also be a Monthly Meeting or Conference Call to discuss the project progress (to be scheduled).
13. All brand name products referenced to be provided as part of project, must have an "or approved equal" clause

Should you have any questions, please contact me at 561-233-3616.

Sincerely,



Elena O'Keefe  
Project Coordinator II  
CIREIS



"General Decision Number: FL20230182 01/06/2023

Superseded General Decision Number: FL20220182

State: Florida

Construction Type: Highway

County: Palm Beach County in Florida.

HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 14026 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li> </ul>
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 13658 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</li> </ul>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number      Publication Date  
 0                              01/06/2023

SUFL2013-043 08/19/2013

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 15.38 **	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 15.69 **	0.00
ELECTRICIAN.....	\$ 18.20	0.00
FENCE ERECTOR.....	\$ 12.82 **	0.00
HIGHWAY/PARKING LOT STRIPING: Operator (Striping Machine).....	\$ 15.09 **	0.00
HIGHWAY/PARKING LOT STRIPING: Painter.....	\$ 12.13 **	0.00
HIGHWAY/PARKING LOT STRIPING: Operator (Spray Nozzleman).....	\$ 11.81 **	0.00
INSTALLER - GUARDRAIL.....	\$ 13.96 **	0.00
IRONWORKER, ORNAMENTAL.....	\$ 13.48 **	0.00
IRONWORKER, REINFORCING.....	\$ 16.58	0.00
IRONWORKER, STRUCTURAL.....	\$ 16.42	0.00
LABORER (Traffic Control Specialist incl. placing of cones/barricades/barrels - Setter, Mover, Sweeper).....	\$ 12.97 **	0.00
LABORER: Asphalt, Includes Raker, Shoveler, Spreader and Distributor.....	\$ 12.99 **	0.00
LABORER: Common or General.....	\$ 10.66 **	0.00
LABORER: Flagger.....	\$ 12.53 **	0.00
LABORER: Grade Checker.....	\$ 12.41 **	0.00
LABORER: Landscape & Irrigation.....	\$ 9.02 **	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 13.91 **	3.50
LABORER: Pipelayer.....	\$ 14.82 **	0.00
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 15.66 **	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 12.88 **	0.00
OPERATOR: Boom.....	\$ 18.95	0.00
OPERATOR: Boring Machine.....	\$ 16.23	0.00
OPERATOR: Broom/Sweeper.....	\$ 12.70 **	0.00
OPERATOR: Bulldozer.....	\$ 16.00 **	0.00

OPERATOR: Concrete Finishing Machine.....	\$ 15.44 **	0.00
OPERATOR: Concrete Saw.....	\$ 16.22	0.00
OPERATOR: Crane.....	\$ 21.66	0.00
OPERATOR: Curb Machine.....	\$ 20.76	0.00
OPERATOR: Distributor.....	\$ 14.76 **	0.00
OPERATOR: Drill.....	\$ 14.78 **	0.00
OPERATOR: Forklift.....	\$ 16.32	0.00
OPERATOR: Gradall.....	\$ 15.75 **	0.91
OPERATOR: Grader/Blade.....	\$ 20.25	0.00
OPERATOR: Grinding/Grooving Machine.....	\$ 13.87 **	0.00
OPERATOR: Loader.....	\$ 14.19 **	0.00
OPERATOR: Mechanic.....	\$ 18.03	0.00
OPERATOR: Milling Machine.....	\$ 15.60 **	0.00
OPERATOR: Oiler.....	\$ 16.32	0.00
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 14.73 **	2.36
OPERATOR: Piledriver.....	\$ 17.23	0.00
OPERATOR: Post Driver (Guardrail/Fences).....	\$ 14.45 **	0.00
OPERATOR: Roller.....	\$ 13.03 **	0.00
OPERATOR: Scraper.....	\$ 12.01 **	0.00
OPERATOR: Screed.....	\$ 15.51 **	0.00
OPERATOR: Tractor.....	\$ 10.79 **	0.00
OPERATOR: Trencher.....	\$ 14.74 **	0.00
PAINTER: Spray.....	\$ 16.52	0.00
SIGN ERECTOR.....	\$ 14.02 **	0.00
TRUCK DRIVER: Distributor Truck.....	\$ 14.96 **	2.17
TRUCK DRIVER: Dump Truck.....	\$ 11.84 **	0.00
TRUCK DRIVER: Flatbed Truck.....	\$ 14.28 **	0.00
TRUCK DRIVER: Lowboy Truck.....	\$ 13.98 **	0.00
TRUCK DRIVER: Slurry Truck.....	\$ 11.96 **	0.00
TRUCK DRIVER: Vector Truck.....	\$ 14.21 **	0.00

TRUCK DRIVER: Water Truck.....\$ 13.25 \*\* 0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal

process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISIO"



This report is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting contract and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (entitlement and small cities); Urban Development Action Grants; Housing Development Grants; Multifamily Insured and Noninsured; Public and Indian Housing Authorities; and contracts entered into by recipients of CDBG rehabilitation assistance.

