



AGENDA
CITY OF LAKE WORTH BEACH
REGULAR CITY COMMISSION MEETING
BY TELECONFERENCE
TUESDAY, OCTOBER 06, 2020 - 6:00 PM

ROLL CALL:

INVOCATION OR MOMENT OF SILENCE: led by Vice Mayor Andy Amoroso

PLEDGE OF ALLEGIANCE: led by Commissioner Scott Maxwell

AGENDA - Additions / Deletions / Reordering:

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

- A. [Proclamation honoring the heroic actions of Deputy Phillips Duncan](#)
- B. [Proclamation in honor of National Cybersecurity Awareness Month](#)

COMMISSION LIAISON REPORTS AND COMMENTS:

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:

APPROVAL OF MINUTES:

- A. [Electric Utility Meeting - August 25, 2020](#)
- B. [Special Meeting - September 10, 2020](#)
- C. [Regular Meeting - September 15, 2020](#)
- D. [Special Meeting - September 24, 2020](#)

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

- A. [Agreement with RSM US LLP for annual independent financial auditing services](#)
- B. [Consideration of settlement with Plaintiff, Yoexis Aaron Melendrez Borlot in the amount of \\$68,500 \(inclusive of attorney's fees\)](#)
- C. [Fifth Amendment to Professional Services Agreement with Ben Few & Company, Inc.](#)
- D. [Ratification of Appointments and Reappointment to the various City Advisory Boards](#)
- E. [Proclamation declaring October 11-17, 2020 as Mediation Week](#)
- F. [Proclamation commemorating the 109th National Day of the Republic of China \(Taiwan\)](#)
- G. [Purchase Authorization with Badger Meters](#)
- H. [Purchase Authorization for Itron meter transmitters from The Avanti Company](#)

- I. [Agreement with Allied Universal Corporation to purchase Sodium Hypochlorite \(Bleach\) for water treatment and odor control](#)
- J. [Agreement with Shrieve Chemical, Co. to purchase Sulfuric Acid for water treatment](#)
- K. [Agreement with Department of Environmental Protection for State Revolving Fund loan for 2-inch Watermain Replacement Project Phases 5 & 6](#)
- L. [Change Order 01 to David Mancini & Sons Inc. for the Lake Osborne Estates Watermain Improvement Project Phase 1](#)
- M. [Change Order 01 to David Mancini & Sons Inc. for the Park of Commerce Phase 1B Project](#)

PUBLIC HEARINGS:

- A. [Ordinance No. 2020-09 – Second Reading – Amend the Comprehensive Plan to include an updated water supply plan and transmit the plan to the State of Florida for review](#)

NEW BUSINESS:

- A. [Grant Request for the Palm Beach County Food Bank to partially offset the City building permit fees](#)
- B. [Ordinance No. 2020-13 – First Reading - Amend the City's Code of Ordinances Chapter 23 Land Development Regulations \(development orders\)](#)
- C. [Ordinance No. 2020-14 – First Reading - Amend the City's Code of Ordinances Chapter 23 Land Development Regulations to update and clarify the quasi-judicial process for land use and zoning matters](#)
- D. [Consideration of PZB 20-00600001 – Request for an Alcohol Beverage Distance Waiver for the specialty distillery Dr. Spirits](#)
- E. [Ordinance No. 2020-16 – First Reading -- providing authority for the issuance of taxable utility bonds to fully fund reserves](#)
- F. [Resolution No. 45-2020 – authorizing the issuance of Consolidated Utility Revenue Bonds of the City](#)

LAKE WORTH ELECTRIC UTILITY:

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

- 1) [Agreement with Wilco Electrical LLC., for electric utility storm restoration services for disaster recovery](#)
- 2) [Ratification of Emergency Construction Contract with Restore It All, Inc., for installation of underground conduit and feeder cable at the East Switch Substation](#)
- 3) [Interlocal Agreement with Palm Beach County for Pole Attachments related to the Student Wi-Fi Project](#)

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

ADJOURNMENT:

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

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

PROCLAMATION

PHILLIPS DUNCAN

WHEREAS, The City of Lake Worth Beach is always grateful for the contributions of those who make a difference in the lives of our residents; and

WHEREAS, One of our own heroes is Deputy Phillips Duncan who has been with the Palm Beach County Sheriff's Office since 2018; and

WHEREAS, On September 3, 2020, Deputy Duncan was dispatched to a call of a man overdosing. It was later learned that there was actually a man and a woman on the scene who had overdosed. Upon arrival Deputy Duncan heard people screaming by the pool. Deputy Duncan found that the male victim had fallen into the pool and was drowning. Without regard for his own safety, he dove into the deep end of the pool, fully uniformed, to pull the victim to safety.; and

WHEREAS, Deputy Duncan was able to pull the victim from the pool and even though the victim had no pulse, he started chest compressions until fire rescue arrived with proper equipment; and

WHEREAS Many families in our community have been affected by drug abuse and some have lost children to this disease. It is easy to become less sympathetic over the loss of these lives, but Deputy Duncan proved that he still cares about all our residents regardless of their circumstances; and.

WHEREAS, The victim's life was saved by the quick response and heroic actions of Deputy Duncan and The City of Lake Worth Beach is a better place by having heroes like Deputy Phillips Duncan and the other men and women of The Palm Beach County Sheriff's office.

NOW, THEREFORE, I, PAM TRIOLO, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me, do hereby recognize the heroic work of all our dedicated Palm Beach County Deputies, but especially

DEPUTY PHILLIPS DUNCAN

ON THIS MOST HEROIC EVENT

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 6th day of October, 2020.

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, City Clerk

CITY OF LAKE WORTH BEACH

PROCLAMATION

WHEREAS, the City of Lake Worth Beach recognizes that it has a vital role in identifying, protecting its citizens from, and responding to cyber threats that may have significant impact to our individual and collective security and privacy; and

WHEREAS, critical infrastructure sectors are increasingly reliant on information systems and technology to support financial services, energy, telecommunications, transportation, utilities, health care, and emergency response systems; and

WHEREAS, the STOP. THINK. CONNECT.™ Campaign serves as the national cybersecurity public awareness campaign, implemented through a coalition of private companies, nonprofit and government organizations, as well as academic institutions working together to increase the understanding of cyber threats and empowering the American public to be safer and more secure online; and

WHEREAS, the National Institute of Standards and Technology (NIST) Cybersecurity Framework has been developed as a free resource to help organizations (large and small, both public and private) improve their cybersecurity practices through a practical approach to addressing evolving threats and challenges; and

WHEREAS, maintaining the security of cyberspace is a shared responsibility in which each of us has a critical role to play, and awareness of computer security essentials will improve the security of our information, infrastructure, and economy; and

WHEREAS, the Federal Government of the United States of America and the U.S. Department of Homeland Security together with various other agencies all recognize October as National Cyber Security Awareness Month; and all citizens are encouraged to visit the STOP. THINK. CONNECT.™ Campaign website (www.stopthinkconnect.org) to learn about cybersecurity to put that knowledge into practice in their homes, schools, workplaces, and businesses; and

WHEREAS, The City of Lake Worth Beach is developing its own internal training programs to bring about the awareness of how sophisticated cyber criminals have become and the importance of always being aware of; and

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

National Cybersecurity Awareness Month.

in the City of Lake Worth Beach, Florida and we encourage the citizens of the City of Lake Worth Beach to join this Commission in expressing appreciation for Cybersecurity training.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 6th day of October, 2020.

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, City Clerk

**MINUTES
CITY OF LAKE WORTH BEACH
ELECTRIC UTILITY CITY COMMISSION MEETING
BY TELECONFERENCE
TUESDAY, AUGUST 25, 2020**

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

ROLL CALL: Present were; Mayor Pam Triolo; Vice Mayor Andy Amoroso; and Commissioners Scott Maxwell, Omari Hardy (arrived at 6:04 PM) and Herman Robinson. Also present were City Manager Michael Bornstein, City Attorney Christy L. Goddeau and City Clerk Deborah M. Andrea.

PLEDGE OF ALLEGIANCE: led by Vice Mayor Andy Amoroso.

AGENDA - Additions / Deletions / Reordering:

There were no changes to the agenda.

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:

City Clerk Andrea read the public comment submitted by the following:

Ramsay Stevens, former member of the Electric Utility Advisory Board (EUAB) wrote to ask the Commission to respond to the EUAB's request to discuss the potential for a demand response program, a community solar program, and opportunities to faster realize the economic potential of the South Eastern National Marine Renewable Energy Center.

APPROVAL OF MINUTES:

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

A. July 28, 2020

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

NEW BUSINESS:

A. Resumption of City utility disconnects for non-payment

Ed Liberty, Electric Utility Director, introduced the presentation of the accounts in arrears, customers who had signed up for the payment plan and outreach to agencies. He said that the delinquent accounts were tracked daily; 1826 customers would have been subject to cut with delinquent amounts of \$658,652 that would have tripped the disconnects but the total balance due was \$1,168,834. He explained that there was an aging report showing 30 and 60 days late for combined water, sewer and electric, but frequently accounts were paid before 30 days. He said that electric was 13.7% in arrears, water and sewer were 14.8 in arrears and at least 4% were 60 days late. He showed the average, minimum and maximum amounts in arrears for residential and commercial as well as the deposits on hand. He said that only 73% of residential

accounts were covered by deposits and 94% of commercial. He stated that there was an outreach program to contact customers and no accounts had been shut off. He reported that 828 customers had requested to go on the payment plan and the County had given \$63,327 towards payments but some accounts were still in review. He stated that most municipalities had resumed disconnects and FPL had not determined a resumption date.

Action: Motion made by Commissioner Robinson and seconded by Commissioner Hardy to not shut off any water in the City while the eviction moratorium was in force.

Action: Amended motion made by Commissioner Hardy and seconded by Commissioner Robinson to not shut off water in the City while a person was domiciled until a date uncertain.

City Attorney Goddeau said that the motion indicated that water and electric would be treated separately and explained that a friendly amendment approved by the maker would not require a vote.

Comments/requests summary:

1. Mayor Triolo asked if the disconnect date could be set until the end of September because residents had not received their unemployment checks.
2. Commissioner Maxwell stated that the City was now in the sixth month of people not paying their bills. He said that the longer the issue went on, the more difficult it would be and almost 1,000 people had not responded to any of the City's outreach attempts. He said that the bigger issue was how to get the 1,000 customers to step up and make arrangements to pay their utility bills.

Commissioner Robinson said that his concern was water so that the resident could be clean and sanitary while waiting for the eviction process; electric would be a later conversation.

Commissioner Hardy opined that the City should not turn off people's water because they did not have the money to pay, which would make the home uninhabitable during these extraordinary times.

Discussion ensued regarding points of order and information.

Commissioner Hardy asked how relevant it would be that many residents in the City did not have the means to pay because they did not qualify for any assistance and therefore would not contact the City.

City Attorney Goddeau stated that according to Robert's Rules, each Commissioner had ten minutes in total to speak including all bites of the apple.

Commissioner Hardy said that it was unknown when people would regain their jobs and it seemed cruel to turn off water when the circumstances were beyond their control and the health of the customer was the community's health.

3. Vice Mayor Amoroso stated that there were 1,000 customers who had not stepped up, but there was County assistance to help them. He said that people had no problem coming to collect food, but could not contact the City about their utility bills. He iterated that people

who were struggling could prioritize to make sure to pay their utility bill in support of their families.

4. Commissioner Robinson stated that water was a safety issue and it was understood that people would leave the City without paying their bills. He said that there was a difference between not having water and not having electricity.

City Attorney Goddeau pointed out that all dwellings had to have both electricity and water according to the City's property maintenance code; a moratorium on the provision would be necessary to allow someone to stay in a dwelling with just water.

Commissioner Robinson asked for a vote and said that it would be important to allow people to have water until they left the dwelling.

5. Commissioner Hardy asked what the cascading effects would be.

City Attorney Goddeau responded that if someone remained in a property without water and/or electricity, the property owner would be cited. She said that the portion of the property maintenance code would not be enforced under the emergency powers.

6. Vice Mayor Amoroso asked if the City was still under compassionate code.

City Attorney Goddeau said that the City was still under compassionate code, but she wanted to ensure that there was not a disconnect between utility and code.

7. Commissioner Maxwell asked how the City would differ from the other cities that had resumed disconnects.

Mayor Triolo asked Mr. Liberty to show the slide with the resumptions of disconnects. She read the few cities that had not resumed and the all cities that had resumed disconnections. She suggested that if a deadline were put on the resumption, perhaps it would encourage people to get help or get on the payment program.

Mr. Liberty said that the EU looked at trends geographically but there were people from whom they had not heard in spite of the thousands of phone calls; it was unknown if the properties were inhabited. He stated that people might call if the power were disconnected, but some might not call at all because the property was vacant.

Commissioner Hardy asked if 4% of customers had moved out of the City and if there was a list of the number of people affected in each city.

Mr. Liberty said that the customer count was not taken into consideration and there was a high degree of turnover in the City. He stated that power was being put into properties that could be vacant; a new resident could move in and use the power without opening an account nor getting a bill. He iterated that some mechanism was needed to determine the status of over 1,000 people who had not contacted the City. He asked for guidance from the Commission.

Commissioner Hardy asked for particulars of the mountain of debt for water percentage and dollar-wise. He said that the outstanding debt was a drop in the bucket regarding the revenue of the utilities.

Commissioner Robinson asked if the owner would be notified if the power was shut off and questioned the \$9,000 water bill.

Franco Bellitto, Customer Service Manager, replied that only the account holder would be notified. He stated that the customer with the \$9,000 bill had been contacted and a leak had been discovered.

City Attorney Goddeau stated that staff had been directed to be compassionate and there would be ongoing discussion.

Commissioner Maxwell agreed with Mayor Triolo about extending the moratorium until September 15 and said that facts were needed to see which properties were occupied. He said that the City could not continue without getting evidence about what should be done for the future.

Vote: Voice vote showed: AYES: Commissioners Hardy and Robinson. NAYS: Mayor Triolo, Vice Mayor Amoroso and Commissioner Maxwell.

Action: Motion made by Commissioner Hardy and seconded by Commissioner Robinson to extend the moratorium on water shutoffs until Tuesday, September 15, 2020.

City Attorney Goddeau stated that someone other than the maker needed to amend a motion.

Vote: Voice vote showed: AYES: Commissioners Hardy and Robinson. NAYS: Mayor Triolo, Vice Mayor Amoroso and Commissioner Maxwell.

Action: Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to extend the moratorium on disconnects of water and electric through September 14, 2020.

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

ADJOURNMENT:

Action: Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to adjourn the meeting at 7:30 PM.

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

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

Minutes Approved: October 6, 2020

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

**MINUTES
CITY OF LAKE WORTH BEACH
SPECIAL MEETING OF THE CITY COMMISSION
1st PUBLIC HEARING FOR THE BUGDET
BY TELECONFERENCE
THURSDAY, SEPTEMBER 10, 2020 - 6:00 PM**

The meeting was called to order by Mayor Triolo on the above date at 6:04 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth, Florida.

ROLL CALL: Present were Mayor Pam Triolo; Vice Mayor Andy Amoroso; and Commissioners Scott Maxwell (arrived at 6:25 PM) and Herman Robinson. Also present were City Manager Michael Bornstein, City Attorney Christy L. Goddeau, and City Clerk Deborah M. Andrea. Commissioner Omari Hardy was absent.

PLEDGE OF ALLEGIANCE: led by Commissioner Herman Robinson.

PUBLIC HEARINGS:

- A. Resolution No. 35-2020 - First Public Hearing - Adopt the Fiscal Year 2020-2021 Tentative Millage Rate and set the second public hearing for September 24, 2020

Mayor Triolo announced that the Special Meeting of the City of Lake Worth Beach Commission was the first mandatory public hearing on the Fiscal Year 2020-2021 proposed millage rate and proposed budget as required by section 200.065, Florida Statutes. She stated that on July 21, 2020, the City Commission had set a proposed millage rate of 5.4945 mils, which was advertised in the Truth-in-Millage (TRIM) notices sent to all property owners and the proposed millage rate of 5.4945 mils for Fiscal Year 2020-2021 is 8.29% more than the roll-back rate of 5.074 mils. She explained that the purpose of the meeting was to adopt the tentative budget and tentative millage rate and to set the second public hearing to adopt the final budget and millage rate for September 24, 2020 at 6:00 pm.

City Attorney Goddeau read the resolution by title only.

RESOLUTION NO. 35-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA; LEVYING MUNICIPAL TAXES ON ALL TAXABLE PROPERTY WITHIN THE CITY OF LAKE WORTH BEACH, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021; REPEALING ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to approve Resolution No. 35-2020 adopting the tentative millage rate of 5.4945 mils for Fiscal Year 2020-2021 and scheduling the second public hearing for September 24, 2020.

City Clerk Andrea read the public comment submitted by the following:

Edwin Contreras wrote a reminder to Commissioner Hardy to read the backup before giving the dias his thesis on each resolution as too much time had been wasted as of the late.

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

B. Resolution No. 36-2020 - First Public Hearing - Adopt the Debt Service Rate and set the second public hearing for September 24, 2020

City Attorney Goddeau read the resolution by title only.

RESOLUTION NO. 36-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA; LEVYING MUNICIPAL TAXES ON ALL TAXABLE PROPERTY WITHIN THE CITY OF LAKE WORTH BEACH, FLORIDA, FOR VOTER APPROVED DEBT SERVICE FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021; REPEALING ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to approve Resolution No. 36-2020 adopting the tentative debt service millage rate of 1.1100 mils for Fiscal Year 2020-2021 and scheduling the second public hearing for September 24, 2020.

City Clerk Andrea stated that there were no public comments.

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

C. Resolution No. 37-2020 - First Public Hearing - Adopt the Fiscal Year 2020-2021 Proposed City Budget and set the second public hearing for September 24, 2020

City Attorney Goddeau read the resolution by title only.

RESOLUTION NO. 37-2020, A GENERAL APPROPRIATION RESOLUTION OF THE CITY OF LAKE WORTH BEACH, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA, MAKING SEPARATE AND SEVERAL APPROPRIATIONS FOR ITS NECESSARY OPERATING EXPENSES, THE USES AND EXPENSES OF THE VARIOUS FUNDS AND DEPARTMENTS OF THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021; PROVIDING FOR THE EFFECTIVE DATE THEREOF

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to approve Resolution 37-2020 adopting the proposed operating budget for the Fiscal Year 2020-2021 and scheduling the second public hearing for September 24, 2020.

Comments/request summary:

1. Commissioner Robinson said that he looked forward to a discussion about paying a living wage to City employees of at least \$15 per hour.
2. Vice Mayor Amoroso commented that he had spoken with staff regarding raising the hourly wage to \$15, but the union would not allow individual raises; there had to be raises across the board.

City Manager Bornstein stated that he could provide a report regarding employees making less than \$15 an hour.

Commissioner Robinson suggested that the unions participate in the conversation and take responsibility for not allowing raises.

City Clerk Andrea stated that there were no public comments.

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

D. Resolution No. 38-2020 - establish the Solid Waste Annual Assessment for Residential Refuse Rates for Fiscal Year 2020-2021

City Attorney Goddeau read the resolution by title only.

RESOLUTION NO. 38-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, RELATING TO THE PROVISION OF SOLID WASTE SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF LAKE WORTH BEACH, FLORIDA; IMPOSING SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY; APPROVING THE RATE OF ASSESSMENT; CONFIRMING, APPROVING AND ADOPTING THE SOLID WASTE ASSESSMENT ROLL FOR FISCAL YEAR 2020; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM COLLECTION METHOD AND PROVIDING AN EFFECTIVE DATE

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to approve Resolution No. 38-2020 - establishing the Solid Waste Annual Assessment for Residential Refuse Rates for Fiscal Year 2020-2021.

City Attorney Goddeau explained that the agenda memo tried to explain the assessment because the letter that was sent to residents contained statutory language and was difficult to understand. She clarified that the increase for the year would be \$11.68 and was the first increase since 2009.

Comments/requests summary:

1. Commissioner Robinson thanked City Attorney Goddeau for reading the backup.

City Clerk Andrea read the public comments submitted by the following:

Emmanuel Marcos, Managing member of Marcos Management LLC, wrote in opposition to the assessment increase.

Miguel Robles wrote in opposition to the assessment increase.

Linda Weitzman, Member-manager of Liny Leeds LLC, wrote in opposition to the assessment increase.

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

NEW BUSINESS:

A. Resolution No. 39-2020 - establish the Stormwater Annual Assessment for Fiscal Year 2020-2021

City Attorney Goddeau did not read the resolution.