Contracts/subcontracts of less than \$10,000 need be reported only if such contracts represent a significant portion of your total contracting activity. Include only contracts executed during this reporting period.

This form has been modified to capture Section 3 contract data in columns 7g and 7i. Section 3 requires that the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. Recipients using this form to report Section 3 contract data must also use Part I of form HUD-60002 to report employment and training opportunities data. Form HUD-2516 is to be

### Community Development Programs

**1. Grantee:** Enter the name of the unit of government submitting this report.

**3. Contact Person:** Enter name and phone of person responsible for maintaining and submitting contract/subcontract data.

**7a. Grant Number:** Enter the HUD Community Development Block Grant Identification Number (with dashes). For example: B-32-MC-25-0034. For Entitlement Programs and Small City multi-year comprehensive programs, enter the latest approved grant number.

**7b. Amount of Contract/Subcontract:** Enter the dollar amount rounded to the nearest dollar. If subcontractor ID number is provided in 7f, the dollar figure would be for the subcontract only and not for the prime contract.

**7c. Type of Trade:** Enter the numeric codes which best indicates the contractor's/subcontractor's service. If subcontractor ID number is provided in 7f., the type of trade code would be for the subcontractor only and not for the prime contractor.

The "other" category includes supply, professional services and all other activities except construction and education/training activities.

**7d. Business Racial/Ethnic/Gender Code:** Enter the numeric code which indicates the racial/ethnic/gender character of the owner(s) and controller(s) of 51% of the business.

When 51% or more is not owned and controlled by any single racial/ethnic/gender category, enter the code which seems most appropriate. If the subcontractor ID number is provided, the code would apply to the subcontractor and not to the prime contractor.

**7e. Woman Owned Business:** Enter Yes or No.

**7f. Contractor Identification (ID) Number:** Enter the Employer (IRS) Number of the Prime Contractor as the unique identifier for prime recipient of HUD funds. Note that the Employer (IRS) Number must be provided for each contract/subcontract awarded.

**7g. Section 3 Contractor:** Enter Yes or No.

**7h. Subcontractor Identification (ID) Number:** Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.

**7i. Section 3 Contractor:** Enter Yes or No.

**7j. Contractor/Subcontractor Name and Address:** Enter this information for each firm receiving contract/subcontract activity only one time on each report for each firm.

completed for public and Indian housing and most community development programs. Form HUD-60002 is to be completed by all other HUD programs including State administered community development programs covered under Section 3. A Section 3 Contractor/subcontractor is a business concern that provides economic opportunities to low and very Low-income residents of the metropolitan area (or nonmetropolitan county), including a business concern that is 51 person or more owned by low-income residents;

or provides subcontracting or business development opportunities to businesses owned by low or low-income residents. Low and very low-income residents; include participants in Youthbuild programs established under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act.

The terms "low-income persons" and "very low-income persons" have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller an larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction

### Multifamily Housing Programs

**1. Grantee/Project Owner:** Enter the name of the unit of government, agency or mortgagor entity submitting this report.

**3. Contact Person:** Same as item 3 under CPD Programs.

**4. Reporting Period:** Check only one period.

**5. Program Code:** Enter the appropriate program code.

**7a. Grant/Project Number:** Enter the HUD Project Number or Housing Development Grant or number assigned.

**7b. Amount of Contract/Subcontract:** Same as item 7b. under CPD Programs.

**7c. Type of Trade:** Same as item 7c. under CPD Programs.

**7d. Business Racial/Ethnic/Gender Code:** Same as item 7d. under CPD Programs.

**7e. Woman Owned Business:** Enter Yes or No.

**7f. Contractor Identification (ID) Number:** Same as item 7f. under CPD Programs.

**7g. Section 3 Contractor:** Enter Yes or No.

**7h. Subcontractor Identification (ID) Number:** Same as item 7h. under CPD Programs.

**7i. Section 3 Contractor:** Enter Yes or No.

**7j. Contractor/Subcontractor Name and Address:** Same as item 7j. under CPD Programs.

costs or unusually high or low-income families. Very low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

Submit two (2) copies of this report to your local HUD Office within ten (10) days after the end of the reporting period you checked in item 4 on the front. Complete item 7h. Only once for each contractor/subcontractor on each semi-annual report.

Enter the prime contractor's ID in item 7f. for all contracts and subcontracts. Include only contracts expected during this reporting period. PHAs/IHAs are to report all contracts/subcontracts.

### Public Housing and Indian Housing Programs

PHAs/IHAs are to report all contracts/subcontracts. Include only contracts executed during this reporting period.

**1. Project Owner:** Enter the name of the unit of government, agency or mortgagor entity submitting this report. Check box as appropriate.