RESOLUTION NO. 39-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF LAKE WORTH BEACH, FLORIDA; IMPOSING STORMWATER SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY; APPROVING THE RATE OF ASSESSMENT; CONFIRMING, APPROVING AND ADOPTING THE STORMWATER ASSESSMENT ROLL FOR FISCAL YEAR 2021; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM COLLECTION METHOD AND PROVIDING AN EFFECTIVE DATE

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to approve Resolution No. 39-2020 - establishing the Stormwater Annual Assessment for Fiscal Year 2020-2021.

City Clerk Andrea announced that there were no public comment cards.

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

B. Adopt the Fiscal Year 2021 Administrative Charge for Services

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to approve the adoption of the Fiscal Year 2020 Administrative Charge for Services, subject to final adoption of the Fiscal Year 2021 Annual Operating Budget on September 24, 2020.

City Clerk Andrea stated that there were no public comments.

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

C. Adopt the Fiscal Year Contribution from Enterprise Operations

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to approve the adoption of the Fiscal Year 2021 Contributions from Enterprise Operations, subject to final adoption of the Fiscal Year 2021 Annual Operating Budget on September 24, 2020.

Comments/requests summary:

1. Commissioner Robinson asked for clarification of the item for the public.

City Manager Bornstein stated that the Enterprise Funds were the City-owned businesses such as the Electric Utility, Water Utility, etc. He explained that the City received profits back, which were deposited into the General Fund to help subsidize the budget.

Commissioner Robinson said that the Enterprise Funds showed how important the Electric Utility was to the City.

City Clerk Andrea stated that there were no public comments.

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

ADJOURNMENT:

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to adjourn the meeting at 6:25 PM.

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

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

Minutes Approved: October 6, 2020

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

**MINUTES
CITY OF LAKE WORTH BEACH
REGULAR CITY COMMISSION MEETING
BY TELECONFERENCE
TUESDAY, SEPTEMBER 15, 2020 - 6:00 PM**

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

ROLL CALL: Present were Mayor Pam Triolo; Vice Mayor Andy Amoroso; and Commissioners Scott Maxwell, Omari Hardy and Herman Robinson. Also present were City Manager Michael Bornstein, City Attorney Glen Torcivia and City Clerk Deborah M. Andrea.

INVOCATION OR MOMENT OF SILENCE: was led by Mayor Pam Triolo.

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

AGENDA - Additions/Deletions/Reordering:

There were no changes to the agenda.

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

There were no Presentations on the agenda.

COMMISSION LIAISON REPORTS AND COMMENTS:

Vice Mayor Amoroso: did not make any comments.

Commissioner Maxwell: thanked the Electric Utility for their prompt response in addressing the lighting issues in District One.

Commissioner Robinson: reported that the painting of the Wall of Unity was rained out but would be held the following Saturday. He stated that the Census should be a priority and was thankful for the City's balanced budget. He expressed disappointment in the Palm Beach County Board of County Commissioner's budget which did not include money for body cameras for deputies until 2023. He announced that Viva La Playa had a successful opening and the library would reopen next week. He said that he looked forward to receiving more grants and stated that the City should prioritize paying all employees a minimum of \$15 an hour next year.

Commissioner Hardy: congratulated Lee Lipton and his team on the opening of Viva La Playa at the beach. He said that it was positive that the Sheriff's office was moving towards using body cameras, but expressed dismay that they would not be in use until 2023. He stated that the county should deal with the COVID infection and not re-open the schools, which was very risky.

Mayor Triolo: announced that she was able to meet the linemen at the Electric Utility and read the proclamation to them in person; she said that they deserved respect for the risks they took on behalf of the City. She said that the City needed everyone to fill out the census. She thanked everyone at Viva La Playa and said that the food was excellent and was a great addition to the beach.

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:

Deborah Andrea, City Clerk, stated that there were no public comments.

APPROVAL OF MINUTES:

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

- A. Budget Work Session #4 - August 27, 2020
- B. Regular Meeting - September 1, 2020

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

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

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

- A. Resolution No. 34-2020 – FY 2020 – 2021 Community Development Block Grant Agreement
- B. Community Code Compliance Collections Agreement with Coast Professional, Inc.

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

PUBLIC HEARINGS:

There were no Public Hearings on the agenda.

UNFINISHED BUSINESS:

There were no Unfinished Business items on the agenda.

NEW BUSINESS:

- A. Discussion about how the Commission will fill the District 2 seat

Action: Motion made by Commissioner Maxwell and seconded and amended by Vice Mayor Amoroso to table the item until one of the first meetings after qualifying.

Commissioner Hardy objected stating that motions were not allowed on discussion items.

City Attorney Torcivia explained that there could be a motion to table any item. He said that the Commission could appoint a successor by majority vote when the seat was vacated.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioner Maxwell. NAYS: Commissioners Hardy and Robinson.

B. Discussion on how to reduce speeding on Lake and Lucerne Avenues

City Clerk Andrea asked if the Mayor would like to hear public comments read before she started the timer.

Commissioner Hardy asked to review the rules of the meetings regarding having the Commissioner who brought forth the item be the first to discuss the item.

Mayor Triolo stated that the TPA would facilitate discussions with FDOT.

City Clerk Andrea asked if she should set the timer for five minutes per Commissioner.

City Attorney Torcivia said that he was not aware of any rules regarding an order of speaking, but each Commissioner would have five minutes to speak so that the item would not exceed 30 minutes.

Commissioner Hardy said that there was a hit and run recently and stated that there should be changes to the corridor to slow the traffic down and it should be a priority.

Commissioner Maxwell said that FDOT would need to be part of a traffic study and that everyone agreed that the traffic needed to be slowed down. He stated that a plan would be needed to prevent cars from cutting through the City.

Commissioner Robinson said that speeding in the neighborhoods was always a concern and that it was a good thing if people were coming to the City. He opined that a work session date should be set.

Commissioner Maxwell explained that there were a lot of cars downtown and many cars cut through the City to avoid traffic lights. He said that it would be necessary to know where the cars came from and that people drove irresponsibly. He stated that a work session would be needed with input from FDOT.

Mayor Triolo said that discussions were usually for work sessions and then the item would move to a meeting agenda.

City Manager Bornstein reported that the last time Lake and Lucerne Avenues a major makeover was with federal funding projects. He said that he had been directed to work with FDOT about the avenues' ownership and a major makeover was needed. He stated that speeding was a problem in many cities and funding would be necessary to proceed; FDOT did not have any funding available.

Mayor Triolo said that the TPA had plans in the work for those areas and the City could apply for funding for local initiatives.

Jamie Brown, Public Works Director, explained that there would be two projects involving Lake and Lucerne Avenues, traffic circle improvements on 8th St. between Lake and Lucerne in 2022 and roadway millage and resurfacing on Lake and Lucerne in 2023 that were in preliminary engineering.

Commissioner Hardy said that cars could not move quickly if there was traffic and the two

issues required different solutions. He stated that City residents were speeding, not just people cutting through the City.

Vice Mayor Amoroso agreed with the other Commissioners and said that a work session would be needed with participation from FDOT and TPA.

Commissioner Robinson said that the City would not have the money to address the issues; FDOT owned the streets and should pay.

Vice Mayor Amoroso iterated that parking was an issue downtown and that people had used the Gulfstream Hotel parking area, which would not be available when the hotel was renovated and open.

City Clerk Andrea read the comment cards submitted by the following:

Lorien DeBruyn wrote that she had witnessed multiple car accidents on the downtown streets of Lucerne & Lake Avenues and urged the City to act.

Anthony Fall wrote to ask that the Commission put speed bumps and stop signs on Lake and Lucerne Avenues to address the issues there.

Anna Karabensh wrote to request that the Commission consider ways to slow traffic on Lake and Lucerne (in particular west of Dixie Hwy) and promote safe passage for cyclists and pedestrians along those roadways.

Jaime & Star Triana wrote that their vehicle was totaled by a hit and run accident while parked in front of their unit on Lucerne Avenue.

Nick Nardone wrote that there have been half a dozen accidents on Lucerne by speeding drivers and requested that pedestrian signs be installed.

C. Resolution stating that the City will not honor nor celebrate Columbus Day and that it will instead honor and celebrate Indigenous People's Day

Commissioner Hardy asked City Manager Bornstein to search his Administrative Orders for the meeting procedures.

Mayor Triolo asked where the backup was as she had not received anything.

City Clerk Andrea replied that she had emailed the backup to the Commissioners after she received it at 4:02 PM that afternoon.

Mayor Triolo asked when the backup had to be added to the agenda.

City Clerk Andrea replied that the backup for the meeting was to have been added by September 8; according to rule 12 in the rules and procedure resolution, an item had to be added to the agenda by noon 11 days before the scheduled meeting.

City Attorney Torcivia responded that any changes to the agenda would have to be submitted in writing by 5 PM the Friday before the meeting.

Commissioner Hardy stated that he was not seeking to add anything to the agenda and the item made it to the agenda.

Mayor Triolo stated that the Commission needed to look over the backup, but nothing had been added so the item was not on the agenda; she moved on to the next item.

Action: No action was taken as the backup had not been added to the agenda in time.

LAKE WORTH ELECTRIC UTILITY:

NEW BUSINESS:

- 1) Policy Direction regarding the resumption of City utility disconnects for non-payment and amendment to Resolution 21-2020 to remove the reference to July 16, 2020 and insert “to the end of the City moratorium on utility disconnects currently in place”

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to approve the resumption of City utility shutoffs for non-payment effective October 1 and amend Resolution 21-2020 to remove the reference to July 16, 2020 and insert “to the end of the City moratorium on utility disconnects currently in place”.

Action: Amendment to the motion by Commissioner Robinson that water should not be disconnected until an apartment or building was vacant. **Amendment was not accepted** by Vice Mayor Amoroso.

Action: Friendly amendment made by Commissioner Maxwell to not bifurcate the utility bill and continue with the entire disconnect (which reverted back to the original motion).

Comments/requests summary:

1. Mayor Triolo said that FPL had released a statement that they would resume issuing final notices in September and the City should follow FPL’s policy and not resume disconnections until October. She stated that the City should continue to work with the customers who could not pay to set up payment plans and that disconnection might be the only way to learn if the units were occupied or vacant.
2. Commissioner Robinson insisted that the water be left on in the interest of health and safety and in service to the community even if the electricity is shut off. He stated that water was essential for life and it would be inhumane to shut it off.
3. Vice Mayor Amoroso asked for clarity on the motion on the table.
4. Commissioner Maxwell said that operations needed to know which properties were actually occupied. He stated that the City had gone beyond trying to contact those who were behind in their payments and perhaps the customers would contact the City when their utilities were disconnected. He said that the City was not in the position to keep this going and how would they recoup the unpaid bills.
5. Commissioner Robinson asked if the City could maintain humane conditions by leaving the water on since it would not break the bank.

City Clerk Andrea explained the motion and the two amendments.

6. Commissioner Maxwell stated that he heard the arguments regarding keeping the water on and asked what the City should do about all the unpaid bills. He said that he was not being inhumane, but the City had bent over backwards to contact the customers in arrears and operations needed to know who was still out there; this was the way to make that determination because a customer would reach out to the City when their service was disconnected. He asked Commissioner Robinson how to deal with the finances.

Commissioner Robinson stated that turning off the electricity would get the customers' attention. He expressed concern with collecting the debts, but it would not be a financial hardship for the City to keep the water on.

Commissioner Hardy asked what the motion was.

City Attorney Torcivia explained that the original motion was on the table but had not been seconded.

Commissioner Maxwell seconded the original motion.

Action: Subsidiary motion made by Commissioner Hardy and seconded by Commissioner Robinson that water shut offs would not be included in the policy.

7. Mayor Triolo said that she had requested that the disconnects be for both electric and water to resume next month in line with FPL's policy. She questioned whether she should vote on the item because her life and livelihood were in danger due to the death threats and hate mail she had received after the video was posted indicating that she had turned people's power off.

Commissioner Hardy asked for a point of information, if there was a rule about having to vote on an issue.

City Attorney Torcivia responded that Commissioners had to vote unless there were a conflict of interest or they were absent from the room.

Commissioner Hardy said that as public officials, criticism should be expected, but personal attacks were unacceptable. He stated that he had lambasted Mayor Triolo over not holding a special meeting regarding shutoffs and avoiding responsibility to be a leader.

Mayor Triolo explained that there were no orders for virtual meetings at that time and she was moving her father to Florida. She stated that Commissioner Hardy called the media after he already knew that disconnections had been stopped.

Commissioner Maxwell said that there had been untold negative publicity for the City because there was documentation that Commissioner Hardy already knew that no one was without service at the time of the meeting.

Commissioner Robinson left the meeting at 7:21 PM.

8. Commissioner Hardy explained that he had put forth the motion because he said that no one should have their utilities shut off and wondered if there was support to continue the full moratorium and if not, at least to keep the water on.
9. Commissioner Maxwell agreed with Mayor Triolo that the moratorium should continue until the end of September and that would be the end of the road for the conversation.

Action: **Subsidiary motion withdrawn** by Commissioner Hardy and replaced by a motion made by Commissioner Hardy to extend the moratorium until October 6, the next City Commission regular meeting. **Motion failed for lack of a second.**

10. Vice Mayor Amoroso stated that if the City was going to match FPL then the disconnects should resume on October 1 without having another meeting and continuing the issue.

Vote on original motion: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Hardy. NAYS: None. ABSENT: Commissioner Robinson.

CITY ATTORNEY'S REPORT:

City Attorney Torcivia did not provide a report.

CITY MANAGER'S REPORT:

City Manager Bornstein did not provide a report.

ADJOURNMENT:

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to adjourn the meeting at 7:30 PM.

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

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

Minutes Approved: October 6, 2020

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

**MINUTES
CITY OF LAKE WORTH BEACH
SPECIAL CITY COMMISSION MEETING
2ND PUBLIC HEARING FOR THE BUDGET
BY TELECONFERENCE
TUESDAY, SEPTEMBER 24, 2020 - 6:00 PM**

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

ROLL CALL: Present were Mayor Pam Triolo; Vice Mayor Andy Amoroso; and Commissioners Scott Maxwell, Omari Hardy (arrived at 6:05 PM) and Herman Robinson. Also present were City Manager Michael Bornstein, City Attorney Christy L. Goddeau, and City Clerk Deborah M. Andrea.

PLEDGE OF ALLEGIANCE: led by Commissioner Herman Robinson.

PUBLIC HEARINGS:

- A. Resolution No. 35-2020 - Second Public Hearing - Adopt the Fiscal Year 2020-2021 Millage Rate

RESOLUTION NO. 35-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA; LEVYING MUNICIPAL TAXES ON ALL TAXABLE PROPERTY WITHIN THE CITY OF LAKE WORTH BEACH, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021; REPEALING ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF

Mayor Triolo announced that the purpose of the Special Meeting of the City of Lake Worth Beach Commission was to convene the second mandatory public hearing on the Fiscal Year 2020-2021 millage rate and budget as required by sections 166.241 and 200.065, Florida Statutes. She stated that on July 21, 2020, the City Commission had set a proposed millage rate of 5.4945 mils, which was advertised in the Truth-in-Millage (TRIM) notices sent to all property owners. She said that the first public mandatory hearing was held on September 10, 2020, where the City Commission adopted the proposed millage rate of 5.4945 mils for Fiscal Year 2020-2021, a proposed tax increase over the rolled-back rate; adopted a tentative Debt Service Rate for Fiscal Year 2020-2021; and a tentative budget for Fiscal Year 2020-2021. She declared that the second public hearing was advertised in the Palm Beach Post on September 21, 2020, announcing the proposed tax increase over the rolled-back rate and the budget appropriation summary (the City received the proof of publication). She stated that the City's proposed millage rate was 5.4945, which was an 8.27% increase over the rolled-back rate, necessary to fund the budget for Fiscal Year 2020-21 and the ad valorem tax revenues would be increased to cover City operating costs. She announced that first public hearing was regarding the millage rate for Fiscal Year 2020-2021.

Mayor Triolo opened the public hearing. She asked if there were any public comment cards.

Deborah Andrea, City Clerk. stated that there were no public comments.
Mayor Triolo closed the public hearing and called for a motion.

Action: Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to approve Resolution No. 35-2020 adopting the millage rate of 5.4945 mils for Fiscal Year 2020-2021.

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

B. Resolution No. 36-2020 - Second Public Hearing - Adopt the Fiscal Year 2020-2021 Debt Service Rate

RESOLUTION NO. 36-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA; LEVYING MUNICIPAL TAXES ON ALL TAXABLE PROPERTY WITHIN THE CITY OF LAKE WORTH BEACH, FLORIDA, FOR VOTER APPROVED DEBT SERVICE FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021; REPEALING ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF

Mayor Triolo announced that the next item was a public hearing to adopt the final debt service rate for FY 2020-2021. She opened the public hearing and asked if there were any public comment cards.

City Clerk Andrea stated that there were no public comments.

Mayor Triolo closed the public hearing and called for a motion.

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to approve Resolution No. 36-2020 adopting the final debt service millage rate of 1.1100 mils for Fiscal Year 2020-2021.

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

C. Resolution No. 37-2020 - Second Public Hearing - Adopt the fiscal year 2020-2021 City Budget

RESOLUTION NO. 37-2020, A GENERAL APPROPRIATION RESOLUTION OF THE CITY OF LAKE WORTH BEACH, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA, MAKING SEPARATE AND SEVERAL APPROPRIATIONS FOR ITS NECESSARY OPERATING EXPENSES, THE USES AND EXPENSES OF THE VARIOUS FUNDS AND DEPARTMENTS OF THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021; PROVIDING FOR THE EFFECTIVE DATE THEREOF

Commissioner Hardy arrived at 6:05 PM.

Mayor Triolo announced that the next item was the public hearing to adopt the final budget for FY 2020-2021. She asked if there were any public comment cards.

City Clerk Andrea stated that there were no public comments.

Mayor Triolo closed the public hearing and called for a motion.

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to approve Resolution 37-2020 adopting the final budget for the Fiscal Year 2020-2021.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: Commissioner Hardy.

PUBLIC PARTICIPATION OF CONSENT AGENDA ITEMS:

City Clerk Andrea read the public comments submitted by the following:

Edwin Contreras wrote to request that Commissioner Robinson check his sarcasm at the door, keep control of his emotions, focus on his own efforts, provide backup for items he put on the agenda and practice Roberts Rules of Order. He expressed appreciation for everyone's hard work during difficult times.

Cheryl Leventhal wrote in opposition to the electric rate resolution which included a minimum bill on low usage customers including solar customers.

Joan Brewer wrote requesting a repeal of the minimum bill requirement.

Anna Schafer wrote congratulating the EU on its growth and suggested that the City do something about the EU's bad reputation.

Brian Luongo wrote in opposition to charging net metering customers a minimum bill.

Steve Helsby wrote with objections to the net metering billing policy.

Andrew Mearns wrote to request the elimination of the unfair \$30 monthly extra fee levied against customers with solar panels.

CONSENT AGENDA:

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

A. Resolution No. 40-2020 – Establish the FY21 rates, fees and charges for the Water System

RESOLUTION NO. 40-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING FOR WATER SYSTEMS RATES AND CHARGES FOR FISCAL YEAR 2020-2021; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF

ALL RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH;
AND PROVIDING AN EFFECTIVE DATE

- B. Resolution No. 41-2020 – Establish the FY21 rates, fees and charges for the City Sub-Regional Sewer Utility

RESOLUTION NO. 41-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING FOR RATES, FEES AND CHARGES FOR USE OF THE REGIONAL SEWAGE DISPOSAL SYSTEM OF THE CITY OF LAKE WORTH BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING RESOLUTIONS OR CONFLICTING PARTS OF RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE

- C. Resolution No. 42-2020 – Establish the FY21 rates, fees and charges for the Local Sewer System

RESOLUTION NO. 42-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING FOR RATES, FEES AND CHARGES FOR USE OF SEWAGE DISPOSAL SYSTEM OF THE CITY OF LAKE WORTH BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING RESOLUTIONS OR PARTS OF RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE

- D. Resolution No. 43-2020 – Establish the FY21 Electric Utility rates

RESOLUTION NO. 43-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING FOR RATES, FEES AND CHARGES, AND REGULATIONS FOR ALL ELECTRICITY SOLD BY THE CITY OF LAKE WORTH BEACH, FLORIDA FOR USE OF ELECTRIC LIGHT AND POWER SYSTEM FOR FISCAL YEAR 2020-2021; REPEALING ALL RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

- E. Resolution No. 44-2020 – Establish the FY21 fees and charges for City services

RESOLUTION NO. 44-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, ESTABLISHING REASONABLE FEES FOR CITY SERVICES AND OTHER CHARGES FOR THE 2020-2021 FISCAL YEAR; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE

- F. Adopt the FY21 Position Count

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

ADJOURNMENT:

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Robinson to adjourn the meeting at 6:13 PM.