**3. Contact Person:** Same as item 3 under CPD Programs.

**4. Reporting Period:** Check only one period.

**5. Program Code:** Enter the appropriate program code.

**7a. Grant/Project Number:** Enter the HUD Project Number or Housing Development Grant or number assigned.

**7b. Amount of Contract/Subcontract:** Same as item 7b. under CPD Programs.

**7c. Type of Trade:** Same as item 7c. under CPD Programs.

**7d. Business Racial/Ethnic/Gender Code:** Same as item 7d. under CPD Programs.

**7e. Woman Owned Business:** Enter Yes or No.

**7f. Contractor Identification (ID) Number:** Same as item 7f. under CPD Programs.

**7g. Section 3 Contractor:** Enter Yes or No.

**7h. Subcontractor Identification (ID) Number:** Same as item 7h. under CPD Programs.

**7i. Section 3 Contractor:** Enter Yes or No.

**7j. Contractor/Subcontractor Name and Address:** Same as item 7j. under CPD Programs.



# STATEMENT AND ACKNOWLEDGMENT

OMB Control Number: 9000-0066  
Expiration Date: 4/30/2022

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0066. We estimate that it will take .05 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

## PART I - STATEMENT OF PRIME CONTRACTOR

1. PRIME CONTRACT NUMBER		2. DATE SUBCONTRACT AWARDED		3. SUBCONTRACT NUMBER	
4. PRIME CONTRACTOR			5. SUBCONTRACTOR		
a. NAME			a. NAME		
b. STREET ADDRESS			b. STREET ADDRESS		
c. CITY		d. STATE	e. ZIP CODE	c. CITY	
6. The prime contract <input type="checkbox"/> does, <input type="checkbox"/> does not contain the clause entitled "Contract Work Hours and Safety Standards Act -- Overtime Compensation."					

7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:

a. NAME OF AWARDFIRM

b. DESCRIPTION OF WORK BY SUBCONTRACTOR

8. PROJECT		9. LOCATION			
10a. NAME OF PERSON SIGNING		11. BY (Signature)		12. DATE SIGNED	
10b. TITLE OF PERSON SIGNING					

## PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR

13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:

Contract Work Hours and Safety Standards Act - Overtime Compensation (If included in prime contract see Block 6)	Construction Wage Rate Requirements
Payrolls and Basic Records	Apprentices and Trainees
Withholding of Funds	Compliance with Copeland Act Requirements
Disputes Concerning Labor Standards	Subcontracts (Labor Standards)
Compliance with Construction Wage Rate Requirements and Related Regulations	Contract Termination - Debarment
	Certification of Eligibility