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

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

Minutes Approved: October 6, 2020

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

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Financial Services

TITLE:

Agreement with RSM US LLP for annual independent financial auditing services

SUMMARY:

The Agreement with RSM US LLP authorizes the consultant to provide the annual financial auditing services for the City of Lake Worth Beach and City of Lake Worth Beach CRA for the period of 3 consecutive years with possibility to extend for 2 additional 1-year terms.

BACKGROUND AND JUSTIFICATION:

Financial Services Department Purchasing Division issued Request for Proposal RFP#20-208 for provision of the independent annual financial auditing services in accordance with the Florida Statute 218.391 Auditor Selection Procedure. The audits are to be performed in accordance with generally accepted auditing standards, the standards set forth for financial audits in the U.S. General Accounting Office's (GAO) Government Auditing Standards, the provisions of the Federal Single Audit Act of 1996 and the U.S. Office of Management and Budget (OMB) Circular A-133, Audits of State, Local Governments, and Nonprofits, and the Rules of the Auditor General of the State of Florida, as amended from time to time. It is the intention of the City to enter into the long-term agreement for the services for three (3) consecutive years with possibility to extend for two (2) one (1) year terms. The City received 9 responses by July 22, 2020. The Auditor Selection Committee established in accordance to Florida Statute 218.391 Auditor Selection Procedure evaluated and scored 9 proposals at the virtual public meeting held on August 13, 2020. Proposal submitted by RSM US LLP was the highest scoring responsive and responsible respondent and is being recommended for an award. Annual fees for the services are \$115,000 for FY2020, \$115,000 for FY2021, \$118,400 for FY2022, \$118,400 for FY2023 and \$118,400 for FY2024.

MOTION:

Move to approve/disapprove the Agreement with RSM US LLP for the annual financial auditing services.

ATTACHMENT(S):

Fiscal Impact Analysis
Agreement

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	0	0	0	0	0
Operating Expenditures	115,000	115,000	118,400	118,400	118,400
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	115,000	115,000	118,400	118,400	118,400
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
001-1220-513.32-00					\$50,208.00	
401-6010-531.32-00	Accounting & Auditing				\$19,874.00	
402-7010-533.32-00					\$29,288.00	
405-7421-535.32-00					\$5,230.00	
101-2010-515.34-51	Contractual Services				\$10,400.00	

PROFESSIONAL SERVICES AGREEMENT
(ANNUAL INDEPENDENT FINANCIAL AUDITING SERVICES)

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on _____, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **RSM US, LLP**, a limited liability partnership authorized to do business in the State of Florida (“Consultant”).

RECITALS

WHEREAS, the City issued a Request for Proposal number 20-208 for Annual Independent Financial Auditing Services in accordance with the section 218.391, Florida Statutes (Auditor selection procedure) (the “RFP”); and

WHEREAS, the necessary auditing services are to be performed in accordance with generally accepted auditing standards, the standards set forth for financial audits in the U.S. General Accounting Office's (GAO) Government Auditing Standards, the provisions of the Federal Single Audit Act of 1996 and the U.S. Office of Management and Budget (OMB) Circular A-133, Audits of State, Local Governments, and Nonprofits, and the Rules of the Auditor General of the State of Florida, as amended from time to time; and

WHEREAS, Consultant has provided the City with a written proposal in response to the RFP to provide the services as described and set out in the RFP; and

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

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

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

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the sufficiency of which is hereby acknowledged by the parties, the City and 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. The Consultant shall provide independent financial auditing services to the City as more specifically described in RFP, which is incorporated herein by reference. The City may request additional services as needed based upon mutual agreement between the parties.

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 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. The term of this Agreement shall commence upon the approval of this Agreement by the City Commission and shall be for an initial term of three (3) years (inclusive of audits for the fiscal years ending September 30, 2020, 2021 and 2022) unless earlier terminated as stated herein. The parties may extend the term for two (2) additional fiscal years (inclusive of audits for the fiscal years ending September 30, 2023 and 2024).

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

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 event without being in default of this Agreement, but upon the removal of such force majeure event, 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-consultant's 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 for breach shall provide the other party with written notice specifying the nature of the breach. The party receiving the notice shall then have three (3) business days from the date of the notice in which to remedy the breach. If such corrective action is not taken within three (3) business days, then this Agreement shall terminate at the end of the three (3) business 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, to the extent permissible under applicable professional standards.

g. Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of services provided prior to the date of termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a municipal corporation existing under the laws 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.

h. **Parties' Understandings Concerning Situation Around COVID-19.** Consultant and the City acknowledge that, at the time of the execution of this Agreement, federal, state and local governments, both domestic and foreign, have restricted travel and/or the movement of their citizens due to the ongoing and evolving situation around COVID-19. In addition, like many organizations and companies in the United States and around the globe, Consultant has restricted its employees from travel and onsite work, whether at a client facility or Consultant facility, to protect the health of both Consultant's and its clients' employees. Accordingly, to the extent that any of the services described in this Agreement requires or relies on Consultant or City personnel to travel and/or perform work onsite, either at the City's or Consultant's facilities, including, but not limited to, maintaining business operations and/or IT infrastructure, Consultant and the City acknowledge and agree that the performance of such work may be delayed, significantly or indefinitely, and thus certain services described herein may need to be rescheduled and/or suspended. Consultant and the City agree to provide the other with prompt written notice (not less than five (5) calendar days) in the event any of the services described herein will need to be rescheduled and/or suspended due to COVID-19 and this Agreement shall be amended to address changes in scope and/or cost.

SECTION 5: COMPENSATION.

a. **Payments.** The City agrees to compensate Consultant in accordance with the Annual Fees (total all-inclusive maximum price) set forth in **Exhibit "A"**. The City shall not reimburse Consultant for any additional costs incurred as a direct or indirect result of Consultant providing services to the City under this Agreement and not set forth in **Exhibit "A"**.

b. **Invoices.** Consultant shall render invoices to the City for services that have been rendered in conformity with this Agreement, the RFP and **Exhibit "A"**. 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 reviewed for approval and if an invoice is not approved, the City will notify Consultant within ten (10) days of deficiencies in the invoice. Once the deficiencies are corrected and a new or amended invoice submitted, the City shall make payment within twenty (20) days. Invoices will normally be paid within thirty (30) days following the City's receipt of Consultant's invoice.

SECTION 6: INDEMNIFICATION. 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 Consultant, its officers, directors, employees, representatives and agents employed or utilized by Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. In no event shall either party be liable to the other for claims of punitive, consequential, special, or indirect damages. 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 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. 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 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 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, 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. Consultant is not authorized to use the City’s Tax Exemption Number.

SECTION 11: INSURANCE. Prior to commencing any services, 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 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 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 excess liability policies will name the City as an additional insured on a primary, non-contributing 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 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 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 AND AGREE ANY LITIGATION RELATED TO THIS AGREEMENT SHALL BE RESOLVED BY A STATE OR FEDERAL JUDGE IN PALM BEACH COUNTY, FLORIDA.

SECTION 15: ACCESS AND AUDITS. 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 Consultant's place of business. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

SECTION 16: NONDISCRIMINATION. 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. 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 Consultant, shall be sent to:

RSM US LLP
Attn: Brett Friedman
1555 Palm Beach Lakes Blvd, Suite 700
West Palm Beach, FL 33401

with a copy of any and all legal notices to:

RSM US LLP
Attn: Office of the General Counsel
200 South Wacker Dr., Suite 3900
Chicago, IL 60606

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 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 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, 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, Consultant acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. 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. The agreement of the parties consists of this Agreement, Consultant's Arrangement Letter (which is incorporated herein by reference), the RFP (which is incorporated herein by reference), 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 the aforementioned documents, the terms and conditions of this Agreement and Exhibit "A" shall prevail with the RFP next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

SECTION 31: OWNERSHIP OF DELIVERABLES. The deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by Consultant in **Exhibit "A"** to the City shall become the property of the City. 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. For clarity, the Audit Documentation for this engagement is the property of Consultant and constitutes confidential information. For the purposes of this Agreement, the term "Audit Documentation" shall mean the confidential and proprietary records of Consultant's audit procedures performed, relevant audit evidence obtained, other audit-related workpapers, and conclusions reached. Audit Documentation shall not include custom-developed documents, data, reports, analyses, recommendations, and deliverables authored or prepared by Consultant for the City under this Agreement, or any data, reports, analyses, workpapers or other documents belonging to the City and/or furnished to Consultant by the City.

SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY. By signing this Agreement, on behalf of 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 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. 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 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 Consultant or keep and maintain public records required by the City to perform the service. If Consultant

transfers all public records to the City upon completion of the Agreement, Consultant shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If Consultant keeps and maintains public records upon completion of the Agreement, 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 CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF LAKE WORTH BEACH, ATTN: DEBBIE ANDREA, AT (561) 586-1662, DANDREA@LAKEWORTHBEACHFL.GOV, 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 and professional, regulatory, and/or ethical standards. If either party plans to disclose or use the other party's information due to professional, regulatory, and/or ethical standards, the disclosing party shall, to the extent legally permissible, provide prior written notice to the other party.

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: SCRUTINIZED COMPANIES.

(a) 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 Consultant or any of its subcontractors are found to have submitted a false certification; or if 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, 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 Consultant, or any of its subcontractors are found to have submitted a false certification; or if 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) Consultant agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- (d) 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) Consultant agrees that if it or any of its subcontractors' status changes in regards to any certification herein, 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.

REMAINDER OF THIS PAGE LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this Professional Services Agreement (Annual Independent Financial Auditing Services) as of the day and year set forth above.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Pam Triolo, Mayor

By: _____
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND
FINANCIAL LEGAL SUFFICIENCY:

APPROVED FOR
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director

CONSULTANT: RSM US LLP

By: Brett Friedman

[Corporate Seal]

Print Name: Brett Friedman

Title: Partner

STATE OF Florida)
COUNTY OF Broward)

The foregoing instrument was acknowledged before me this 15th day of September, 2020, by Brett Friedman, who was physically present, as Partner (title), of **RSM US LLP**, a limited liability partnership, which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following n/a – personally known as identification.

Notary Public

Carol Morgan Kuzava
Print Name: Carol Morgan Kuzava
My commission expires: 7/24/2023



EXHIBIT "A"

(Fees)



COST EFFECTIVENESS

a. Total all-inclusive maximum price. The proposal should contain all pricing information relative to performing the audit engagement as described in this Request for Proposals. The total all-inclusive maximum price proposal is to contain all direct and indirect costs including all out-of-pocket expenses. The audit firm shall provide a truth in negotiations certificate stating that the fees, rates and costs proposed are accurate and complete. The certificate shall express the audit firm's understanding that if the proposal is accepted, the fees will not increase over the agreed upon contractual amount for the entire contract term, regardless of changes in accounting principles, or State or federal laws, rules and requirements associated with the annual financial report. The City will not be responsible for expenses incurred in preparing and submitting the proposal. Such costs should not be included in the proposal.

Fee assumptions

As a national firm, we provide a level of resources and expertise that is unmatched by that of a local firm and is needed by a city of your size. Resources that are extremely valuable to our clients and help them with challenges as they arise. In these unusual times with the pandemic and a constantly changing regulatory environment, we believe that provides a level of cost effectiveness and value for your professional service dollar that exceeds that of our competitors. **We are the leading provider of government audit services to the South Florida market but we are not a low cost provider. We believe the value, expertise and reliability we bring to our clients far exceeds the difference in cost for our services.** Audit services provide a critical function to governments especially in difficult times. As this section is titled, we agree that it is the kind of service that should be based on maximizing quality and cost effectiveness and not about choosing the lowest cost provider not when the public trust is at stake.

We agree to provide a fixed fee that will not increase over the term of the contract provided the following assumptions are met:

- Assistance will be supplied by the City personnel, including preparation of requested schedules and analyses of accounts before we commence fieldwork.
- There will be no significant changes in the nature and scope of the audit.
- Significant changes in the nature and scope of your business may result in annual professional fee increases. Significant changes may include the addition of new locations, businesses or lines of business; unpreparedness on the part of the City; an unusual number of adjustments to the financial statements; and changes in the scope of work as required by management. This does not include new accounting principles or state or federal laws as noted above.

Should it be necessary to extend the scope of our services due to unpreparedness on the part of the City, significant accounting revisions requiring multiple adjusting journal entries, or other significant changes in the nature and scope of the engagement, we will contact you to discuss these items before proceeding with the out-of-scope work.

First-year costs

We plan to absorb the first-year costs of gathering historical information, building permanent files and understanding your accounting system and business objectives. We estimate these costs to be approximately \$10,000.

Our acceptance of this engagement is subject to completion of our acceptance procedures.



TRUTH IN NEGOTIATION CERTIFICATION

RSM hereby certifies that the fees, rates and costs proposed are accurate and complete.

RSM US LLP
Name of Consultant

By: *Brian Lee*
Authorized Signature

July 22, 2020
Date



b. Rates provided for partner, specialist, supervisory and staff level employees with hours anticipated for each. The proposal should include a schedule of professional fees and expenses that supports the total all-inclusive maximum price. The cost of special services should be disclosed as separate components of the total all-inclusive maximum price.

	Partner	Director	Manager	Supervisor	Senior	Associate
Rate	\$500	\$400	\$300	\$250	\$200	\$150

We understand that the City is looking for value in the professional relationship they have with their auditors. Value comes from the knowledge, experience and dedication that the auditing firm employs. We have developed an hourly budget and timeline that we feel will accomplish the objectives of the City and meet your specific needs. The information which you have shared with us, combined with our experience, has been used to develop the following plan and audit timeline detailing the amount of time planned by segment and by level as follows:

Segment	Number of hours anticipated				
	Partners	Managers	Supervisors & Seniors	Staff	Total
Planning	22	44	66	88	220
Fieldwork	66	132	198	264	660
Reporting	22	44	66	88	220
Total Hours by Level	110	220	330	440	1,100

c. Out-of-pocket expenses included in the total all-inclusive maximum price and reimbursement rates. Out-of-pocket expenses for firm personnel (e.g., travel, lodging and subsistence) will be reimbursed at the rates used by the City for its employees. All expense reimbursements will be charged against the total all-inclusive maximum price submitted by the firm. In addition, a statement must be included in the proposal that the firm will accept reimbursement for travel, lodging and subsistence at the prevailing City rates for its employees.

Our fees for the services described above are based upon the value of the services performed and the time required by the individuals assigned to the engagement plus directly billed expenses, including report processing, travel, meals and fees for services from other professionals, as well as a charge of 5% of fees for all other expenses, including indirect administrative expenses such as technology, research and library databases, communications, photocopying, postage and clerical assistance. RSM will accept reimbursement for travel, lodging and subsistence at the prevailing City rates for its employees.

d. Manner of payment. Progress payments will be made on the basis of hours of work completed during the course of the engagement and out-of-pocket expenses incurred in accordance with the firm's dollar cost proposal. Interim billing shall cover a period of not less than a calendar month.

RSM acknowledges and accepts the manner of payment requirement above for the City. Client payments can be mailed via paper check to our lockbox or distributed to RSM via ACH or wire transfers.



e. Annual fees. The fee proposed for each year of the engagement should be separately stated for each fiscal year end (FY 2020, FY 2021, FY 2022, FY 2023 & FY 2024).

Summary of deliverables	Estimated fees				
Audit services	2020	2021	2022	2023	2024
Audit Services - City	\$104,600	\$104,600	\$107,700	\$107,700	\$107,700
Audit Services - CRA	10,400	10,400	10,700	10,700	10,700
Annual Fees (Total all-inclusive maximum price)	\$115,000	\$115,000	\$118,400	\$118,400	\$118,400





September 1, 2020

RSM US LLP

To the Honorable Mayor and Members of the City Commission,
City Manager
City of Lake Worth Beach
Lake Worth Beach, FL 33460

1555 Palm Beach Lakes Blvd., Suite 700
West Palm Beach, FL 33401
O 561 697 1785
F 561 697 8055
www.rsmus.com

Attention: Finance Director

This Arrangement Letter is entered into by and between the City of Lake Work Beach, Florida (the “City”, “you”, or “your”) and RSM US LLP (“RSM”, “we”, “us”, or “our”) pursuant to the Professional Services Agreement for Annual Independent Financial Auditing Services dated XX/XX/XXXX (the Contract) between RSM and the City, and reflects our understanding of the arrangements for the services we are to perform for the City for the term of the Contract.

The Objective and Scope of the Audit of the Financial Statements

The City has requested that we audit the financial statements of the City’s governmental activities, business-type activities, the discretely presented component unit, each major fund and the aggregate remaining fund information as of and for the year-ended September 30, 2020 (and thereafter), and as further described in the City’s Request for Proposal, issued XX/XX/XXX (the RFP), which collectively comprise the basic financial statements. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this Arrangement Letter.

Our audit will be conducted with the objective of our expressing an opinion on the financial statements.

We will also perform the audit of the City for the year ended September 30, 2020 (and thereafter) to satisfy the audit requirements imposed by Chapter 10.550, Rules of the Auditor General.

We will also perform the audit of the City for the year ended September 30, 2020 (and thereafter) to satisfy the audit requirements imposed by the Single Audit Act and Subpart F of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), the Florida Single Audit Act, and Chapter 10.550, Rules of the Auditor General of the State of Florida.

The Responsibilities of the Auditor

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (GAAS); *Government Auditing Standards* issued by the Comptroller General of the United States (GAS); the provisions of the Single Audit Act; Subpart F of Title 2 U.S. CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*; and the U.S. Office of Management and Budget’s (OMB) Compliance Supplement, the Florida Single Audit Act, and the Rules of the Auditor General for the State of Florida. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

THE POWER OF BEING UNDERSTOOD
AUDIT | TAX | CONSULTING

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS. Also, an audit is not designed to detect errors or fraud that are immaterial to the financial statements. The determination of abuse is subjective; therefore, GAS does not expect us to provide reasonable assurance of detecting abuse.

In making our risk assessments, we consider internal control relevant to the City's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

We will also communicate to the City (a) any fraud involving senior management and fraud (whether caused by senior management or other employees) that causes a material misstatement of the financial statements that becomes known to us during the audit, and (b) any instances of noncompliance with laws and regulations that we become aware of during the audit (unless they are clearly inconsequential).

The funds that the City has told us are maintained by the City and that are to be included as part of our audit are listed in the City's 2019 financial statements.

The federal and state financial assistance programs and awards that you have told us that the City participates in and that are to be included as part of the single audit are as listed in the City's 2019 single audit report:

We are responsible for the compliance audit of major programs and projects under the Uniform Guidance and the Florida Single Audit Act, including the determination of major programs and projects, the consideration of internal control over compliance, and reporting responsibilities.

Our report on internal control will include any significant deficiencies and material weaknesses in controls of which we become aware as a result of obtaining an understanding of internal control and performing tests of internal control consistent with requirements of the standards and regulations identified above. Our report on compliance matters will address material errors, fraud, abuse, violations of compliance obligations, and other responsibilities imposed by state and federal statutes and regulations or assumed by contracts; and any state or federal grant, entitlement or loan program questioned costs of which we become aware, consistent with requirements of the standards and regulations identified above.

The Responsibilities of Management and Identification of the Applicable Financial Reporting Framework

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance, acknowledge and understand that they have responsibility:

1. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
2. To evaluate subsequent events through the date the financial statements are issued or available to be issued, and to disclose the date through which subsequent events were evaluated in the financial statements. Management also agrees that it will not conclude on subsequent events earlier than the date of the management representation letter referred to below;

3. For the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error;
4. For establishing and maintaining effective internal control over financial reporting, and for informing us of all significant deficiencies and material weaknesses in the design or operation of such controls of which it has knowledge;
5. For report distribution; and
6. To provide us with:
 - a. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation and other matters;
 - b. Additional information that we may request from management for the purpose of the audit; and
 - c. Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence;
 - d. When applicable, a summary schedule of prior audit findings for inclusion in the single audit reporting package; and
 - e. If applicable, responses to any findings reported on the schedule of findings and questioned costs.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit, including among other items:

1. That management has fulfilled its responsibilities as set out in the terms of this Arrangement Letter; and
2. That it believes the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Management is responsible for identifying and ensuring that the City complies with the laws and regulations applicable to its activities, and for informing us about all known material violations of such laws or regulations. In addition, management is responsible for the design and implementation of programs and controls to prevent and detect fraud or abuse, and for informing us about all known or suspected fraud or abuse affecting the entity involving management, employees who have significant roles in internal control, and others where the fraud or abuse could have a material effect on the financial statements or compliance. Management is also responsible for informing us of its knowledge of any allegations of fraud or abuse, or suspected fraud or abuse, affecting the entity received in communications from employees, former employees, analysts, regulators or others.

Management is responsible for the preparation of the supplementary information in accordance with accounting principles generally accepted in the United States of America. Management agrees to include the auditor's report on the supplementary information in any document that contains the supplementary information and indicates that the auditor has reported on such supplementary information. Management also agrees to present the supplementary information with the audited financial statements or, if the supplementary information will not be presented with audited financial statements, to make the audited

financial statements readily available to the intended users of the supplementary information no later than the date of issuance of the supplementary information and the auditor's report thereon.

Because the audit will be performed in accordance with the Florida Single Audit Act and the Uniform Guidance, management is responsible for (a) identifying all federal awards and state financial assistance received and expended; (b) preparing the schedule of expenditures of federal awards and state financial assistance (including notes and noncash assistance received) in accordance with Uniform Guidance requirements and the Florida Single Audit Act; (c) internal control over compliance; (d) compliance with federal and state statutes, regulations, and the terms and conditions of federal awards and state financial assistance; (e) making us aware of significant vendor relationships where the vendor is responsible for program compliance; (f) following up and taking corrective action on audit findings, including the preparation of a summary schedule of prior audit findings and a corrective action plan; and (g) submitting the reporting package and data collection form.

The City is responsible for informing us of its views about the risks of fraud or abuse within the City, and its knowledge of any fraud or abuse or suspected fraud or abuse affecting the City.

The City's Records and Assistance

If circumstances arise relating to the condition of the City's records, the availability of appropriate audit evidence or indications of a significant risk of material misstatement of the financial statements because of error, fraudulent financial reporting or misappropriation of assets which, in our professional judgment, prevent us from completing the audit or forming an opinion, we retain the unilateral right to take any course of action permitted by professional standards, including declining to express an opinion or issue a report, or withdrawing from the engagement.

During the course of our engagement, we may accumulate records containing data that should be reflected in the City's books and records. The City will determine that all such data, if necessary, will be so reflected. Accordingly, the City will not expect us to maintain copies of such records in our possession.

The assistance to be supplied by City's personnel, including the preparation of schedules and analyses of accounts, has been discussed and coordinated with the City's Financial Services Director. The timely and accurate completion of this work is an essential condition to our completion of the audit and issuance of our audit report.

Nonaudit Services

In connection with our audit, you have requested us to perform certain nonaudit services:

1) Preparation of the Comprehensive Annual Financial Report

GAS independence standards require that the auditor maintain independence so that opinions, findings, conclusions, judgments and recommendations will be impartial and viewed as impartial by reasonable and informed third parties. Before we agree to provide a non-audit service to the City, we determine whether providing such a service would create a significant threat to our independence for GAS audit purposes, either by itself or in aggregate with other non-audit services provided. A critical component of our determination is consideration of management's ability to effectively oversee the non-audit services to be performed. The City has agreed that the Financial Services Director possesses suitable skill, knowledge or experience and that the individual understands the services to be performed sufficiently to oversee them. Accordingly, the management of the City agrees to the following:

1. The City has designated the Financial Services Director as a senior member of management who possesses suitable skill, knowledge and experience to oversee the services;

2. The Financial Services Director will assume all management responsibilities for subject matter and scope of the preparation of the comprehensive annual financial report;
3. The City will evaluate the adequacy and results of the services performed; and
4. The City accepts responsibility for the results and ultimate use of the services.

GAS further requires that we establish an understanding with the City's management and those charged with governance of the objectives of the non-audit services, the services to be performed, and the entity's acceptance of its responsibilities, the auditor's responsibilities and any limitations of the non-audit services. We believe this Arrangement Letter documents that understanding.

Other Relevant Information

RSM may mention the City's name and provide a general description of the engagement in RSM 's client lists and marketing materials.

From time to time and depending upon the circumstances, we may use third-party service providers to assist us in providing professional services to the City. In such circumstances, it may be necessary for us to disclose confidential client information to them. We enter into confidentiality agreements with all third-party service providers and we are satisfied that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In addition, we may utilize financial information the City has provided to us in connection with this engagement for purposes of creating benchmarking data to be used by the City professionals and other clients. This benchmarking data is aggregated with data from a minimum of five other entities so that users of the data are unable to associate the data with any single entity in the database.

If any term or provision of this Arrangement Letter is determined to be invalid or unenforceable, such term or provision will be deemed stricken and all other terms and provisions will remain in full force and effect.

In accordance with GAS, a copy of our most recent peer review report is enclosed for your information.

Access to Workpapers

In the event we are requested by the City or authorized by the City to produce our documents or our personnel as witnesses with respect to our engagement for the City, the City will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our professional time and expenses, as well as the fees and expenses of our counsel, incurred in responding to such requests.

The Audit Documentation (as discussed in Section 31 of the Contract) for this engagement is the property of RSM and constitutes confidential information. However, the City acknowledges and grants your assent that representatives of the cognizant or oversight agency or their designee, other government audit staffs, and the U.S. Government Accountability Office shall have access to the Audit Documentation upon their request and that we shall maintain the Audit Documentation for a period of at least three years after the date of the report, or for a longer period if we are requested to do so by the cognizant or oversight agency. Access to requested documentation will be provided under the supervision of RSM's audit personnel and at a location designated by our firm.

Termination

Provisions for termination are as described in the Contract.

Information Security - Miscellaneous Terms

RSM is committed to the safe and confidential treatment of the City's Confidential Information (as set forth in Section 34 of the Contract). RSM is required to maintain the confidential treatment of the City's Confidential Information consistent with the Contract. The City agrees that it will not provide RSM with any unencrypted electronic confidential or proprietary information, and the parties agree to utilize commercially reasonable measures to maintain the confidentiality of the City information, including the use of collaborate sites to ensure the safe transfer of data between the parties.

RSM or the City may terminate this relationship immediately in either party's sole discretion if it determines that continued performance would result in a violation of law, regulatory requirements, applicable professional standards or other documented standards (which have been previously provided to the other party), or if either party is placed on a verified sanctioned entity list or if any director or executive of, or other person closely associated with, either party or its affiliates is placed on a verified sanctioned person list, in each case, including but not limited to lists promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. State Department, the United Nations Security Council, the European Union or any other relevant sanctioning authority including the State of Florida.

Reporting

We will issue a written report upon completion of our audit of the City's financial statements. Our report will be addressed to the City Commission. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

In addition to our report on the City's financial statements, we will also issue the following types of reports:

1. A report on the fairness of the presentation of the City's schedule of expenditures of federal awards and state financial assistance for the year ending September 30, 2020 and each fiscal year thereafter where RSM performs the services under the Contract;
2. Reports on internal control related to the financial statements and major programs and projects. These reports will describe the scope of testing of internal control and the results of our tests of internal control;
3. Reports on compliance with laws, regulations, and the provisions of contracts or grant agreements. We will report on any noncompliance that could have a material effect on the financial statements and any noncompliance that could have a material effect, as defined by Subpart F of Title 2 U.S. CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and the Florida Single Audit Act, on each major program and project;
4. An accompanying schedule of findings and questioned costs;
5. A management letter in Accordance with the Rules of the Auditor General of the State of Florida;
6. Independent auditor's report on an examination conducted in accordance with AICPA Professional Standards, AT-C Section 315, regarding compliance requirements in accordance with Chapter 10.800, Rules of the Auditor General.

The Contract and this Arrangement Letter constitute the complete and exclusive statement of agreement between RSM and the City of Lake Worth Beach, Florida, superseding all proposals, oral or written, and all other communications with respect to the terms of the engagement between the parties.

Electronic Signatures and Counterparts

Each party hereto agrees that any electronic signature of a party to this Arrangement Letter or any electronic signature to a document contemplated hereby (including the Contract) is intended to authenticate such writing and shall be as valid, and have the same force and effect, as a manual signature. Any such electronically signed document shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Each party hereto also agrees that electronic delivery of a signature to any such document (via email or otherwise) shall be as effective as manual delivery of a manual signature. For purposes hereof, "electronic signature" includes, but is not limited to, (i) a scanned copy (as a "pdf" (portable document format) or other replicating image) of a manual ink signature, (ii) an electronic copy of a traditional signature affixed to a document, (iii) a signature incorporated into a document utilizing touchscreen capabilities or (iv) a digital signature. This Arrangement Letter and the Contract may be executed in one or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement. Paper copies or "printouts," of such documents if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

If the Contract and this Arrangement Letter reflects the arrangements as the City understands them, please sign and date the enclosed copy and return it to us.

RSM US LLP



Brett Friedman
Partner

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Pam Triolo, Mayor

By: _____
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND
FINANCIAL LEGAL SUFFICIENCY:

APPROVED FOR
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Legal

TITLE:

Consideration of settlement with Plaintiff, Yoexis Aaron Melendrez Borlot in the amount of \$68,500 (inclusive of attorney's fees)

SUMMARY:

This is a request to settle a lawsuit with Mr. Melendrez Borlot for injuries he sustained in an automobile accident that occurred in August 2018. If approved, the claimant will execute a general release in favor of the City.

BACKGROUND AND JUSTIFICATION:

This case arises out of an accident that occurred on August 7, 2018, when a garbage truck driven by a city employee rear-ended Plaintiff, Yoexis Aaron Melendrez Borlot, on I-95, causing the Plaintiff's vehicle to in turn impact the vehicle in front of Plaintiff. Plaintiff's vehicle sustained a significant amount of damage to both the front and rear ends. Plaintiff is a lead professional dancer with Ballet Palm Beach but has stopped dancing due to the pain allegedly caused by this accident. To date, Plaintiff has medical bills of approximately \$32,000, and there is the possibility of future surgery.

Recently, the City participated in court ordered mediation where the parties have tentatively agreed to a settlement of \$68,500, which is inclusive of attorney's fees and costs. The settlement agreement is contingent upon City Commission approval, and is recommended.

MOTION:

Move to approve the settlement with Plaintiff in the amount of \$68,500 (inclusive of attorney's fees), in exchange for a complete release.

ATTACHMENT(S):

Fiscal Impact Analysis

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$68,500	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	\$68,500	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

Account Number	Account Description	Project Number	FY20 Budget	Current Balance	Agenda Expenditure	Balance
520-1332-513-45-60	Self-Insurance					

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Legal/Risk

TITLE:

Fifth Amendment to Professional Services Agreement with Ben Few & Company, Inc.

SUMMARY:

The Amendment authorizes Ben Few & Company, Inc., to continue providing risk management services for the period from September 30, 2020 to September 30, 2021, at the same fee of \$48,000.00 annually or \$4,000 monthly.

BACKGROUND AND JUSTIFICATION:

The City of Lake Worth Beach has utilized the services of Ben Few & Company (“Consultant”) for many years. In 2011, the Consultant was selected through an RFP process as the City’s insurance consultant. Since then, the City entered into a new professional services agreement in 2015, for comprehensive risk management services with Consultant. The Agreement allows Consultant to work closely with in-house staff to facilitate, among other things, RFPs for the selection of an insurance broker for appropriate insurance coverages, RFPS for the selection of third-party managers/administrators, and investigations and adjustments of claims. In addition, Consultant continues to assist staff with risk management issues throughout the City.

The Fifth Amendment to the Professional Services Agreement extends the agreement for one year at a rate of \$48,000 annually. The Agreement may be terminated at any time with a 30 day notice to either party.

MOTION:

Move to approve the Fifth Amendment to the Professional Services Agreement with Ben Few & Company, Inc.

ATTACHMENT(S):

Fiscal Impact Analysis
Fifth Amendment
Original Agreement

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$48,000	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	\$48,000	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
52013315133450	Contractual Services		\$81,000.00	\$81,000.00	\$48,000.00	\$33,000.00

C. Department Fiscal Review:_____

FIFTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS FIFTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT ("Fifth Amendment") is made this 24th day of September 2020, between the City of Lake Worth Beach, Florida, a municipal corporation ("City"), and Ben Few & Company, Inc., a corporation authorized to do business in the State of Florida ("Consultant").

RECITALS

WHEREAS, the City has utilized Consultant's risk management services since 2011, when Consultant was selected through a competitive selection process; and

WHEREAS, the City and Consultant entered into a new Professional Services Agreement for Comprehensive Risk Management Services (the "Agreement") on September 30, 2015, which expanded the services provided by Consultant, and that Agreement was extended by First Amendment from September 30, 2016 to September 30, 2017, by Second Amendment from September 30, 2017 to September 30, 2018, by Third Amendment from September 30, 2018 to September 30, 2019, and by Fourth Amendment from September 30, 2019 to September 30, 2020 ("Amendments"); and

WHEREAS, the City and Consultant desire to amend the Agreement to extend the term to September 30, 2021; and

WHEREAS, the remainder of the Agreement and relevant Amendments, including the current compensation of \$48,000 per year, will remain in full force and effect.

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 Consultant agree as follows:

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

SECTION 2: AMENDMENTS TO AGREEMENT AND FIFTH AMENDMENT.

- a. The Term of the Agreement which was extended by the Amendments is further extended by this Fifth Amendment to September 30, 2021, unless earlier terminated as set forth in the Agreement.
- b. The total compensation to be paid to Consultant shall not exceed forty-eight thousand dollars (\$48,000) for the additional year of service, said payment to be made at a rate of \$4,000 per month.

SECTION 3: ENTIRETY OF AGREEMENT. The City and the Consultant agree that the Agreement, the Amendments and this Fifth Amendment set forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in the Agreement, the Amendments, or this Fifth Amendment may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

SECTION 4: EFFECTIVENESS. Except for the provisions of the Agreement specifically modified by the Amendments and this Fifth Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF the parties hereto have made and executed this Fifth Amendment on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Pam Triolo, Mayor

ATTEST:

Approved as to form and legal sufficiency:

Deborah M. Andrea, City Clerk

Glen J. Torcivia, City Attorney
/phr

Approved for financial sufficiency:

Bruce T. Miller, Financial Services Dir.



[Corporate Seal]

BEN FEW & COMPANY, INC

By: _____
Ben Few, III, CEO

STATE OF FLORIDA)
COUNTY OF LEE)

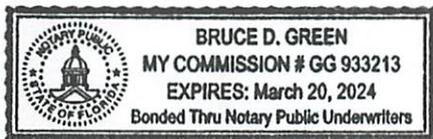
The foregoing instrument was acknowledged before me this 24th day of September 2020, by Ben Few III, as CEO of Ben Few & Company, Inc., a corporation authorized to do business in the State of Florida, and who is personally known to me or who has produced the following _____ as identification.

Notary Public

Bruce D. Green

Print Name: _____

My commission expires: _____





Bruce D. Green
MY COMMISSION # GG 933213
EXPIRES: March 30, 2024
Bonded thru Notary Public / Individuals



PROFESSIONAL SERVICES AGREEMENT
(Comprehensive Risk Management Services)

THIS AGREEMENT ("Agreement") is entered on 30 day of Sept., 2015, by and between the City of Lake Worth, a Florida municipal corporation ("City") and Ben Few & Company, Inc., a Florida corporation ("Consultant").

RECITALS

WHEREAS, since February 3, 2011, pursuant to a competitive selection process, the City has been utilizing the Consultant for Risk Management advisory services including, but not limited to, analyzing claims, identifying risk, reviewing insurance policies, assisting in closing reserve accounts and advising on risk-related issues; and

WHEREAS, the City's Agreement with the Consultant is set to expire in February 2016; and

WHEREAS, the City is in need of additional risk management consultant services including, without limitation, acting as the City's liaison with the City's third party administrators for claims, developing claims and insurance budget for each fiscal year and providing claims analysis for City staff; and

WHEREAS, the Consultant has submitted a proposed scope of services to address the City's current and additional risk management needs; and

WHEREAS, the City desires to engage the Consultant as its primary risk management consultant; and

WHEREAS, pursuant to section 2-112(c)(6) of the City's procurement code, the City is authorized to directly contract with Consultant for the provision of professional services; and

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

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

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

SECTION 2: CONSULTANT'S SERVICES. The Consultant shall provide those risk management services as set forth in Exhibit "A" attached hereto and incorporated herein. The parties existing Professional Services Agreement, entered on February 3, 2011 and expiring February 2, 2016 is hereby terminated.

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, LIQUIDATED DAMAGES 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 one (1) year unless earlier terminated as stated herein. The term may be extended by written agreement of the parties.

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.

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.

e. 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.

f. 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.

g. 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.

h. 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 fee schedule set forth in **Exhibit "A"**; **provided that, the total amount to be paid the Consultant under this Agreement shall not exceed sixty thousand dollars (\$60,000.00) for the initial one year term.** The City shall not reimburse the Consultant for any additional costs incurred as a direct or indirect result of the Consultant providing service 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 work performed and the time spent on such work. 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, employees and agents 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.

<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,	\$1, 000,000 per occurrence

Independent Consultant, personal injury)	\$2,000,000 annual aggregate
Automobile (owned, non-owned, & hired)	\$ 1,000,000 single limits
Worker's Compensation	\$ statutory limits

The commercial general liability and excess liability policies will name the City as an additional insured and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the Consultant has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Consultant of its liability and obligations under this Agreement.

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

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

Ben Few & Company, Inc.
4560 Via Royale, Suite 3
Fort Myers, FL 33919

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, 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 shall become the property of the City upon delivery. The Consultant may keep copies or samples thereof and shall have the right to use the same. The City accepts sole responsibility for the reuse of any such documents in a manner other than as initially intended or for any use of incomplete documents.

SECTION 32: REPRESENTATIONS and BINDING AUTHORITY. By signing this Agreement, Michael E. Burton hereby represents to the City that he 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 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 specifically agrees to:

a. Keep and maintain all public records that ordinarily and necessarily would be required by the CITY to keep and maintain in order to perform the services under this Agreement.

b. Provide the public with access to said public records on the same terms and conditions that the CITY 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 said public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

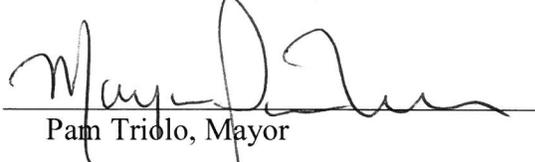
d. Meet all requirements for retaining said public records and transfer, at no cost, to the City all said public records in possession of the Consultant upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from Chapter 119, Florida Statutes, disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

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.

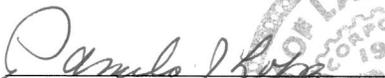
IN WITNESS WHEREOF, the parties hereto have made and executed this Professional Services Agreement (Comprehensive Risk Management Services) as of the day and year set forth above.

CITY OF LAKE WORTH, FLORIDA

By: 
Pam Triolo, Mayor

ATTEST:

Approved as to form and legal sufficiency:


Pamela J. Lopez, City Clerk




Glen J. Torcivia, City Attorney

BEN FEW & COMPANY, INC.

By: 
Ben Few, III CEO

[Corporate Seal]

STATE OF FLORIDA)
COUNTY OF Lee)

The foregoing instrument was acknowledged before me this 22nd day of Sept, 2015, by Ben Few, III, as CEO of Ben Few & Company, Inc., a Florida corporation, and who is personally known to me or who has produced the following _____ as identification.


Notary Public

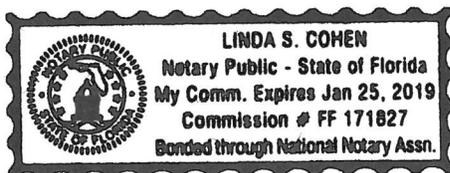


EXHIBIT "A"

CONSULTANT's Scope of Services

For your reference, the following scope represents the services offered in a full-time consulting capacity and offers a glimpse into our working relationship with clients. Your program will consist of, but not be limited to the following services:

1. Be available on a daily basis to assist the Client's staff with general questions, process development, and contract reviews.

Ben Few III and Ben Few IV are available on a daily basis to all accounts they handle. They can be reached either by phone or email 24/7, and can be on the Client's premises in three hours, if need be. Process development and contract review are part of our standard service package delivered to clients to stay consistent with the risk transfer methods chosen.

2. Organize a systematic collection of data that is required for renewals and policy maintenance. This is done in a manner to minimize time demands on staff.

All client data is initially collected by our firm and electronically stored in our secured system in order to build a baseline for necessary future information. This information is kept on file in our office, so that minimal requests for information are made to the Client's staff. We offer our 'total policy management system' so that staff does not have to be involved at all, should they so desire. Once we have stored the information in our system, only that information that is subject to change may necessitate a request for an update from Client's staff (i.e. annual revenue basis, payrolls, etc.) We would anticipate regular communication with the Client's staff in general, so there would be constant dialogue with regard to any changes being made.