14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY

A		C			
B		D			
15a. NAME OF PERSON SIGNING		16. BY (Signature)		17. DATE SIGNED	
15b. TITLE OF PERSON SIGNING					



**City of Lake Worth Beach**  
**IFB#23-103 Harold Grimes Memorial Park Phase 1B Parking Lot Resurfacing**

**Bid Tab**

Bid Item	Description	Qty.	Unit	BBB Underground Construction, Inc.		Florida Blacktop, Inc.		M&M Asphalt Maintenance, Inc.		Municipal Contractors, Inc.		Property Services Warranty, Inc.		R&O Paving, LLC		Rosso Site Development, Inc.	
				Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	MOBILIZATION (OVER 1000Y)	1	LS	\$7,500.00	\$7,500.00	\$750.00	\$750.00	\$4,500.00	\$4,500.00	\$13,000.00	\$13,000.00	\$10,000.00	\$10,000.00	\$8,500.00	\$8,500.00	\$9,589.20	\$9,589.20
2	1" TYPE 5.5 ASPHALT CONCRETE	2,400	SY	\$13.50	\$32,400.00	\$35.40	\$84,960.00	\$9.50	\$22,800.00	\$13.00	\$31,200.00	\$16.00	\$38,400.00	\$13.15	\$31,560.00	\$13.25	\$31,800.00
3	MILL EXIST ASPHALT 1.5" AVG DEPTH	2,400	SY	\$3.75	\$9,000.00	\$5.00	\$12,000.00	\$3.50	\$8,400.00	\$6.35	\$15,240.00	\$3.50	\$8,400.00	\$4.35	\$10,440.00	\$6.00	\$14,400.00
4	MOBILIZATION (OVER 100 LF)	1	LS	\$1,500.00	\$1,500.00	\$1,250.00	\$1,250.00	\$750.00	\$750.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,991.13	\$2,991.13
5	REMOVE EX 6" CONCRETE	228	SF	\$15.00	\$3,420.00	\$4.00	\$912.00	\$8.20	\$1,869.60	\$15.00	\$3,420.00	\$8.00	\$1,824.00	\$13.40	\$3,055.20	\$4.72	\$1,076.16
6	6" CONCRETE SIDEWALK / DRIVEWAY (3,000 PSI)	228	SF	\$27.50	\$6,270.00	\$16.00	\$3,648.00	\$8.20	\$1,869.60	\$25.00	\$5,700.00	\$13.00	\$2,964.00	\$18.25	\$4,161.00	\$16.83	\$3,837.24
7	REMOVE EX CONCRETE CURBING (ALL TYPES)	41	LF	\$30.50	\$1,250.50	\$13.00	\$533.00	\$19.00	\$779.00	\$20.00	\$820.00	\$8.00	\$328.00	\$56.40	\$2,312.40	\$26.22	\$1,075.02
8	TYPE 5 CURBING	41	LF	\$58.00	\$2,378.00	\$67.00	\$2,747.00	\$19.00	\$779.00	\$81.00	\$3,321.00	\$18.00	\$708.00	\$55.00	\$2,255.00	\$86.61	\$3,400.01
9	MOBILIZATION (OVER 50 LF)	1	LS	\$1,500.00	\$1,500.00	\$450.00	\$450.00	\$750.00	\$750.00	\$2,500.00	\$2,500.00	\$1,500.00	\$1,500.00	\$1,000.00	\$1,000.00	\$1,800.00	\$1,800.00
10	HANDICAP PARKING STALL COMPLETE W/ SIGN (PAINT)	2	EA	\$500.00	\$1,000.00	\$600.00	\$1,200.00	\$450.00	\$900.00	\$460.00	\$920.00	\$1,300.00	\$2,600.00	\$440.00	\$880.00	\$486.00	\$972.00
11	Stall line striping (White) 4" Single Stall Line	1,056	LF	\$2.75	\$2,904.00	\$0.50	\$528.00	\$0.65	\$686.40	\$1.50	\$1,584.00	\$1.35	\$1,425.60	\$0.70	\$739.20	\$0.78	\$823.68
12	Stop Bars	2	EA	\$100.00	\$200.00	\$40.00	\$80.00	\$77.00	\$154.00	\$24.00	\$48.00	\$450.00	\$900.00	\$38.00	\$76.00	\$60.00	\$120.00
13	Hash Line (Yellow)	135	LF	\$1.75	\$236.25	\$0.70	\$94.50	\$0.65	\$88.75	\$2.00	\$270.00	\$1.50	\$202.50	\$0.40	\$54.00	\$1.14	\$153.90
14	Yellow curb	25	LF	\$10.00	\$250.00	\$0.60	\$15.00	\$0.91	\$22.75	\$2.50	\$62.50	\$1.35	\$33.75	\$0.40	\$10.00	\$3.60	\$90.00
15	Cur Stop	51	EA	\$44.00	\$2,244.00	\$70.00	\$3,570.00	\$62.40	\$3,182.40	\$114.00	\$5,814.00	\$55.66	\$2,838.66	\$178.00	\$9,078.00	\$256.60	\$12,981.60
16	One-Way Signs	4	EA	\$450.00	\$1,800.00	\$500.00	\$2,000.00	\$416.00	\$1,664.00	\$350.00	\$1,400.00	\$400.00	\$1,600.00	\$225.50	\$902.00	\$102.00	\$408.00
17	Stop Signs	2	EA	\$450.00	\$900.00	\$500.00	\$1,000.00	\$416.00	\$832.00	\$350.00	\$700.00	\$450.00	\$900.00	\$380.00	\$760.00	\$102.00	\$204.00
18	Do Not Enter Signs	2	EA	\$450.00	\$900.00	\$500.00	\$1,000.00	\$416.00	\$832.00	\$350.00	\$700.00	\$450.00	\$900.00	\$314.00	\$628.00	\$102.00	\$204.00
19	Custom Signs (Vet Parking, No Dogs Allowed, Park Hours (2ea))	4	EA	\$450.00	\$1,800.00	\$350.00	\$1,400.00	\$416.00	\$1,664.00	\$300.00	\$1,200.00	\$325.00	\$1,300.00	\$210.00	\$840.00	\$114.00	\$456.00
	<b>Contingency:</b>			\$2,500.00	\$2,500.00				\$2,500.00				\$2,500.00		\$2,500.00		\$2,500.00
	<b>Total:</b>			\$75,102.75		\$71,357.90		\$54,922.90		\$88,406.50		\$86,145.85		\$75,764.80		\$77,748.94	
	Bid Form 00300-1 - 00300-4			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Unit Price Schedule Bid Form 00300-5			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Trench Safety Affidavit Bid Form 00300-6			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Schedule of Major Subcontractors 00300-7			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Schedule of Major Equipment & Materials 00300-8			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Sworn Statement Under Section 287.13(3)(a), FS, On Public Entry Crimes 00300-09 - 00300-10			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Drug Free Certification 00300-11			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Bid Bond			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Bidders Qualification Questionnaire 00310-1 - 00310-5			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Campaign Contribution Statement - 00810			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Scrutinized Companies Certification Form 0081-1			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Non-collusion Affidavit of Prime Bidder			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Anti-Kickback Affidavit			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Certification of Eligibility of General Contractor			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Certification of Non-segregated Facilities			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Workforce Projection			Submitted		Submitted		Submitted		Submitted		Submitted		Submitted		Submitted	
	Comments																
	Bid Compliance			Compliant		Total amount corrected as per submitted bid	Compliant	Compliant		Compliant		Compliant		Compliant		Compliant	

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** City Attorney

**TITLE:**

Ordinance No. 05-2023 – First Reading – Adopting a Single-Member Election Redistricting Map; Repealing Article II “Territorial Boundaries; Election Precincts,” Section 2 “Election Districts” of the Charter and Adopting a new Article II “Territorial Boundaries; Election Precincts,” Section 2 “Single-Member Election Districts” to reflect the Redistricting Map and its Boundaries

**SUMMARY:**

An ordinance adopting Alternative Districts: Option 5 redistricting map proposed by FAU and amending the City’s election districts to reflect the redistricting map boundaries.

**BACKGROUND AND JUSTIFICATION:**

On March 8, 2022, the qualified voters of the City approved, by referendum, an amendment to the City’s Charter changing the at-large voting system to a single-member district voting system (Ordinance No. 2021-22). To implement the single-member districts and to comply with the Voting Rights Act of 1965 and the Equal Protection Clause of the United States Constitution (14<sup>th</sup> Amendment), the City Commission began the process of evaluating the City’s four (4) at-large election districts based on apportionment data from the US Census Bureau. The City contracted with Florida Atlantic University (FAU) to conduct an analysis of the current at-large election districts to determine if the City needed to amend the district boundaries due to changes in population. According to FAU’s “Final Consultant Report: Redistricting Alternatives for the City of Lake Worth Beach” dated December 19, 2022, “Based on 2020 data, the election districts have a total deviation of 133.31% and a spread between the largest and smallest districts of 72.10%. Based on the 2020 Census Block data, the current districts are well above the 10% deviation (spread) threshold used to evaluate election districts for population equity.”

Alternative maps were presented by FAU and considered by the City Commission at the City Commission meetings on October 6, 2022, November 1, 2022, January 3, 2023, and February 7, 2023; and the maps were also presented at separate public meetings held on October 13, 2022, October 15, 2022, and February 4, 2023. To increase public access to the redistricting process, the City also created a webpage to disseminate the redistricting map alternatives, reports, and public comments. The City Commission voted to adopt “City of Lake Worth Beach Alternative Districts: Option 5” (“Map 5”) at its February 7, 2023, meeting. The adoption of the ordinance and the establishment of single-member districts is made necessary based upon (1) the City’s electors’ approval of single-member district voting in Ordinance No. 2021-22 (referendum) and (2) FAU’s findings that the current at-large election districts are well above the 10% deviation allowed under the Voting Rights Act (and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution). The single-member districts set forth in Map 5, if adopted by the Commission, will be in effect for the next City Municipal Election scheduled in March 2024 and will continue in effect until redistricting occurs.

**MOTION:**

Move to approve/disapprove Ordinance No. 05-2023 on first reading and set the second reading and public hearing for April 18, 2023.

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A

Ordinance 05-2023

Alternative Districts – Option 5 (Redistricting Map)

1  
2  
3 **ORDINANCE 2023-05 - AN ORDINANCE OF THE CITY OF LAKE**  
4 **WORTH BEACH, FLORIDA, ADOPTING A SINGLE-MEMBER**  
5 **ELECTION REDISTRICTING MAP; REPEALING ARTICLE II**  
6 **“TERRITORIAL BOUNDARIES; ELECTION PRECINCTS,” SECTION 2**  
7 **“ELECTION DISTRICTS” OF THE CHARTER AND ADOPTING A NEW**  
8 **ARTICLE II “TERRITORIAL BOUNDARIES; ELECTION PRECINCTS,”**  
9 **SECTION 2 “SINGLE-MEMBER ELECTION DISTRICTS” TO REFLECT**  
10 **THE REDISTRICTING MAP AND ITS BOUNDARIES AND FOR OTHER**  
11 **PURPOSES; AND PROVIDING FOR SEVERABILITY, CONFLICTS,**  
12 **CODIFICATION AND AN EFFECTIVE DATE**

13  
14 **WHEREAS**, the City of Lake Worth Beach, Florida (the “City”), is a duly constituted  
15 municipality having such power and authority conferred upon it by the Florida Constitution  
16 and Chapter 166, Florida Statutes; and

17  
18 **WHEREAS**, on March 8, 2022, the qualified voters of the City approved, by  
19 referendum, an amendment to the City’s Charter changing the at-large voting system to  
20 a single-member district voting system (Ordinance No. 2021-22); and

21  
22 **WHEREAS**, to implement the single-member districts and to comply with the  
23 Voting Rights Act of 1965 and the Equal Protection Clause of the United States  
24 Constitution (14<sup>th</sup> Amendment), the City Commission began the process of evaluating the  
25 City’s four (4) at-large election districts based on apportionment data from the US Census  
26 Bureau; and

27  
28 **WHEREAS**, the City contracted with Florida Atlantic University (FAU) to conduct  
29 an analysis of the current at-large election districts to determine if the City needed to  
30 amend the district boundaries due to changes in population; and

31  
32 **WHEREAS**, the Equal Protection Clause requires “an honest and good faith effort  
33 to construct districts...as nearly of equal population as is practicable” *See Reynolds v.*  
34 *Sims*, 377 U.S. 533 (1964); and

35  
36 **WHEREAS**, based on data from the 2020 US Census, FAU conducted a  
37 population analysis and presented a total of five (5) map alternatives for the purposes of  
38 redistricting to the City Commission; and