3. Complete all policy applications (except signatures) and present to the Client's staff for review and signature.

This is done for all clients, and is part of our total policy/data management system. Once the information is in our system, only minor adjustments need to be made, thus requiring less man hours from the Client's staff.

4. Act as a liaison between the Client's staff, brokers and other service providers to review policies for accuracy and follow up with brokers to resolve issues.

Ben Few & Company, Inc. acts the main point of contact between all risk management service providers and all of our clients. In this way, we are able to streamline any requests for information that may become necessary, again relieving pressure on the Client's for man hours.

5. Direct bidding and placement of all coverage and services associated with the Self Insurance Program.

Ben Few & Company, Inc. not only handles this particular service for our self-insured governmental/municipal clients, but for all of our private clients as well. Normally, it is our standard practice to engage the marketplace on behalf of clients every three years, but ultimately it is the client's decision on the frequency with which we go to bid. We prepare the specifications, issue the RFP, manage inquiries, receive proposals, evaluate proposals and present them to the Client's staff with an analysis and recommendation for approval. The entire process is facilitated by our office, so that client staff is free for other priorities.

Ben Few & Company, Inc. is well known and respected in the Florida market place as an independent, unbiased and well versed Risk Management Consulting firm and will be able to fairly bring all possible

markets into the RFP process. We have specific and extensive experience working with the major municipal insurance markets (PGIT, FMIT, Gallagher, etc.).

6. Provide a copy of all exposure data, loss information and applications that are submitted for marketing.

As part of our client filing system, all data—whether exposure, loss, financial or otherwise—is safely stored in our secured system, and electronically available to our clients at any time.

7. Follow-up on all policy maintenance requirements, such as workers compensation audits and builders risk reports.

Again, our firm maintains all policies for our clients, as part of our total policy management system, so this part of the scope of services is simply an extension of that. We prepare audit projections for all of our clients, both municipal and private, so that they know what to expect well before the audit takes place. We also like to be on premises when audits take place to ensure they are done accurately, as many times, questions from auditors can result in unnecessary reclassification of certain exposures.

8. Manage Certificate of Insurance issuances to assure they are in compliance with Client's coverage and internal procedures (Brokers will issue certificates, but the certificate terms should be monitored by the consultant).

This has become a necessary process with the newer Acord forms causing quite a bit of confusion between insureds and certificate holders of all sorts. Ben Few & Company, Inc. monitors all certificate specifics, both required of our clients and required by them to make sure all risk transfer methods are consistent.

9. Present a preliminary risk management budget to the Client each year.

This is done with all clients. We will prepare projected budgets based on perceived market conditions, along with expected loss results.

10. Present a final risk management budget to the Client each year.

The preliminary budget will be amended to reflect the actual costs of the new program.

11. Assist with developing needs for insurances not directly related to the self-insured program.

We help our clients develop all types of unique loss transfer methods, from the traditional purchase of insurance to self-insurance programs and reserving for losses not necessarily thought to be insurable.

12. Identify risk exposures and update exposure data to determine insurance policies' need for amendment.

This function goes hand-in-hand with our policy management system. Since we meet (and communicate) with clients on a regular basis, we are able to stay on top of any new or different exposures they may be facing due to change in business landscape, re-structuring, new endeavors, etc. We are able to advise all our clients on best practices for identifying new exposures as they are created, in ways that fit seamlessly into the clients' daily routines, so nothing is overlooked. The policy management system helps to support this as the information is accessible at any time, making it easy to manipulate at a moment's notice.

13. Provide loss fund recommendation reports to the Client each year, based on the corresponding actuarial reports.

Again, this a function provided to our current self-insured clients, and we anticipate providing the service for the City of Lake Worth.

14. Obtain & review all binders prior to submission to the Client.

Follow-up for receipt of and review all issued policies to assure they are complete and in compliance with quotes. Confirm accuracy, resolve any deficiencies in writing with the broker/carrier and provide the Client with documentation of the outcome.

This part of Ben Few & Company, Inc.'s total policy management system is to review binders upon receipt, and subsequently, policies for accuracy. This is included in our standard service package.

15. Review all policies prior to delivering to the Client, providing comments to show endorsements' impact within the policy wording. Also, PDF copies of all policies should be prepared for the Client and provided on DVD/CD.

As mentioned in point 14, policies are reviewed for accuracy, but a risk analysis of the various endorsement implications can be provided to the Client. Generally, we like to specify which endorsements/exclusions our clients want or do not want before we go to bid for certain coverages, so that our clients know what to expect throughout the process.

16. Assist with the development of documents as needed for any insurance related competitive process, i.e. Request for Proposals, Request for Information, Request for Qualifications, etc.

As mentioned in point 5, this is contemplated under our standard service package. Should the risk manager not want us to completely handle the competitive process in question, we are happy to help in any capacity.

17. Advise the Client of new options or funding techniques in insured and self-insured areas as well as any major new or pending legislation in any field which would affect Client's total benefit programs.

Ben Few & Company, Inc. strives to stay abreast of the latest trends and developments in the insurance industry as a whole and is dedicated to providing this information to its clients. Through membership in various professional organizations (SRMC, RIMS, PRIMA, FAIA), subscriptions to industry publications, and extensive continuing education, we are able to keep clients apprised of the latest developments in risk transfer methods, whether through self-insurance or fully-transferred products and the accompanying legislative mandates.

18. Acting on behalf of the Client, if authorized to do so by the Client in any claims.

Our firm is able to offer claim support if requested to do so by the Client. We currently provide claim support to many of our clients, both public and private.

19. Assist as committee review member or assist in the evaluation of responses to Request for Proposals, Request for Information, Request for Qualifications or as needed for any insurance related competitive process, i.e. brokers and TPA services.

As mentioned in the response to point 5, this is a standard service we provide to all of our clients. Should the Client wish, we can either handle these processes in a completely independent fashion or as part of a committee.

20. Attend Client Board meetings as needed.

In addition to meetings, Ben Few & Company, Inc. is available—and prefers—to meet face-to-face with our assigned point of contact on a regular basis, whether it be quarterly, monthly, etc.

21. Analyze claims against the Client on a periodic basis to determine trend of losses, and to project the effect of such trends upon the insured and self-insured programs. Analyze claims and loss experience to determine trend of losses and to project the effect of such trends upon the level of fund balance in the self insurance fund and to recommend appropriate levels of fund balance to maintain.

This is an integral part of the risk management process. In the response to point 13, it is mentioned that we provide loss fund recommendations to the Client—claims data plays a significant role in figuring various risk retention levels and loss funding techniques. We provide loss control and subsequent loss data analysis to most, if not all, of our clients to keep track of any developing trends. While it is our goal to eliminate any trend before it has the chance to begin, we are able to identify problematic areas and implement safety programs or other loss control measures to act as preventative maintenance through our program.

22. Continuously monitor the Client's program in order to recommend structure changes in the program, procedures or administration.

As with our monitoring the industry as a whole, we monitor our clients' programs to make sure they are as efficient and effective as possible. The biggest part of the fundamental risk management process is to make sure that the program that has been implemented is gauged for success along the way and adjusted if necessary for maximum impact.

23. Assist the Client in closing reserve accounts under prior Client insurance programs with insurance carriers.

This process is handled regardless of any anticipation of insurance-related competitive bid processes.

24. Assist with education, as needed, with City staff.

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: City Commission

TITLE:

Ratification of Appointments and Reappointment to the various City Advisory Boards

SUMMARY:

Requesting ratification of appointments and reappointment to various City advisory boards.

BACKGROUND AND JUSTIFICATION:

On February 5, 2013, the Commission adopted an ordinance amending the board member appointment process to allow for the selection of board members by individual elected officials. In accordance with the ordinance, the board appointments would be effective upon ratification by the Commission as a whole.

The following appointment and reappointments are requested to be ratified.

Planning and Zoning Board:

Mayor Triolo's appointment of Robert Lepa to the Planning and Zoning Board to fill an unexpired term ending on July 31, 2023 (District 2 appointment).

Commissioner Robinson's appointment of Juan Contin to the Planning and Zoning Board for a term ending on July 31, 2023

Historic Resources Preservation Board:

Mayor Triolo's reappointment of Bernard Guthrie to the Historic Resources Preservation Board for a term ending on July 31, 2023.

Vice Mayor Amoroso's appointment of Geoffrey Harris to the Historic Resources Preservation Board to fill an unexpired term ending on July 31, 2023.

Finance Advisory Board:

Mayor Triolo's reappointment of Sherry Schmidt to the Finance Advisory Board for a term expiring on July 31, 2022.

Police Retirement System Board of Trustees

Mayor Triolo's appointment of Lonney Moral to the Police Retirement System Board of Trustees to fill an unexpired term ending on July 31, 2022.

MOTION:

Move to approve/disapprove the ratification of Mayor Triolo's appointment of Robert Lepa to the Planning and Zoning Board to fill an unexpired term ending on July 31, 2023, Lonney Moral to the Police Retirement System Board of Trustees to fill an unexpired term ending on July 31, 2022, reappointment of Bernard Guthrie to the Historic Resources Preservation Board for a term ending on July 31, 2023, Sherry Schmidt to the Finance Advisory Board for a term expiring on July 31, 2022, Vice Mayor Amoroso's appointment of Geoffrey Harris to the Historic Resources Preservation Board to fill an unexpired term ending on July 31, 2023, and Commissioner Robinson's appointment of Juan Contin to the Planning and Zoning Board for a term ending on July 31, 2023.

ATTACHMENT(S):

Fiscal Impact Analysis: N/A
Membership board logs
Board applications



PLANNING AND ZONING BOARD

Three -Year Terms

MEMBERS	APPOINTED	PHONE	ETHICS TRAINING	TERM EXPIRES
Laura Starr 2010 Holy Cross lstarr@yourfloridacounsel.com (Professional/law) (Mayor’s Appointment)	08/06/2019	C: 561-414-5686	YES	07/31/2022
Daniel Tanner 1740 12 th Avenue North Drtan464@yahoo.com (Citizen at large) (Vice Mayor’s Appointment - District 3)	05/02/17	H: 561-908-1235	YES	07/31/2021
Greg Rice - CHAIR 511 Lucerne Ave. greg@bugs.com (Professional/real estate) (Commissioner District 1 Appointment)	06/25/2012	W: 561-686-7171 C: 561-602-0193	YES	07/31/2022
VACANT (due to Brock Grill’s resignation) (Commissioner District 2 Appointment)				07/31/2023
VACANT (due to Michael Glaser’s resignation) (Commissioner District 4 Appointment)				07/31/2023
Anthony Marotta – VICE CHAIR 327 North Lakeside Dr. anthony@alliedpmg.com (Professional / property management) (Mayor’s Appointment)	01/28/2014	W: 561-818-1184	YES	07/31/2022
Mark Humm 708 North H Street marknwpb@yahoo.com (Citizen at large) (Vice Mayor’s Appointment – District 3)	07/02/2013	C: 561-351-3057 W: 561-848-5556	YES	07/31/2023

Meetings: First Wednesday of each month at t 6:00 pm.



The Board's function is to review and approve site plans for three units or more of residential development and all commercial development. This Board also reviews community appearance and has the ability to grant variance from the Lake Worth Zoning Code.

Ord. No. 2014-02 - Sec. 23.2-8. - Planning and zoning board, established that the planning and zoning board shall consist of seven (7) members. All members of the board shall be residents of or property owners in the city. Members of the planning and zoning board shall serve without compensation. The seven (7) members shall be appointed by the city commission. All members of the board shall be appointed for a term of three (3) years. **If any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty-five (25) percent of the public meetings of the board held within any 12-month period, the city clerk shall declare the member's office vacant and the city commission shall promptly fill such vacancy.** Vacancies in the board membership by resignation, illness or other causes shall be filled by the city commission for the unexpired term of the member involved. Members of the planning and zoning board may be removed from office by the city commission at its discretion. The board shall select its own chairman and vice-chairman annually at the first meeting in January. The city's community planner shall serve as secretary and advisor to the board.

To carry out its responsibilities under this article, the membership of the planning and zoning board shall include, to the extent available, **three (3) members from the disciplines of architecture, landscape architecture, planning, real estate sales, land development, banking, law or related fields. Two (2) members of the planning and zoning board shall be citizen at large members. One (1) member shall be from a professional discipline as described above and one (1) member shall be a citizen at large.** The city commission shall determine whether or not the existing members of the planning and zoning board meet these requirements may appoint up to two (2) additional members to the planning and zoning board, if needed. Whenever a new member is appointed to the planning and zoning board, the city commission shall consider the professional requirements of the new member to ensure that the requirements of this article are met.

Ord. 2013-34 - Section 23.2, effective August 16, 2013 deletes alternate members and increases membership to seven (7) board members and amends absentee policy to three (3) consecutive regularly scheduled meetings or at twenty five percent (25%) of the public meetings of the Board held within any 12-month period, the City clerk shall declare the member's office vacant and the City Commission shall promptly fill such vacancy.

Ord. No. 2012-17, effective April 27, 2012, changed qualifications to include three (3) members from the disciplines of architecture, landscape architecture, planning, real estate sales, land development, banking, law or related fields. Two (2) members shall be citizens at large. One (1) alternate member shall be a professional and one (1) alternate shall be citizen at large.

Ord. No. 2012-17, effective April 27, 2012, reduced from seven (7) voting members to five (5) voting and two (2) alternate members.

Ord. No. 2011-10, effective July 15, 2011, deleted the two alternate members and changed advisor to Com. Dev. Department or designee instead of City Planner

Ord. No. 2010-16, effective October 1, 2010, removed the criteria for members to have professional qualifications, such as attorney, professional planner, architect, landscape architect, real estate agent or broker, and land developer.

Ord. No. 2008-14, effective 7/10/08, amended attendance requirements: a member who fails to attend three consecutive regularly scheduled meetings or 20% of regularly scheduled meetings held within a 12-month period shall have his/her seat declared vacant by the City Clerk and the City Commission shall promptly fill such vacancy.

Ord. No. 2003-25, enacted 8/5/03, established attendance requirements: a member who fails to attend three consecutive regularly scheduled meetings or 25% of all meetings held within a 12-month period shall have his/her seat declared vacant by the City Clerk and the City Commission shall promptly fill such vacancy.

Ord. No. 97-8, enacted 4/22/97, enabling/merged/created Planning Board & Board of Appeals.

Ord. No. 95-27, enacted 10/3/95, requiring gift disclosure.

Financial Disclosure Forms are required.

Secretary: Sherrie Coale

VOLUNTEER ADVISORY BOARD APPLICATION



BOARD/S YOU ARE APPLYING TO BE ON	· Planning & Zoning Board * **
NAME	Robert Lepa
RESIDENCE ADDRESS	1124 N Golfview Rd Lake Worth Beach, Florida 33460 United States
DO YOU HAVE A DIFFERENT MAILING ADDRESS?	No
PHONE	(561) 308-5093
BUSINESS PHONE	(561) 273-4555
CELL PHONE	(561) 308-5093
EMAIL	robert.lepa@ampf.com
ARE YOU A CITIZEN OF THE UNITED STATES?	Yes
ARE YOU A REGISTERED PALM BEACH COUNTY VOTER?	Yes
ARE YOU A REGISTERED LAKE WORTH VOTER?	Yes
HOW LONG HAVE YOU BEEN A RESIDENT OF LAKE WORTH BEACH?	1985
LIST ALL PROPERTIES OWNED AND/OR BUSINESS INTERESTS IN LAKE WORTH	1124 N Golfview Rd
WHAT IS YOUR OCCUPATION?	Financial Advisor
EMPLOYER?	Ameriprise Financial
ARE YOU CURRENTLY SERVING ON ANY CITY ADVISORY BOARD?	No
HAVE YOU EVER SERVED ON A CITY OF LAKE WORTH BOARD?	Yes
IF YES, WHEN AND WHICH BOARD(S)?	GE Pension Board late 90s - Early 2000s FAB 2018
DO YOU SERVE ON ANY BOARDS IN FLORIDA, OR ARE YOU AN ELECTED OR APPOINTED STATE, COUNTY, OR MUNICIPAL OFFICE HOLDER, OR PALM BEACH COUNTY EMPLOYEE?	No
HIGH SCHOOL	Eastlake North High
DATE OF GRADUATION	06/09/1976
COLLEGE	Cleveland State University
DATE OF GRADUATION	06/06/1984
WORK EXPERIENCE	Banker / Finances
INTEREST/ACTIVITIES	Running, gardening, cooking,
COMMUNITY INVOLVEMENT	currently volunteer at the Hatch on Tuesday mornings
6. A - WHY DO YOU DESIRE TO SERVE ON THIS BOARD (FIRST PREFERENCE)	I was asked to serve

6. B - WHY DO YOU DESIRE TO SERVE
ON THIS BOARD (SECOND
PREFERENCE)

CONSENT

It's good to know what is happening with the future of the City

✓ I agree to the privacy policy.

I understand the responsibilities associated with being a board/committee member, and I have adequate time to serve if appointed.

I have read the attached Ordinance No. 2010-29 and Article XIII (Palm Beach County) Code of Ethics and understand the policy on the City of Lake Worth Beach Code of Ethics. Within 30 days after appointment, I

understand that I am required to participate in Ethics Training and submit an Acknowledgement of Receipt

form to the City Clerk's Office in order to continue to serve on my appointed board.

*THIS APPLICATION IS VALID FOR ONE (1) YEAR FROM THE DATE SIGNED ABOVE.

*THIS APPLICATION IS NOT VALID WITHOUT APPLICANT'S PROOF OF RESIDENCY.

SIGNATURE

Robert A. Lepa

Location Address 1124 N GOLFVIEW RD
Municipality LAKE WORTH BEACH
Parcel Control Number 38-43-44-21-15-360-0100
Subdivision LAKE WORTH TOWN OF
Official Records Book 30526 **Page**441
Sale Date APR-2019
Legal Description TOWN OF LAKE WORTH LT 10 /LESS W 15 FT/ & N 25 FT OF LT 11 /LESS W 15 FT/ & W 20 FT OF GOLFVIEW RD IMMEDIATLEY E OF & ADJ THERETO BLK 360

Owners
 LEPA ROBERT A
 LEPA ROBERT A TR
 ROBERT A LEPA TR TITL HLDLR

Mailing address
 1124 N GOLFVIEW RD
 LAKE WORTH FL 33460 2306

Sales Date	Price	OR Book/Page	Sale Type	Owner
APR-2019	\$545,000	30526 / 00441	DEED OF TRUST	LEPA ROBERT A
JAN-1978	\$75,000	02904 / 01435		HERTHUM MARK

Exemption Applicant/Owner	Year	Detail
LEPA ROBERT A	2020	

Number of Units 1 ***Total Square Feet** 2425 **Acres** 0.2410
Use Code 0100 - SINGLE FAMILY **Zoning** SFR - Single Family Residential (38-LAKE WORTH BEACH)

Tax Year	2020 P	2019	2018
Improvement Value	\$215,158	\$218,301	\$186,372
Land Value	\$240,000	\$240,000	\$244,839
Total Market Value	\$455,158	\$458,301	\$431,211

P = Preliminary All values are as of January 1st each year

Tax Year	2020 P	2019	2018
Assessed Value	\$385,260	\$219,963	\$215,862
Exemption Amount	\$50,000	\$50,000	\$50,000
Taxable Value	\$335,260	\$169,963	\$165,862

Tax Year	2020 P	2019	2018
Ad Valorem	\$8,074	\$4,219	\$4,021
Non Ad Valorem	\$508	\$487	\$484
Total tax	\$8,582	\$4,706	\$4,505



VOLUNTEER ADVISORY BOARD APPLICATION

7 North Dixie Highway, Lake Worth, FL 33160 – Phone: 561-586-1730 – Fax: 561-586-1750

APPLICANT'S NAME: JUAN CRISTOBAL CONTIN
(Print name)

THIS APPLICATION IS VALID FOR ONLY ONE (1) YEAR FROM THE DATE ENTERED ON PAGE FIVE (5).

Thank you for your interest in serving the City of Lake Worth. The City Commission recognizes that volunteering is important, and your contribution is what makes Lake Worth a great community. Completion of this application is necessary so that the members of the City Commission can thoroughly review each application as part of their consideration for your appointment.

If applying for more than one Board/Committee, please number in order of preference. If you have previously submitted an application, it will be removed from our files unless you mark the board(s) previously applied for on this application. Please choose no more than three Boards/Committees for which you wish to apply. When selecting, indicate your first, second, and third preference. You may not serve on two of the following boards/committees at one time: Construction Board of Adjustments and Appeals, Community Redevelopment Agency, Historic Resources Preservation, or Planning & Zoning Boards.

- Board of Trustees Employees' Retirement System *
- Board of Trustees Police Retirement System *
- Board of Trustees Firefighters' Pension Trust Fund *
- Board of Trustees Firefighters' Pension Trust Fund – Division II *
- City Recreation Advisory Board
- City Tree Board
- Community Redevelopment Agency *
- Construction Board of Adjustments and Appeals **
- Electric Utility Advisory Board
- Finance Advisory Board
- Historic Resources Preservation Board **
- Library Board
- Planning & Zoning Board * **
- Sister City Board

* Requires that appointee fill out an annual financial disclosure form to be filed with the Supervisor of Elections Office

** Certain skill-set disciplines required

ALL BOARD/COMMITTEES ARE SUBJECT TO THE SUNSHINE LAW

1. PERSONAL

Name: (Mr.) Mrs./Ms. (circle one) JUAN CRISTOBAL CONTIN

Residence Address: 826 S. FEDERAL HIGHWAY

City: LAKE WORTH State: FL Zip Code: 33460

Proof of residency attached: _____

Mailing Address: (if different from residence) _____

City: _____ State: _____ ZIP Code: _____

Home Phone: _____ Business Phone: 561-249-4007

Cell Phone: 305 773-2082 Email Address: JCON123@HOTMAIL.COM

Are you a citizen of the United States? YES

Are you a registered Palm Beach County voter? YES

Are you a registered Lake Worth voter? YES

How long have you been a resident of Lake Worth? 10 YEARS

List all properties owned and/or business interests in Lake Worth 826 SOUTH FEDERAL HIGHWAY, LWB

What is your occupation? ARCHITECT

Employer? CONTIN ARCHITECTURE AND DESIGN

Business Address: (CRA board only) 826 SOUTH FEDERAL HWY, LWB

Are you currently serving on any City advisory Board? NO

If yes, which board? _____

Have you ever served on a City of Lake Worth board? YES

If yes, when and which board(s)? HISTORIC PRESERVATION BOARD

Do you serve on any boards in Florida, or are you an elected or appointed state, county, or municipal office holder, or Palm Beach County employee? YES

If yes, please name the board, position, etc. INTRACOASTAL SOUTH CONDOMINIUM BOARD, BOCA RATON FL - PRESIDENT

2. EDUCATION

High School: H.S. OF ART AND DESIGN Date of Graduation: 1985

College: CORNELL UNIVERSITY Degree: B. ARCH Date of Graduation: 1990

Resume attached? Yes No MS AAD 2020

3. WORK EXPERIENCE

SEE RESUME

4. INTEREST/ACTIVITIES

PAINTING, PHOTOGRAPHY, TENNIS

5. COMMUNITY INVOLVEMENT

STARTING FEDERAL HIGHWAY COMMUNITY
ASSOCIATION

6. a - Why do you desire to serve on this board (first preference)

AS AN ARCHITECT I CAN BRING
PROFESSIONAL EXPERIENCE TO THE
BOARD

6. b - Why do you desire to serve on this board (second preference)

SBE (A)

6. c - Why do you desire to serve on this board (third preference)

SBE (A)

I understand the responsibilities associated with being a board/committee member, and I have adequate time to serve if appointed.

I have read Ordinance No. 2010-29 and Article XIII (Palm Beach County) Code of Ethics attached hereto, and understand the policy on the City of Lake Worth's Code of Ethics. **Within 30 days after appointment, I understand that I am required to participate in Ethics Training and submit an Acknowledgement of Receipt form to the City Clerk's Office in order to continue to serve on my appointed board.**

PLEASE INITIAL _____



Signature _____



SEP 9 2020

Date _____

THIS APPLICATION IS VALID FOR ONLY ONE (1) YEAR FROM THE DATE SIGNED ABOVE.

NOTE: Information regarding the duties and responsibilities of any board/committee can be found by visiting our website at www.lakeworth.org, then select Services and Departments, then select Advisory Boards. For the application, please select Services and Departments, then select Forms, scroll down to Volunteers and select Advisory Board Application. If you need additional information, please contact Silvana Donaldson, Volunteer Coordinator at sdonaldson@lakeworth.org or by calling 561-586-1730.

EMAIL APPLICATION TO: sdonaldson@lakeworth.org (preferred method)

or

FAX APPLICATION TO: Volunteer Coordinator (561) 586-1750

or

RETURN APPLICATION TO: Volunteer Coordinator
Lake Worth City Hall
7 North Dixie Highway
Lake Worth, FL 33460

SUNSHINE LAW: The primary purpose of government in the Sunshine Law is to assure public access to the decision making processes of public boards and committees. The Sunshine Law extends to discussions and deliberations as well as to formal actions taken by boards and committees.

JUAN CRISTOBAL CONTIN, AIA
826 S. Federal Highway #4, Lake Worth, FL 33460
305-778-2082 FLORIDA AR94935

SUMMARY: An energetic, results oriented architect with 25 years experience in development of architecture, engineering, design, and construction management. Major strengths include project development, project management, architectural design, project finance, construction administration, planning, real estate and corporate negotiation. Excellent communication skills, computer skills, teamwork and leadership qualities.

PROFESSIONAL EXPERIENCE

Florida International University, Miami Florida
Graduate School of Architecture

2015-2019

Adjunct Professor

Teach core graduate school classes which include housing, urban planning, building design, building technology and interior design. Responsible for class syllabus, lectures and studio coordination for projects and student exhibitions. Lectured in architectural theory, Design and Professional Practice

Contin Architecture and Design Lake Worth, Florida

2004- 2020

Director, Architect

Provided architectural and financial management services to clients through out Florida. Responsibilities included architectural design, planning and construction of commercial, residential and institutional projects; building systems analysis; space development strategy; estimating; bidding; project management, contract negotiation, construction quality control. Client list includes:

High End Residential Renovations, Florida Provided architectural services for the development and construction of a several homes: Swan Residence West Palm Beach 7,500 sf. \$ 2 Million, Joerger Residence Sarasota, Florida 6,500 sf \$1.5 Million, Mignault Residence Sea Ranch Lakes 1000sf .3 Million

High End Residential New Construction, Florida Provided architectural services for the development and construction for several Homes: Appel Residence Lantana Florida \$2.1 Million 4,500 SF, Basile Residence Pinecrest, Florida \$8 Million 11,000 SF, Cabral Residence West Palm Beach 6,500 sf. \$3 Million

Sarasota Conservation Foundation, Florida Provided development services for strategic implementation and construction of historic campus with 8 buildings. Services included site implementation, historical building evaluation, infrastructure and landscape development. Construction Cost \$14.2 Million.

CDG International Ltd, Hong Kong

1999- 2004

Architect Managing Director (Asia Pacific Region)

Provided project management, architectural and financial management services to clients through out the Asia Pacific region. Responsibilities included marketing analysis, planning and construction of facilities; standardization of corporate design standards; building systems analysis; space development strategy; commercial real estate benchmarking; project finance; estimating; bidding; project management, contract negotiation, construction quality control and construction variation negotiation. Client list includes: **Credit Suisse First Boston, Asia Pacific and Goldman Sachs, New York, NY**

Credit Suisse / First Boston, Central, Hong Kong

1997-1999

Regional Architect/ Project Manager (Vice President), Asia Pacific

Provided corporate regional strategy for development, planning, leasing, architectural and real estate management services. Services included corporate real estate architectural planning, highest and best use analysis, space development strategy; budgeting and construction of regional offices; component sourcing; information technology systems integration, design, building systems analysis; bidding; project management and construction quality control, opportunity cost valuations, lease disposal and subleasing.

*Project Architect for CSFB Shanghai Office 15,000 SF fit-out . Project scope included computer rooms, a trading floor, sublease area, construction risk planning, design planning, budget control \$2.2 M USD, consultant selection, advisor to legal team on real estate, planning and construction negotiation issues.

*Project Architect for CSFB Sydney Office 60, 000 SF fit-out for 400 CSFB employees,. Project scope included leasing negotiations, planned CSFB's main computer room, planned 3 trading floors (112 traders),

budgeting, financial projections and planning for lease and construction opportunity costs. Project Cost \$5.0 M USD. Lease and Financial planning for \$33.0 M USD

*Project Architect for CSFB Melbourne Office. Responsibilities included architectural design, sourcing additional space, and highest and best use studies for CSFB relocation \$1.2 million.

*Project Architect for CSFB Seoul Office. Provided ongoing architecture and management services. Responsibilities included sourcing additional space, facility design for equipment upgrade, space utilization, contractor sourcing and highest and best use studies for CSFB relocation.

New World Telephone Ltd., North Point, Hong Kong

1996- 1997

Architect/ Project Manager

Services included planning, design, budgeting and construction of high tech corporate headquarters; Set corporate design standards; highest and best use analysis, building systems analysis; space development strategy; bidding; project management and construction quality control.

* Planned for corporate development strategy for New World Telephone expansion for 7 divisions and 28 departments. Growth exceeded 200% of staff in one year, total staff 1300.

* Planned and implemented corporate headquarters featuring a high tech corporate entertainment/ marketing facility. Tasks included conceptual design, design, construction management for "Telecom City"

* Applied value added design approach achieving a 20% reduction in construction budget.

International Business Machines Inc. (IBM), Boca Raton, Fl

1993- 1996

Architect Real Estate and Site Operations Division

Provided project management architectural and real estate management services to all divisions and affiliates, including planning and construction of facilities; standardization of corporate design standards; building systems analysis; estimating; bidding; project management and construction quality control.

* Regional IBM architect (South East United States) responsible of the development and implementation of IBM's high tech facilities. Development focus based on coordination with IBM's Global restructuring plan.

* Technical Leader for Architectural design of IBM Boca Raton Industrial Park 500 acres, 2.1 million SF office and industrial facility. Sale price \$118 million US. Coordination with Codina, Bush, Klein Real Estate.

* Lead IBM architect responsible for architectural design and construction, roads, parking, traffic control, site drainage, represented IBM with the City of Boca Raton Building department and planning board.

* Design and project management of 300,000 sf of computer rooms, robotics labs, sound testing facilities, vibration isolation chambers, clean rooms for micro chip assembly and testing, handicap computer interaction labs, AS 400 networking labs, voice recognition testing labs, central uninterrupted power supply (UPS) facilities

ASSOCIATIONS

American Institute of Architects (AIA) Registered: Florida, New York, Massachusetts
National Council of Architectural Accreditation Boards (NCARB)
Cornell ambassador, interviewer and counselor for Cornell alumni network

EDUCATION

Bachelor of Architecture, Cornell University, Ithaca, New York 1990

Awarded Edlitz Prize for excellence in architectural design
AIA Scholarship for outstanding achievement in architecture
AIA Honor and Merit Awards for Residential Design

Master of Architecture, Cornell University, Ithaca New York 2020

Cornell Real Estate Program
Full Stipend Teaching Assistant

LANGUAGES

Fluent Spanish and English, Business writing and verbal, Proficient French

SKILLS

Microsoft-Project, Microsoft Office , Adobe, AutoCAD, Revit .

Location Address 826 S FEDERAL HWY
Municipality LAKE WORTH BEACH
Parcel Control Number 38-43-44-27-01-022-0020
Subdivision LAKE WORTH TOWN OF ADD 1
Official Records Book 11591 **Page**1328
Sale Date JAN-2000
Legal Description ADD 1 TO TOWN OF LAKE WORTH LT 2 BLK 22

Owners
 CONTIN JUAN C

Mailing address
 826 S FEDERAL HWY APT 4
 LAKE WORTH FL 33460 5074

Sales Date	Price	OR Book/Page	Sale Type	Owner
JAN-2000	\$110,000	11591 / 01328	WARRANTY DEED	CONTIN JUAN C
OCT-1995	\$90,000	08974 / 01942	WARRANTY DEED	
MAR-1988	\$100,000	05619 / 00416	WARRANTY DEED	
JAN-1977	\$60,000	02773 / 01302		
JAN-1972	\$45,000	01979 / 01187	WARRANTY DEED	

Exemption Applicant/Owner	Year	Detail
CONTIN JUAN C	2020	

Number of Units 3 ***Total Square Feet** 3164 **Acres** 0.1550
Use Code 0801 - MULTIFAMILY < 10 UNITS-COMM ZONING **Zoning** MU-FH - Mixed Use Federal Hwy (38-LAKE WORTH BEACH)

Tax Year	2020 P	2019	2018
Improvement Value	\$181,494	\$183,946	\$155,326
Land Value	\$59,198	\$56,363	\$54,743
Total Market Value	\$240,692	\$240,309	\$210,069

P = Preliminary All values are as of January 1st each year

Tax Year	2020 P	2019	2018
Assessed Value	\$226,089	\$218,202	\$202,995
Exemption Amount	\$40,547	\$39,073	\$37,878
Taxable Value	\$185,542	\$179,129	\$165,117

Tax Year	2020 P	2019	2018
Ad Valorem	\$4,480	\$4,403	\$3,924
Non Ad Valorem	\$1,279	\$1,226	\$1,221
Total tax	\$5,759	\$5,629	\$5,145



HISTORIC RESOURCES PRESERVATION BOARD

Three-Year Terms

MEMBERS	APPOINTED	PHONE	ETHICS TRAINING	TERM EXPIRES
Judith Fox 514 N. Palmway Email: TBD (Citizen at large) (Mayor's Appointment)	05/01/118	C: 561-253-4895	YES	07/31/2021
VACANT (due to Dave Cavorsi's absence) (Vice Mayor's Appointment - District 3)				07/31/2023
Judith Just VICE CHAIR 306 N. Lakeside Dr. Judithjust01@hotmail.com (Law) (Commissioner District 1 Appointment)	07/23/12	H: 561-202-8081 W: 561-547-0549 C: 561-379-5372	YES	07/31/2022
William Feldkamp CHAIR 108 Lake Avenue, #205 billfeldkamp@gmail.com (Commissioner District 2 Appointment)	04/04/17	C: 561-248-5769	YES	07/31/2022
Oswaldo Ona 826 N. Palmway Ozzie.ona@gmail.com (Commissioner District 4 Appointment)	01/7/20	C: 561-706-9078	YES	07/31/2023
Bernard Guthrie 823 South Palmway bguthrie@pottydoctor.com (Contractor) (Mayor's Appointment)	04/3/18	C: 561-719-6696	YES	07/31/2020
Robert D'Arinzo 531 North Ocean Breeze bobbier@hotmail.com (Real Estate Sales) (Vice Mayor's Appointment - District 3)	08/16/16	C: 561-662-8370	YES	07/31/2023

Meetings: Second Wednesday of each month at 6:00 PM



The Board's function is to consider historic preservation issues and shall consist of five resident members plus two alternates appointed by the City Commission. Four members constitute a quorum. Initial appointments: one member to serve three years; two members to serve one year; two members for a term of two years; thereafter, all regular terms three years and alternate terms one year.

Ord. No. 2014-02 - Section 23.2-7 establishes that the historic resources preservation board shall consist of seven (7) members. All members of the board shall be residents of or property owners in the city. Members of the historic resources preservation board shall serve without compensation. The seven (7) members shall be appointed by the city commission. All members of the board shall be appointed for a term of three (3) years. If any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty-five (25) percent of the public meetings of the board held within any twelve-month period, the city clerk shall declare the member's office vacant and the city commission shall promptly fill such vacancy. Vacancies in the board membership by resignation, illness or other causes shall be filled by the city commission for the unexpired term of the member involved. Members of the historic resources preservation board may be removed from office by the city commission at its discretion. The board shall select its own chairman and vice-chairman annually at the first meeting in January. The city's preservation planner shall serve as secretary and advisor to the board. The membership of the HRPB shall include, to the extent available, members from the disciplines of architecture, architectural history, planning, archeology or related fields. At least two (2) members of the HRPB shall be experienced in the areas of real estate sales, land development, banking or law. One (1) member shall be from a professional discipline as described above and one (1) member shall be a citizen at large. The city commission shall determine whether or not the existing members of the HRPB meet the requirements of the certified local government program and may appoint up to two (2) additional members to the HRPB, if needed. Whenever a new member is appointed to the HRPB, the city commission shall consider the professional requirements of the new member to ensure that the requirements of the certified local government program are met. When necessary, persons serving on the HRPB shall attend educational meetings to develop a special interest, expertise, experience or knowledge in history, architecture, or related disciplines.

Ord. 2013-34 - Section 23.2, effective August 16, 2013 deletes alternate members and increases membership to seven (7) board members and amends absentee policy to three (3) consecutive regularly scheduled meetings or at twenty five percent (25%) of the public meetings of the Board held within any 12-month period, the City clerk shall declare the member's office vacant and the City Commission shall promptly fill such vacancy.

Ord. No. 2012-17, effective 04/27/12, changed qualifications to include disciplines of architecture, architectural history, planning, archaeology, or related fields. At least (2) members shall be experienced in the areas of real estate sales, land development, banking or law. One (1) alternate shall be from a professional discipline, and one (1) alternate member shall be a citizen at large.

Ord. No. 2010-16, HRPB was created.

Effective July 2017, Financial Disclosure Forms are required.

Secretary: Sherrie Coale



City of
**Lake Worth
Beach**
FLORIDA

VOLUNTEER ADVISORY BOARD – REAPPOINTMENT APPLICATION

7 North Dixie Highway, Lake Worth Beach, FL 33460 – Phone: 561-586-1600 – Fax: 561-586-1750

SECTION 1

Full Name:

BERNARD F. GUTHRIE JR

Name of the Advisory Board / Committee you are currently serving on, for which you wish to be considered for reappointment: HRPB

Has your information changed since your appointment or last reappointment? YES _____ NO

If you selected YES, please fill out below. If you selected NO, please go to SECTION 2.

Residence Address: _____

City: _____ State: _____ Zip Code: _____

Business Address: (If applicable) _____

City: _____ State: _____ Zip Code: _____

Mailing Address: (If different from residence / business) _____

City: _____ State: _____ ZIP Code: _____

Home Phone: _____ Business Phone: _____

Cell Phone: _____ Email Address: _____

Proof of residency attached: _____

SECTION 2

By signing this form I acknowledge that the information above is true and correct and that I am required to complete Ethics Training and submit the Ethics Training Certificate of Acknowledgement to the City Clerk's Office at least once a year and that the attendance policy will be in effect as per the ordinance governing the board for which I am seeking reappointment.

Bernard F. Guthrie Jr
Signature

9/11/20
Date

Information regarding the duties and responsibilities of any board/committee can be found by visiting our website at www.lakeworthbeachfl.gov. If you need additional information, please contact Silvina Donaldson at sdonaldson@lakeworthbeachfl.gov, 561-586-1730.

This form has been updated on October 2019



VOLUNTEER ADVISORY BOARD APPLICATION

7 North Dixie Highway, Lake Worth, FL 33160 – Phone: 561-586-1730 – Fax: 561-586-1750

APPLICANT'S NAME: GEORFREY B. HARRIS
(Print name)

THIS APPLICATION IS VALID FOR ONLY ONE (1) YEAR FROM THE DATE ENTERED ON PAGE FIVE (5).

Thank you for your interest in serving the City of Lake Worth. The City Commission recognizes that volunteering is important, and your contribution is what makes Lake Worth a great community. Completion of this application is necessary so that the members of the City Commission can thoroughly review each application as part of their consideration for your appointment.

If applying for more than one Board/Committee, please number in order of preference. If you have previously submitted an application, it will be removed from our files unless you mark the board(s) previously applied for on this application. Please choose no more than three Boards/Committees for which you wish to apply. When selecting, indicate your first, second, and third preference. You may not serve on two of the following boards/committees at one time: Construction Board of Adjustments and Appeals, Community Redevelopment Agency, Historic Resources Preservation, or Planning & Zoning Boards.