39  
40 **WHEREAS**, according to FAU’s “Final Consultant Report: Redistricting  
41 Alternatives for the City of Lake Worth Beach” dated December 19, 2022 (“Final  
42 Consultant Report”), “Based on 2020 data, the election districts have a total deviation of  
43 133.31% and a spread between the largest and smallest districts of 72.10%. Based on  
44 the 2020 Census Block data, the current districts are well above the 10% deviation  
45 (spread) threshold used to evaluate election districts for population equity”; and

46  
47 **WHEREAS**, the City Commission considered and discussed FAU’s initial “District  
48 Analysis” that was presented at the September 12, 2022, work session; and  
49

50           **WHEREAS**, alternative maps were considered by the City Commission at the City  
51 Commission meetings on October 6, 2022, November 1, 2022, January 3, 2023, and  
52 February 7, 2023; and the maps were also presented at separate public meetings held  
53 on October 13, 2022, October 15, 2022, and February 4, 2023; and

54  
55           **WHEREAS**, to increase public access to the redistricting process, the City also  
56 created a webpage to disseminate the redistricting map alternatives, reports, and public  
57 comments; and

58  
59           **WHEREAS**, the City Commission voted to adopt “City of Lake Worth Beach  
60 Alternative Districts: Option 5” at its February 7, 2023, meeting; and

61  
62           **WHEREAS**, the City Commission finds and declares that the adoption of this  
63 ordinance is appropriate; the establishment of single-member districts is made necessary  
64 based upon (1) the City’s electors’ approval of single-member district voting in Ordinance  
65 No. 2021-22 (referendum) and (2) FAU’s findings that the current at-large election districts  
66 are well above the 10% deviation allowed under the Voting Rights Act (and the Equal  
67 Protection Clause of the Fourteenth Amendment of the United States Constitution); the  
68 adoption serves a public purpose and is in the best interest of the health, safety and  
69 welfare of the City, its residents and visitors.

70  
71           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
72 **CITY OF LAKE WORTH BEACH, FLORIDA, that:**

73  
74           **Section 1:** The foregoing “WHEREAS” clauses are ratified and confirmed as  
75 being true and correct and are made a specific part of this ordinance as if set forth herein.

76  
77           **Section 2:** The City Commission hereby adopts the findings, conclusions, and  
78 recommendations prepared by FAU in its Final Consultant Report, and the same is  
79 incorporated herein by this reference and made a part hereof. The City Commission  
80 hereby adopts FAU’s “City of Lake Worth Beach Alternative Districts: Option 5” (“Map 5”),  
81 as recommended, for the establishment of its single-member election districts. Map 5 is  
82 attached hereto as **Exhibit A** and is incorporated herein, and such map is hereby  
83 established as the current single-member election district boundaries within the limits of  
84 the City and shall continue until redistricting occurs. All candidates for the March 2024  
85 municipal election are hereby required to comply with Map 5’s single-member districts.

86  
87           **Section 3:** Article II “Territorial Boundaries; Election Precincts,” Section 2  
88 “Election districts” of the City of Lake Worth Beach Charter is hereby repealed in full.

89  
90           **Section 4:** Article II “Territorial Boundaries; Election Precincts,” Section 2  
91 “Single-member election districts” of the City of Lake Worth Beach Charter is hereby  
92 adopted to read as follows:

93  
94           Sec. 2. – Single-member election districts.  
95           To implement single-member district voting set forth in Article III, Section 1 of the  
96 Charter, the boundaries for each of the four (4) single-member election districts of the  
97 City of Lake Worth Beach are hereby established as follows:

98 (1) District No. 1. COMMENCING at the centerline intersection of Lake Worth  
99 Road and the centerline of I-95; thence run westerly along the centerline of  
100 Lake Worth Road to the city's western corporate limits and the POINT OF  
101 BEGINNING; thence run easterly along the centerline of Lake Worth Road to  
102 the centerline intersection of South A Street; thence run southerly along the  
103 centerline of South A Street to the centerline intersection of 4<sup>th</sup> Avenue South;  
104 thence run easterly along the centerline of said 4<sup>th</sup> Avenue South to centerline  
105 intersection of the FEC Railway; thence run southerly and easterly along the  
106 centerline of said FEC Railway to the city's southern corporate limits; thence  
107 run westerly and northerly along the city's southern and western corporate  
108 limits to the POINT OF BEGINNING.

109 (2) District No. 2. COMMENCING at the centerline intersection of Lake Worth  
110 Road and the centerline of I-95; thence run westerly along the centerline of  
111 Lake Worth Road to the city's western corporate limits and the POINT OF  
112 BEGINNING; thence run easterly along the centerline of Lake Worth Road to  
113 the centerline intersection of North A Street; thence run northerly along the  
114 centerline of North A Street to the centerline intersection of 10<sup>th</sup> Avenue North;  
115 thence run easterly along the centerline of 10<sup>th</sup> Avenue North to the centerline  
116 intersection of Dixie Highway; thence run northerly along the centerline of  
117 Dixie Highway to the city's northern corporate limits; thence run westerly,  
118 southerly and easterly along the city's northern and western corporate limits  
119 to the POINT OF BEGINNING.