- Board of Trustees Employees' Retirement System *
- Board of Trustees Police Retirement System *
- Board of Trustees Firefighters' Pension Trust Fund *
- Board of Trustees Firefighters' Pension Trust Fund – Division II *
- City Recreation Advisory Board
- City Tree Board
- Community Redevelopment Agency *
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- Electric Utility Advisory Board
- Finance Advisory Board
- Historic Resources Preservation Board **
- Library Board
- Planning & Zoning Board * **
- Sister City Board

* Requires that appointee fill out an annual financial disclosure form to be filed with the Supervisor of Elections Office

** Certain skill-set disciplines required

ALL BOARD/COMMITTEES ARE SUBJECT TO THE SUNSHINE LAW

1. PERSONAL

Name: Mr./Mrs./Ms. (circle one) GEOFFREY B. HARRIS

Residence Address: 605 N. LAKESIDE DR, #3

City: LAKE WORTH BEACH State: FL. Zip Code: 33460

Proof of residency attached: YES

Mailing Address: (if different from residence) SAME

City: _____ State: _____ ZIP Code: _____

Home Phone: _____ Business Phone: _____

Cell Phone: 720-771-9276 Email Address: _____

Are you a citizen of the United States? YES

Are you a registered Palm Beach County voter? YES

Are you a registered Lake Worth voter? YES

How long have you been a resident of Lake Worth? 4+ YEARS

List all properties owned and/or business interests in Lake Worth _____

GEOFFREY B. HARRIS ARCHITECT

What is your occupation? ARCHITECT

Employer? SELF

Business Address: (CRA board only) ☒

Are you currently serving on any City advisory Board? NO

If yes, which board? _____

Have you ever served on a City of Lake Worth board? NO

If yes, when and which board(s)? _____

Do you serve on any boards in Florida, or are you an elected or appointed state, county, or municipal office holder, or Palm Beach County employee? NO

If yes, please name the board, position, etc. _____

2. EDUCATION

High School: KENT SCHOOL Date of Graduation: 1967

College: RHODE ISLAND SCHOOL OF DESIGN Degree: BFA Date of Graduation: 1971
SCHOOL OF DESIGN BARCH 1972

Resume attached? Yes X No _____

3. WORK EXPERIENCE

SEE ATTACHED

4. INTEREST/ACTIVITIES

ART, LITERATURE, SAILING, CYCLING, FOOD, WINE,
COCKTAILS, HISTORY, TRAVEL

5. COMMUNITY INVOLVEMENT

NONE AT THIS TIME

6. a - Why do you desire to serve on this board (first preference)

SEE ATTACHED

6. b - Why do you desire to serve on this board (second preference)

6. c - Why do you desire to serve on this board (third preference)

I understand the responsibilities associated with being a board/committee member, and I have adequate time to serve if appointed.

I have read Ordinance No. 2010-29 and Article XIII (Palm Beach County) Code of Ethics attached hereto, and understand the policy on the City of Lake Worth's Code of Ethics. Within 30 days after appointment, I understand that I am required to participate in Ethics Training and submit an Acknowledgement of Receipt form to the City Clerk's Office in order to continue to serve on my appointed board.

PLEASE INITIAL CPH



Signature

7/13/2020

Date

THIS APPLICATION IS VALID FOR ONLY ONE (1) YEAR FROM THE DATE SIGNED ABOVE.

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or

FAX APPLICATION TO: Silvina Donaldson at (561) 586-1750

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RETURN APPLICATION TO: Silvina Donaldson
Lake Worth City Hall
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Geoffrey B. Harris
A R C H I T E C T

605 N. Lakeside Dr., #3
Lake Worth, Fl. 33460
720 771 9276

AR 99020

E-mail gbharch@gmail.com
www.gbharch.com

14 July 2020

I've lived in Lake Worth for 3+ years now and I would like to contribute to the vitality of the town. The eclectic nature of Lake Worth Beach is something to protect, celebrate and encourage. The Historic Resources Preservation Board is the best use of my skill set.

Because I'm an Architect, and because I have current Historic projects underway in Lake Worth Beach, Delray Beach and West Palm Beach, I have the ability to look at a project that may come before the Board from the vantage point of the proponent of the project as well as the vantage point of the Board Member trying to make it the most appropriate and best project for that particular location.

My passion for and delight in Architecture is at all scales and encompasses all styles. I believe the length of my career and the breadth of my experience from very small buildings to rather large ones helps me consider a project at all scales: from a small detail, through the neighborhood context and into the City as a whole.

Geoffrey B. Harris RESUME
A R C H I T E C T 7/13/2020

605 N. Lakeside Dr., #3.
Lake Worth, Fl. 33460
720 771 9276

CO ARC.00201833
FL AR99020

E-mail gbharch@gmail.com
www.gbharch.com

PROFESSIONAL STATUS

Registered Architect - State of Colorado 201833
State of Florida AR99020

- 38 years experience as a licensed Architect in the State of Colorado
- 3 years as a licensed Architect in Florida
- Project experience in single and multi-family residential, commercial, hospitality and recreation, government and interiors

PROFESSIONAL EXPERIENCE:

2009 - 2020 **Geoffrey B. Harris, Architect**
1992 - 2007 Boulder, Colorado; West Palm Beach and Lake Worth Beach, FL.

Principal and Owner

Selected Current projects:

Inn at Tomichi Village, Gunnison, Colorado
Hotel Renovation

Residential Addition, Lake Worth Beach, Florida
2ND Story Addition to a Mid-Century House

Commercial Remodeling, Jupiter, Florida

Motorcycle Garage, Lake Worth beach, Florida
Maintenance and Display of Motorcycle Collection in Historically
Compatible Detached Building

Private Residence, Lake Worth Beach, Florida

Addition to Private Residence, Delray Beach, Florida
Addition to a Contributing Historic Property

Detached Garage Renovation, West Palm Beach. Florida
Restoration and Remodel of Contributing Historic Out-Building

Condominium Remodel, Boca Raton, Florida

Remodel and Renovation, West Palm Beach, Florida
Full Interior Remodel, with an Addition, of a Mid-Century Modern House

Additional selected projects:

Betesda Church, Aurora, Colorado

Remodel, Ft. Morgan, Colorado
Remodel and addition to an existing restaurant

1315 Sheridan Apartments, Lakewood, Colorado
15 Unit Apartment Building

3057 West Kentucky Apartments, Denver, Colorado:
Conversion of an existing industrial building into
30 apartments

Earth Sheltered Residence, Park County, Colorado
New residence to replace an existing cabin destroyed by a fire

Shores Residence, Central City, Colorado
New residence within a National Historic District

Carriage House, Denver, Colorado
Accessory Dwelling Unit to an existing house

Main Street Theaters, Elizabeth, Colorado
Triple theater complex in the City of Elizabeth

Speculative Residences: Hualalai, Hawaii

Haney Farm, Boulder, Colorado

Artist's Residence, Gallery and Sculpture Studio, Buena Vista, Colorado

Offices for Fresh Produce, Boulder, Colorado

Previous Employers

2007-2009 **Z Design Group LLC**
Boulder, Colorado

Senior Design Architect
Schematic Design and Design Development for the following projects:

Red Ledges, Heber City, Utah:
Clubhouse; Village Center including Bistro/Trading Post, Spa/Fitness Center,
Tennis Academy, Indoor Tennis Building, Sales center, Adventure Cabin,
Kid's Camp; Village Center including Learning Center, Sales and Retail
Centers.

Casa De Campo Golf Resort, La Domana, Dominican Republic
Golf Lodge and Clubhouse

1989-1992

Pellecchia Olson Architects, P.C.

Denver, Colorado

Design Architect and Project Manager

The Peaks at Telluride Resort Hotel

Schematic Design and Design Development (design team)

Residence, Napa, California

Schematic Design and Design Development, Project Manager

Nevada Bunkhouse, Paradise Valley, Nevada

Schematic Design and Design Development, Project Manager

Lost Creek Lodge, Telluride, Colorado

Schematic Design and Design Development

Trettin Residence, Aspen, Colorado

Schematic Design and Design Development, Project Manager

Telluride Recording Studio, Telluride, Colorado

Schematic Design and Design Development, Project Designer

1988-1989

Fentress Bradburn Architects

(now Fentress Architects)

Denver, Colorado

Architect

Jefferson County Human Services Building, Golden, Colorado

Construction Administration

AWARDS AND PUBLICATIONS

2002

"Fitting in with the Scenery"

"Sunset Magazine", Summer Supplement

McConnell/Heyman Pool House

Boulder, Colorado

1986

"Tricks of the Trade"

"Boulder Daily Camera"

Bahlman Residence

Boulder, Colorado

1981

Honorable Mention

American Underground Space Association

Earth Sheltered Residence

Boulder, Colorado

- 1981 **Earth Sheltering: The Form of Energy And The Energy of Form**
Pergamon Press
New York
ISBN 0-08-028052-8
- 1981 **Merit Award**
Western Mountain Region AIA Awards
Earth Sheltered Residence
Boulder, Colorado
- 1972 **Runner Up**
Centre Pompidou (Place Beauborg Competition)
Team under the direction of Raimund Abraham and Freidrich St. Florian

EDUCATION

- 1972 Bachelor of Architecture
Rhode Island School of Design
Providence, Rhode Island
- 1971 Bachelor of Fine Arts
Rhode Island School of Design
Providence, Rhode Island
- 1967 Graduated Kent School
Kent, Connecticut



FINANCE ADVISORY BOARD

Three-Year Terms

MEMBERS	APPOINTED	PHONE	ETHICS TRAINING	TERM EXPIRES
Lindy Seto 316 Princeton Drive Lindy.seto@gmail.com (Mayor's Appointment)	05/21/2019	C: 561-490-3225	YES	07/31/2021
VACANT (due to Michael Calhoun's passing) (Vice Mayor's Appointment – District 3)				07/31/2021
Ben Ellis, Jr. 530 South Federal Highway # 10 bellis@ellisgritter.com (District 1 Appointment)	03/06/2018	C: 561-254-3805	YES	07/31/2019
VACANT (due to Judith Just's resignation) (District 2 Appointment)				07/31/2023
Donald Rosenshine 131 N. Golfview Rd. #3 Donrosenshine29@gmail.com (District 4 Appointment)	8/18/2020	C: 443-603-6137	YES	07/31/2022
Sherry Schmidt 4 Indigo Terrace sherry@cri-re.com (Mayor's Appointment)	07/31/2013	C: 954 551-1655	YES	07/31/2019
VACANT (Caryn Rixey resignation) (Vice Mayor's Appointment – District 3)				07/31/2023

BOARD LIAISON

Bruce Miller, Finance Director
bmiller@lakeworth.org,
561-586-1641

The City of Lake Worth Finance Advisory Board was created to serve in an advisory capacity to the City Commission and the City Manager. The Board shall serve to promote transparency in the City of Lake Worth's budget process and allow for additional citizen input on major financial decisions. The Board shall consult with and advise the City Manager and the City Commission in matters affecting the annual operating budget, capital improvement program and all financial policies.



Established by Ordinance No. 2010-03, effective 02/26/10, comprised of seven resident members appointed by the City Commission.

Ord. No. 2010-03, effective 2/26/10, a member who fails to attend three consecutive regularly scheduled meetings or 20% of regularly scheduled meetings held within a 12-month period shall have his/her seat declared vacant by the City Clerk and the City Commission shall promptly fill such vacancy.

Meetings: First Monday of each month at 6:00 pm in the City Hall Conference Room.



City of
**Lake Worth
Beach**
FLORIDA

VOLUNTEER ADVISORY BOARD – REAPPOINTMENT APPLICATION

7 North Dixie Highway, Lake Worth Beach, FL 33460 – Phone: 561 586 1000 – Fax: 561 585 1750

SECTION 1

Full Name: SHERRY CARTEER BURY SCHMIDT

Name of the Advisory Board / Committee you are currently serving on, for which you wish to be considered for reappointment: FINANCIAL ADVISORY BOARD / OVERSIGHT COMMITTEE

Has your information changed since your appointment or last reappointment? YES _____ NO

If you selected YES please fill out below. If you selected NO, please go to SECTION 2.

Residence Address _____

City _____ State _____ Zip Code _____

Business Address (If applicable) _____

City _____ State _____ Zip Code _____

Mailing Address (If different from residence / business) _____

City _____ State _____ Zip Code _____

Home Phone: _____ Business Phone: _____

Cell Phone _____ Email Address: _____

Proof of residency attached _____

SECTION 2

By signing this form I acknowledge that the information above is true and correct and that I am required to complete Ethics Training and submit the Ethics Training Certificate of Acknowledgement to the City Clerk's Office at least once a year and that the attendance policy will be in effect as per the ordinance governing the board for which I am seeking reappointment.

Sherri C Schmidt
954-551-1655
SHERRY@CRI-RE.COM

7/28/2020



BOARD OF TRUSTEES – POLICE RETIREMENT SYSTEM

Three-Year Terms

MEMBERS	APPOINTED	PHONE	ETHICS TRAINING	TERM EXPIRES
Pam Triolo 7 North Dixie Highway ptriolo@lakeworth.org (Mayor)		W: 561-586-1730	YES	NA
Bruce Miller 7 North Dixie Highway bmiller@lakeworth.org (Finance Director)		W: 561-586-1654	YES	NA
Charles Siri 120 North G Street Email TBD (Employee Member)	08/02/12	W: 561-586-1611	YES	07/31/2019
Christopher Johnson – CHAIR 120 North G Street johnsonch@pbso.org (Employee Member)	05/16/13	W: 561-586-1611	YES	07/31/2021
VACANT (Citizen Member)				07/31/2022

The Board shall administer, manage and be responsible for the proper operation of the Police Retirement System.

The Board shall consist of five trustees: The Mayor, member of senior management staff appointed by the city commission, a citizen who is a resident of the City appointed by the City Commission, and two trustees who are participants of the retirement system employed by the PBSO or deputy sheriffs who are in the DROP, elected by a majority of the deputy sheriffs who are participants of the retirement system or a retired participant.

Ord. No. 2003-25, enacted 8/5/03, established attendance requirements: a member who fails to attend three consecutive regularly scheduled meetings or 25% of all meetings held within a 12-month period shall have his/her seat declared vacant by the City Clerk and the City Commission shall promptly fill such vacancy.

Ord. No. 2008-14, effective 7/10/08, amended attendance requirements: a member who fails to attend three consecutive regularly scheduled meetings or 20% of regularly scheduled meetings held within a 12-month period shall have his/her seat declared vacant by the City Clerk and the City Commission shall promptly fill such vacancy.

Ord. No. 2010-20, effective December 1, 2010, amended the trustees’ composition to include PBSO personnel, replace the Finance Director with a member of the senior management staff appointed by the Commission, and increase the term from two to three years

Meetings: Quarterly, on the fourth Tuesday of the last month of the quarter at 11:00 am in the City Hall Conference Room.

Citizen members appointed by Commission must be residents; employee members elected by co-workers need not be residents.

Financial disclosure forms are required.

POLICE OFFICERS' HOME PHONE NUMBERS AND ADDRESSES ARE EXEMPT FROM PUBLIC RECORDS LAWS.

Pension Administrator: The Resource Centers, LLC
4360 Northlake Blvd. Suite 206
Palm Beach Gardens, FL 33410
Phone: (561) 624-3277 Fax: (561) 624-3278



VOLUNTEER ADVISORY BOARD APPLICATION

7 North Dixie Highway, Lake Worth Beach, FL 33460 – Phone: 561-586-1600 – Fax: 561-586-1750

APPLICANT'S NAME:

LONNEY MORAL

(Please print your full name)

THIS APPLICATION IS VALID FOR ONE (1) YEAR FROM THE DATE ENTERED ON PAGE FIVE (5).

Thank you for your interest in serving the City of Lake Worth Beach. The City Commission recognizes that volunteering is important, and your contribution is what makes Lake Worth Beach a great community. Completion of this application is necessary so that the members of the City Commission can thoroughly review each application as part of their consideration for your appointment.

If applying for more than one Board/Committee, please number in order of preference. If you have previously submitted an application, it will be removed from our files unless you mark the board(s) previously applied for on this application. Please choose no more than three Boards/Committees for which you wish to apply. When selecting, indicate your first, second, and third preference. *You may not serve on two of the following boards/committees at one time: Construction Board of Adjustments and Appeals, Community Redevelopment Agency, Historic Resources Preservation, or Planning & Zoning Boards.*

- Board of Trustees Employees' Retirement System *
- Board of Trustees Police Retirement System *
- Board of Trustees Firefighters' Pension Trust Fund – Division I *
- Board of Trustees Firefighters' Pension Trust Fund – Division II *
- City Recreation Advisory Board
- City Tree Board
- Community Redevelopment Agency *
- Construction Board of Adjustments and Appeals **
- Electric Utility Advisory Board
- Finance Advisory Board
- Historic Resources Preservation Board **
- Library Board
- Planning & Zoning Board * **
- Citizen's Advisory Committee – Road Bond
- C-51 Canal Advisory Committee

* Requires that appointee fill out an annual financial disclosure form to be filed with the Supervisor of Elections Office

** Certain skill-set disciplines required

ALL BOARD/COMMITTEES ARE SUBJECT TO THE SUNSHINE LAW

1. PERSONAL

Name: Mr./Mrs./Ms. (circle one) Mr. Lonney Moral

Residence Address: 182 Harvard Dr.

City: Lake Worth Beach State: FL Zip Code: 33460

Proof of residency attached: _____

Mailing Address: (if different from residence) 182 Harvard Dr.

City: Lake Worth Beach State: FL ZIP Code: 33460

Home Phone: _____ Business Phone: 5616883000

Cell Phone: 5614369565 Email Address: _____

Are you a citizen of the United States? Yes

Are you a registered Palm Beach County voter? Yes

Are you a registered Lake Worth voter? Yes

How long have you been a resident of Lake Worth? 25 years

List all properties owned and/or business interests in Lake Worth None

What is your occupation? Deputy Sheriff

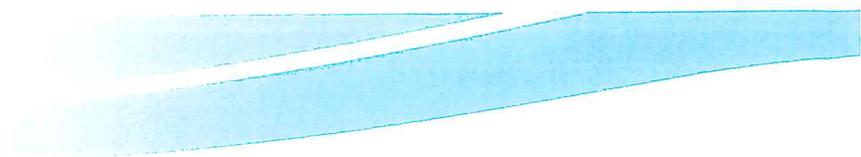
Employer? Palm Beach Sheriffs Office

Business Address: (CRA board only) 3228 Gun Club Rd., WPB FL 33406

Are you currently serving on any City advisory Board? No

If yes, which board? _____

Have you ever served on a City of Lake Worth board? No



If yes, when and which board(s)?

Do you serve on any boards in Florida, or are you an elected or appointed state, county, or municipal office holder, or Palm Beach County employee? no

If yes, please name the board, position, etc. _____

2. EDUCATION

High School: Lake Worth High Date of Graduation: May 1985

College: Some Degree: N/A Date of Graduation: N/A

Resume attached? Yes _____ No X

3. WORK EXPERIENCE

1995-2008: Police Officer for City of Lake Worth

Currently: Palm Beach County Sheriffs Deputy

4. INTEREST/ACTIVITIES

Hunting & Fishing

5. COMMUNITY INVOLVEMENT

Downtown Deputy

6. A - Why do you desire to serve on this board (first preference)

Monitor and assist in pension decisions

6. B - Why do you desire to serve on this board (second preference)

6. C - Why do you desire to serve on this board (third preference)

I understand the responsibilities associated with being a board/committee member, and I have adequate time to serve if appointed.

I have read the attached Ordinance No. 2010-29 and Article XIII (Palm Beach County) Code of Ethics and understand the policy on the City of Lake Worth Beach Code of Ethics. **Within 30 days after appointment, I understand that I am required to participate in Ethics Training and submit an Acknowledgement of Receipt form to the City Clerk's Office in order to continue to serve on my appointed board.**

PLEASE INITIAL LTM

LONNEY MORAL
Signature

9-16-2020
Date

- THIS APPLICATION IS VALID FOR ONE (1) YEAR FROM THE DATE SIGNED ABOVE.
- THIS APPLICATION IS NOT VALID WITHOUT APPLICANT'S PROOF OF RESIDENCY.

NOTE: Information regarding the duties and responsibilities of any board/committee, as well as this application can be found on our website located at www.lakeworthbeachfl.gov. Should you need additional information, please contact Silvina Donaldson at sdonaldson@lakeworthbeachfl.gov or by calling 561-586-1730.

Please send your application by email, mail, fax or by hand delivering to:

Silvina Donaldson
City of Lake Worth Beach
7 North Dixie Highway
Lake Worth Beach, FL 33460
sdonaldson@lakeworthbeachfl.gov
Phone: 561-586-1750
Fax: 561-586-1750

SUNSHINE LAW: The primary purpose of government in the Sunshine Law is to assure public access to the decision-making processes of public boards and committees. The Sunshine Law extends to discussions and deliberations, as well as to formal actions taken by boards and committees.