120 (3) District No. 3. BEGINNING at the centerline intersection of Lake Worth Road  
121 and North A Street; thence run northerly along the centerline of North A Street  
122 to the centerline intersection of 10<sup>th</sup> Avenue North; thence run easterly along  
123 the centerline of 10<sup>th</sup> Avenue North to the centerline intersection of Dixie  
124 Highway; thence run northerly along the centerline of Dixie Highway to the  
125 city's northern corporate limits; thence run easterly and southerly along the  
126 city's northern and eastern corporate limits to the centerline intersection of the  
127 city's eastern corporate limits and the easterly extension of 7<sup>th</sup> Avenue North;  
128 thence run westerly along the centerline of 7<sup>th</sup> Avenue North to the centerline  
129 intersection of North Federal Highway; thence run southerly along the  
130 centerline of North Federal Highway to the centerline intersection of Lucerne  
131 Avenue; thence run westerly along the centerline of Lucerne Avenue to the  
132 POINT OF BEGINNING.

133 (4) District No. 4. BEGINNING at the centerline intersection of Lake Worth Road  
134 and South A Street; thence run southerly along the centerline of South A  
135 Street to the centerline intersection of 4<sup>th</sup> Avenue South; thence run easterly  
136 along the centerline of said 4<sup>th</sup> Avenue South to centerline intersection of the  
137 FEC Railway; thence run southerly and easterly along the centerline of said  
138 FEC Railway to the city's southern corporate limits; thence run easterly and  
139 northerly along the city's southern and eastern corporate limits to the  
140 centerline intersection of the city's eastern corporate limits and the easterly  
141 extension of 7<sup>th</sup> Avenue North; thence run westerly along the centerline of 7<sup>th</sup>  
142 Avenue North to the centerline intersection of North Federal Highway; thence  
143 run southerly along the centerline of North Federal Highway to the centerline

144 intersection of Lucerne Avenue; thence run westerly along the centerline of  
145 Lucerne Avenue to the POINT OF BEGINNING.

146 The City of Lake Worth Beach’s single-member election districts, as described  
147 above, are depicted in the Alternative Districts Option 5 map adopted in Ordinance No.  
148 2023-05. Said ordinance shall remain on file in the Office of the City Clerk and shall be  
149 available for inspection by the public upon request.

151 **Section 5:** The City Manager or designee, with the assistance of the City Clerk,  
152 is hereby authorized and directed to transmit the following to the Palm Beach County  
153 Supervisor of Elections (the “Supervisor”) upon adoption: (1) a certified copy of this  
154 Ordinance along with **Exhibit A**; (2) a paper copy and shapefile of the redistricting map;  
155 and (3) and any other document required by the Supervisor.

157 **Section 6:** Severability. If any section, subsection, sentence, clause, phrase or  
158 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of  
159 competent jurisdiction, such portion shall be deemed a separate, distinct, and  
160 independent provision, and such holding shall not affect the validity of the remaining  
161 portions thereof.

163 **Section 7:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in  
164 conflict herewith are hereby repealed to the extent of such conflict.

166 **Section 8:** Codification. The sections of the ordinance may be made a part of  
167 the City Code of Laws and ordinances and may be re-numbered or re-lettered to  
168 accomplish such, and the word “ordinance” may be changed to “section”, “division”, or  
169 any other appropriate word.

171 **Section 9:** Effective Date. This ordinance shall become effective 10 days after  
172 passage.

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

- 177 Mayor Betty Resch
- 178 Vice Mayor Christopher McVoy
- 179 Commissioner Sarah Malega
- 180 Commissioner Kimberly Stokes
- 181 Commissioner Reinaldo Diaz

183 The Mayor thereupon declared this ordinance duly passed on first reading on the  
184 \_\_\_\_ day of \_\_\_\_\_, 2023.

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



192 Mayor Betty Resch  
193 Vice Mayor Christopher McVoy  
194 Commissioner Sarah Malega  
195 Commissioner Kimberly Stokes  
196 Commissioner Reinaldo Diaz

197

198 The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_\_ day of  
199 \_\_\_\_\_, 2023.

200

LAKE WORTH BEACH CITY COMMISSION

201

202

203

By: \_\_\_\_\_  
Betty Resch, Mayor

204

205

206 ATTEST:

207

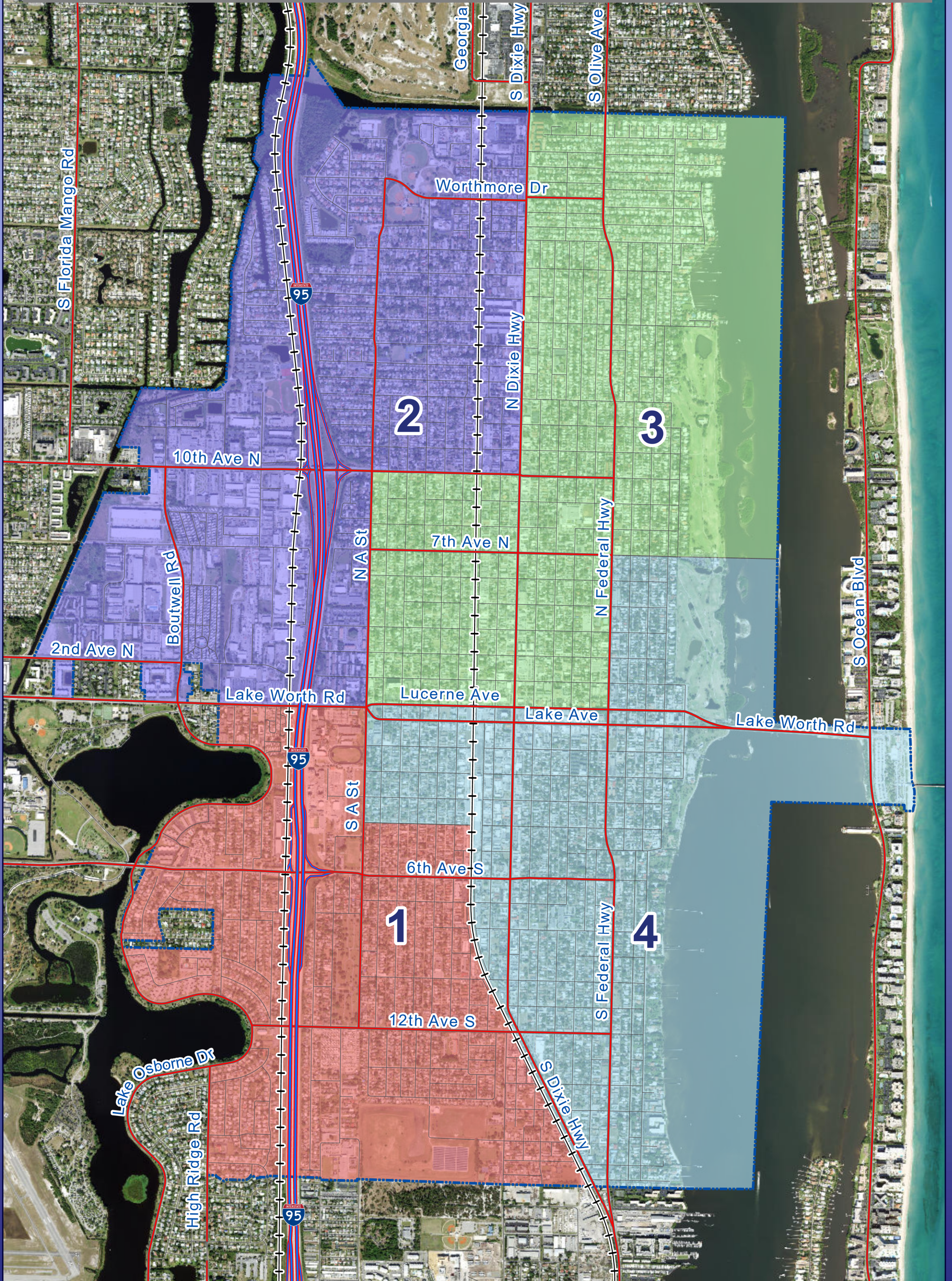
208

209

210 \_\_\_\_\_  
Melissa Ann Coyne, CMC, City Clerk

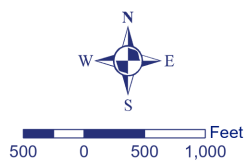
# City of Lake Worth Beach

## Alternative Districts: Option 5



Revision Date: 10/19/2022  
Contact: James Gammack-Clark  
Filename: Lake\_Worth\_Beach.aprx  
Sources: U.S. Census Bureau  
City of Lake Worth Beach  
Florida Atlantic University

- District 1
- District 2
- District 3
- District 4



City of Lake Worth Beach

7 North Dixie Highway  
Lake Worth Beach FL, 33460  
Phone (561) 586-1600



# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 4, 2023

**DEPARTMENT:** City Commission

**TITLE:**

Discussion of City Manager's Annual Evaluation

**SUMMARY:**

A process needs to be established for conducting an annual evaluation of the City Manager.

**BACKGROUND AND JUSTIFICATION:**

According to the provisions set forth in the City Charter, Lake Worth Beach operates a Commission-Manager form of government. Authority is vested in an elected City Commission, which, in turn appoints a City Manager.

It is important to conduct an annual evaluation of the City Manager's performance to maintain a productive relationship between the City Commission and the City Manager. This process can lead to more effective decision-making throughout the City's organization. Additionally, the Commission has a responsibility to provide clear guidance on their expectations for the City Manager's performance and to establish a shared understanding of roles and responsibilities.

Presently no set system is in place for evaluating the performance of the City Manager. The goal of this discussion is to agree upon a schedule and procedure for establishing such a system.

**MOTION:**

Direction is sought to establish a procedure and schedule for conducting annual evaluations of the City Manager..

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A