This form has been updated on October 2019

CITY OF LAKE WORTH BEACH

PROCLAMATION

WHEREAS, The Palm Beach County Bar Association's Alternative Dispute Resolution Committee seeks to promote to lawyers, the judiciary and the public the use and value of alternative dispute resolution processes. These processes help parties resolve disputes without a trial in a less costly and more timely and satisfying manner; and

WHEREAS, In 2011, the American Bar Association declared the third week of October as Mediation Week to recognize the utilization of mediation as one of several appropriate dispute resolution processes; and

WHEREAS, Mediators and other dispute resolution practitioners, through their concentrated expertise in helping parties find lasting solutions to complex problems, have continually demonstrated the value of the field of alternative dispute resolution; and

WHEREAS, Mediation practices and skills are being applied in the workplace by leaders, managers and supervisors who have embraced the power and efficiency of open communication and collaborative problem solving; and

WHEREAS, Mediation, along with the principles and practices that it embodies, can be a crucial tool for peacemaking between individuals, groups, units, neighborhoods, as well as governments and our region continues to be a leader in those efforts; and

WHEREAS, Professional associations of conflict resolvers are promoting the peaceful and creative resolution of disputes; and

WHEREAS, The City of Lake Worth Beach extends its appreciation to the members of the Palm Beach County Bar Association and especially to the members of the Alternative Dispute Resolution Committee for its effort to promote alternative conflict resolutions throughout Palm Beach County.

NOW, THEREFORE, I, Pam Triolo, by virtue of the power vested in me as Mayor of the City of Lake Worth Beach, do hereby proclaim

OCTOBER 11-17, 2020

AS

MEDIATION WEEK

IN WITNESS WHEREOF, I have set my hand and caused the seal of the City of Lake Worth Beach, Florida, to be affixed hereto this 6st day of October, 2020.

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, City Clerk

CITY OF LAKE WORTH BEACH, FLORIDA

PROCLAMATION

- WHEREAS,** The Republic of China (Taiwan) observes the 109th National Day on October 10th, 2020; and since the establishment of the Taipei Economic and Cultural Office in Miami in 1988 and the consequent establishment of the sister-state and sister-city relations between the State and cities of Florida and Taiwan, the Taipei Economic and Cultural Office in Miami has spared no efforts in the upholding of bilateral economic, cultural, and educational relations; and
- WHEREAS,** The United States and Taiwan have maintained and enhanced close friendship over the decades encompassing commercial, cultural, and other interactions based on the 1979 Taiwan Relations Act (Public Law 96-8 96th Congress), the cornerstone of the U.S.-Taiwan ties which celebrates the 41st anniversary of its enactment in 2020; and
- WHEREAS,** Taiwan has been a member of the United States Visa Waiver Program since November 1st, 2012, reflecting the ever-closer cooperation between the United States and Taiwan and making travel for business and tourism between the two more convenient; and
- WHEREAS,** Dr. Tsai Ing-wen, the first female President of the Republic of China (Taiwan) and democratically re-elected in 2020, was warmly welcomed in Miami on June 24th, 2016, further enhancing the bilateral relationship between Florida and Taiwan, as well as strengthening the common values it shares with the United States; and
- WHEREAS,** The launch of FORMOSAT-7/COSMIC-2 on June 25th, 2019, a joint U.S.-Taiwan collaborative space program of a constellation of six satellites designed to enhance the accuracy of atmospheric weather prediction, has demonstrated the mutual benefit born of U.S.-Taiwan relations; and
- WHEREAS,** Taiwan is the 9th largest trading partner of the United States and the 10th largest export market in the world for U.S. goods as of June of 2020, as well as Florida's 6th largest market in Asia, garnering the Sunshine State over 7,850 jobs and \$944.3 million in trade and investment ties in 2018. The establishment of a Bilateral Trade Agreement (BTA) between the United States and Taiwan in order to strengthen further bilateral trade and economic ties is welcome; and
- WHEREAS,** Taiwan's bid for meaningful participation in numerous international organizations, including the International Civil Aviation Organization (ICAO), the World Health Organization (WHO), the United Nations Framework Convention on Climate Change (UNFCCC) and the International Criminal Police Organization (INTERPOL) would benefit regional development, peace, and prosperity; and

WHEREAS, Taiwan is a close strategic partner to the United States in East Asia with dynamic progress towards political democratization and economic liberalization, as well as the promotion of education, humanitarian aid, healthcare, environmental protections, technological innovation, and the advancement of basic human rights of life, liberty, and security; and

WHEREAS, To assist in the fight against the COVID-19 pandemic, the Government and People of Taiwan has donated over 11.75 million medical masks to the United States through federal and local governments and from that amount, over 420,000 medical masks were donated in Florida; and

WHEREAS, Taiwan aspires to further contribute to international development and to promote peace and prosperity. We cherish our traditional cordial sister-state and sister-city relations with Taiwan and hope to further solidify them; and we recognize Taiwan's efforts in its aim to participate effectively and meaningfully in global affairs, we will continue to support her mission of economic liberalization, political democratization and significant participation in the international arena.

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

OCTOBER 10, 2020

as

109TH NATIONAL DAY OF THE REPUBLIC OF CHINA (TAIWAN)

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 6th day of October, 2020.

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, City Clerk

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Water Utilities

TITLE:

Purchase Authorization with Badger Meters

SUMMARY:

Purchase authorization for purchase of City's water meters for inventory for Fiscal Year 2021 at a cost not to exceed \$120,000.00.

BACKGROUND AND JUSTIFICATION:

The Water Utilities Department provides and installs all water meters up to 2-inch water services within the water utility service area. The City purchases Badger water meters as the sole source vendor in Florida. These meters will enable Water Distribution staff to continue installing water meters for new construction as well as upgrading and replacing the meters in Lake Osborne Estates. Meters will be purchased as needed for inventory demand.

MOTION:

Motion to approve/disapprove a purchase authorization with Badger Meters for an amount not to exceed \$ 120,000.00 for fiscal year 2021.

ATTACHMENT(S):

Fiscal Impact Analysis
Badger Meter Sole Source Letter
2021 Annual Quote

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

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

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

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
402-7034-533.46-60	Water Utilities Meters/Line	N/A	\$203,540	\$203,540	\$120,000	\$83,540.00



4545 W Brown Deer Road
PO Box 245036
Milwaukee, Wisconsin 53224-9536
414-355-0400 | 800-876-3837
www.badgermeter.com

September 23, 2020

Chris Walker
Water Meter Foreman | Water Distribution
City of Lake Worth Beach
1900 2nd Avenue North
Lake Worth Beach, FL 33461

RE: Sole Source Letter

Dear Chris Walker:

This letter will confirm that Badger Meter, Inc. is the sole manufacturer and the sole supplier of Badger Meter utility products for the state of Florida.

In the event you have any questions regarding this correspondence, I can be reached by telephone at 800-876-3837 ext. 16220 or via email at bids@badgermeter.com.

Sincerely,

BADGER METER, INC.

A handwritten signature in blue ink that reads 'Rebecca L. Loomans'.

Rebecca L. Loomans
Assistant Secretary



ANNUAL QUOTATION

4545 W Brown Deer Rd
 Milwaukee WI 53223
 PHONE: 800-876-3837

CREATED DATE: August 14 2020
 QUOTED BY: Angie Phillips
 REQUESTED BY: Chris Walker
 PHONE: 561-707-7401
 EMAIL: Cwalker@lakeworthbeachfl.gov

BILL TO: City of Lake Worth Beach FL

SHIP TO: City of Lake Worth Beach FL

EFFECTIVE DATES: 09/01/2020 - 09/30/2021

SALESPERSON	PROPOSAL SUBJECT	SHIPPING TERMS	PAYMENT TERMS
AP	5/8" x 3/4" - 2" METERS	Prepay/No Charge For Shipments > \$25,000 FCA Factory/Warehouse	Net 30 Days

QTY	PRODUCT DESCRIPTION	UNIT PRICE	AMOUNT
	DISC METERS with ILC - 5' LEAD		
TBD	M25 5/8" x 3/4" Lead Free Disc Meter with Plastic Bottom Plate with HRE (8dial) with Itron In-Line Connector 5' Lead (no endpoint)	\$ 124.25	
TBD	M55 1" Lead Free Disc Meter with Bronze Bottom Plate with HRE (8dial) with Itron In-Line Connector 5' Lead (no endpoint)	\$ 215.76	
TBD	M120 1-1/2" Lead Free Disc Meter HEX or ELL with Test Plug with HRE (8dial) with Itron In-Line Connector 5' Lead (no endpoint)	\$ 444.54	
TBD	M170 2" Lead Free Disc Meter HEX or ELL with Test Plug with HRE (8dial) with Itron In-Line Connector 5' Lead (no endpoint)	\$ 630.17	
	NOTE: MUST SPECIFY HEX or ELL WHEN ORDERING		
	E-SERIES with ILC - 5' LEAD		
TBD	E25 5/8" x 3/4" Stainless Steel Ultrasonic Meter with Itron In-Line Connector 5' Lead (no endpoint)	\$ 176.33	
TBD	E55 1" Stainless Steel Ultrasonic Meter with Itron In-Line Connector 5' Lead (no endpoint)	\$ 224.32	



ANNUAL QUOTATION

4545 W Brown Deer Rd
 Milwaukee WI 53223
 PHONE: 800-876-3837

CREATED DATE: August 14 2020
 QUOTED BY: Angie Phillips
 REQUESTED BY: Chris Walker
 PHONE: 561-707-7401
 EMAIL: Cwalker@lakeworthbeachfl.gov

BILL TO: City of Lake Worth Beach FL

SHIP TO: City of Lake Worth Beach FL

EFFECTIVE DATES: 09/01/2020 - 09/30/2021

SALESPERSON	PROPOSAL SUBJECT	SHIPPING TERMS	PAYMENT TERMS
AP	5/8" x 3/4" - 2" METERS	Prepay/No Charge For Shipments > \$25,000 FCA Factory/Warehouse	Net 30 Days

QTY	PRODUCT DESCRIPTION	UNIT PRICE	AMOUNT
TBD	E120 1-1/2" Stainless Steel Ultrasonic Meter HEX or ELL with Itron In-Line Connector 5' Lead (no endpoint)	\$ 515.59	
TBD	E170 2" Stainless Steel Ultrasonic Meter HEX or ELL with Itron In-Line Connector 5' Lead (no endpoint)	\$ 626.30	
	NOTE: MUST SPECIFY HEX or ELL WHEN ORDERING		

Sales Tax: To be quoted at time of order.
 Est. Lead Time: To be provided at time of order.

SUBTOTAL	\$ -
SALES TAX	\$ -
FREIGHT	Add
TOTAL	

Notes and Assumptions:

Badger Meter continues to improve and redesign our products to provide our customers with state-of-the-art technology solutions.



ANNUAL QUOTATION

4545 W Brown Deer Rd
Milwaukee WI 53223
PHONE: 800-876-3837

CREATED DATE: August 14 2020
QUOTED BY: Angie Phillips
REQUESTED BY: Chris Walker
PHONE: 561-707-7401
EMAIL: Cwalker@lakeworthbeachfl.gov

BILL TO: City of Lake Worth Beach FL

SHIP TO: City of Lake Worth Beach FL

EFFECTIVE DATES: 09/01/2020 - 09/30/2021

SALESPERSON	PROPOSAL SUBJECT	SHIPPING TERMS	PAYMENT TERMS
AP	5/8" x 3/4" - 2" METERS	Prepay/No Charge For Shipments > \$25,000 FCA Factory/Warehouse	Net 30 Days

QTY	PRODUCT DESCRIPTION	UNIT PRICE	AMOUNT
-----	---------------------	------------	--------

THANK YOU FOR YOUR BUSINESS!!

This quotation is an offer, made subject to the terms & conditions found on our website:
www.badgermeter.com/Company/Legal/Sales-terms.aspx

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Water Utilities

TITLE:

Purchase Authorization for Itron meter transmitters from The Avanti Company

SUMMARY:

The Purchase Authorization with The Avanti Company will allow for the acquisition of water meter transmitters made by Itron for inventory purposes for Fiscal Year 2021 at a cost not to exceed \$80,000.00.

BACKGROUND AND JUSTIFICATION:

The Water Utilities Department provides and installs all water meters up to 2-inch water services within the water utility service area. The Meters are retro fitted with Itrons which are provided by The Avanti Company as the sole source vendor in Florida. These Itrons will enable the city staff to continue installing water meters for new construction as well as upgrading and replacing the meters in Lake Osborne Estates. Itrons will be purchased as needed for inventory demand with Badger Meters.

MOTION:

Move to approve/disapprove a purchase authorization with The Avanti Company for an amount not to exceed \$80,000.00 for fiscal year 2021.

ATTACHMENT(S):

Fiscal Impact Analysis
Itron Sole Source Letter
Quote

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$80,000.00	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	0	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
402-7034-533.46-60	Water Utilities Meters/Line	N/A	\$203,540	\$203,540	\$80,000	\$123,540



Electric / Gas / Water
Information collection, analysis and
application

2111 N. Molter Rd., Liberty Lake, WA 99019
509.924.9900 Tel 509.891.3355 Fax
www.itron.com

August 13, 2020

Mr. Chris Walker
City of Lake Worth
301 College St
Lake Worth, FL 33460

Dear Mr. Walker,

Please accept this letter as confirmation that Lake Worth is serviced by The Avanti Company. They are Itron's only authorized direct water distributor in Florida to sell Itron's Automatic Meter Reading and Advanced Metering Infrastructure products including the 100W+ series Choice Connect endpoint, external antennas and necessary reading equipment.

If you have any questions, or if I can provide any further information, please feel free to contact me.

Regards,

A handwritten signature in black ink that reads "Rusty Agi". The signature is written in a cursive style.

Rusty Agi
Area Manager

Quote # EC-081320-02-03

Date 8/13/20

Terms FY21

Prices FOB Factory

Delivery 3-4 Weeks

Phone # _____

Cell # _____

Reference # _____

Quotation

22 South Lake Avenue
 Avon Park, FL 33825-3902
www.avanticompany.com

Toll Free: 1-800-284-5231
 Fax: 863-453-0085
 E-Mail: info@avanticompany.com

To: Mr. Chris Walker
 City of Lake Worth
 1900 2nd Ave. N.
 Lake Worth, FL 33461-4298
CWalker@LakeWorthbeachfl.gov

We are pleased to quote the following:

Item	Quantity	Description	Unit Price	Total
A	1	100W+ ERT, Encoder with Integral Connector and Antenna Connector, Part # ERW-1300-402	\$75.00	\$75.00
B	1	100W Through-the-Lid remote mount antenna Kit, Part # CFG-0900-003	\$55.00	\$55.00
<p>* Above pricing does not include freight charges.</p>				

Quoted By:  (Eric J. Corey) / **Accepted By:** _____

Prices quoted above are current prices in effect and are subject to acceptance within 30 days from the above date, and are firm on an order resulting from this quote scheduled to ship within 60 days from date of order entry. All items quoted will be produced in strict accordance to any Government Regulation in effect including Fair Labor-Standards Act, OSHA, and Equal Employment Opportunity

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Water Utilities

TITLE:

Agreement with Allied Universal Corporation to purchase Sodium Hypochlorite (Bleach) for water treatment and odor control

SUMMARY:

This Agreement authorizes the purchase of bulk Sodium Hypochlorite for the City of Lake Worth Water Utilities at a cost Not-to-Exceed \$130,500.00 for Fiscal Year 2021 from Allied Universal Corporation.

BACKGROUND AND JUSTIFICATION:

Sodium Hypochlorite is a necessary chemical which is added to the finished water supply and is used for the disinfection of drinking water, killing germs, micro-organisms, algae, etc. Sodium Hypochlorite is also necessary for odor control at the Reverse Osmosis Water Treatment Plant and Master Pump Station.

On September 8, 2020, bids were received under IFB 20-107 for the purchase of bulk Sodium Hypochlorite needed for the Water Treatment Plant and Master Pump Station. These bids were evaluated by staff taking into account unit costs, minimum quantities, and penalties for partial deliveries. This agreement will also authorize the City Manager to extend the agreement, if requested, and with the amount not to exceed amounts set forth in the 2022 and 2023 fiscal year budget.

MOTION:

Move to approve/disapprove the agreement to purchase bulk Sodium Hypochlorite from Allied Universal for an amount not to exceed \$130,500.00 for Fiscal Year 2021.

ATTACHMENT(S):

Fiscal Impact Analysis
Bid Tabulation
Agreement

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$130,500	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
 Net Fiscal Impact	 \$130,500	 0	 0	 0	 0
 No. of Addn'l Full-Time Employee Positions	 0	 0	 0	 0	 0

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

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
402-4022-533.52-30	Operating Supplies/ Chemicals	N/A	\$450,000.00	\$450,000.00	-\$125,000.00	\$298,000.00
403.7231-535.52-30	Operating Supplies/ Chemicals	N/A	\$20,000.00	\$20,000.00	-\$3,000.00	\$17,000.00
405-7421-535.52-30	Operating Supplies/ Chemicals	N/A	\$230,000.00	\$230,000.00	-\$2,500.00	\$227,500.00

Bid Tabulation
IFB 20-107 Liquid Sodium Hypochlorite
Bid Opening: 9/8/2020 - 4:00 PM E.S.T.

ITEM #	Description	ALLIED UNIVERSAL CORP.		ODYSSEY MANUFACTURING CORP.		UNIVAR SOLUTIONS	
		Unit of Measure	Unit Price (Per Gallon)	Unit of Measure	Unit Price (Per Gallon)	Unit of Measure	Unit Price (Per Gallon)
1	Full Truckload - 30,000 + Gallons	GAL	\$0.518	GAL	\$0.531		
2	Partial Truckload - Up to 30,000 Gallons	GAL	\$0.549	GAL	\$0.531	NO BID	

**AGREEMENT FOR GOODS AND SERVICES
(Liquid Sodium Hypochlorite)**

THIS AGREEMENT is made _____, between the **City of Lake Worth Beach**, Florida, a municipal corporation, hereinafter the "CITY", with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, and **Allied Universal Corp.**, a corporation authorized to do business in the State of Florida, hereinafter the "CONTRACTOR", with its office located at 3901 NW 115 Avenue, Miami, Florida 33178.

RECITALS

WHEREAS, the CITY is a municipal corporation organized and existing pursuant to the Charter and the Constitution of the State of Florida;

WHEREAS, the CITY issued Invitation for Bid #20-107 for the procurement of Liquid Sodium Hypochlorite on an as needed basis (hereinafter "IFB"); and

WHEREAS, CONTRACTOR submitted a bid to provide Liquid Sodium Hypochlorite as described and set out in the IFB; and

WHEREAS, the CITY desires to accept the CONTRACTOR's price bid (attached hereto as **Exhibit "A"**) in order for the CONTRACTOR to render the goods and services to the CITY as provided herein; and

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

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

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

1. TERM

1.1 The term of this Agreement (the "Agreement") shall be for an initial term of one (1) year, with an option for three (3) additional one (1) year renewals upon the mutual agreement of both parties. The renewal terms may be approved by the City Manager upon the same terms, conditions and pricing. Notwithstanding the foregoing, this Agreement may be terminated by the CITY as set forth herein.

2. SCOPE OF WORK

2.1 The scope of work includes the supply and delivery of Liquid Sodium Hypochlorite on an as needed basis as more specifically set forth in the IFB and the scope of work, which is attached hereto as **Exhibit "B"** (the "Scope of Work"). Services by the CONTRACTOR shall commence upon the issuance of a Purchase Order by the CITY.

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

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

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

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

3. INDEPENDENT CONTRACTOR; USE OF AGENTS OR ASSISTANTS

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

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

4. MATERIALS

4.1 The CONTRACTOR shall provide all chemicals as more specifically set forth in the Scope of Work.

5. FEE AND ORDERING MECHANISM

5.1 For services to be rendered under this Agreement, the CONTRACTOR shall be entitled to a fee for actual goods provided and accepted by the City at the price set forth in CONTRACTOR'S price bid (Exhibit "A").

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

5.3 The City's ordering mechanism for the Scope of Work performed under this Agreement will be a City Purchase Order(s); however, the terms and conditions stated in a City Purchase Order shall not apply. CONTRACTOR shall not provide any goods or services under this Agreement without a City Purchase Order specifically for goods and services. CONTRACTOR shall not exceed amounts expressed on any Purchase Order. The City's Fiscal Year ends on September 30th of each calendar year and the City cannot authorize the purchase of goods or services beyond September 30th of each calendar year, prior to the annual budget being approved by the City Commission. Additionally, the City must have budgeted appropriate funds for the goods and services in any subsequent Fiscal Year. If the budget is approved for said goods and services, the City will issue a new Purchase Order each Fiscal Year for required and approved goods consistent with the term and any renewal requirements.

6. MAXIMUM COSTS

6.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to complete the Scope of Work in accordance with the IFB and this Agreement shall not exceed **One Hundred Thirty-Seven Thousand, Two Hundred Seventy Dollars (\$137,270.00) per fiscal year**, and no additional costs shall be authorized without prior written approval from the CITY.

7. INVOICE

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

7.2 If the CITY disputes any invoice or part of an invoice, CITY shall notify the CONTRACTOR within a reasonable time after receipt of the invoice. CITY reserves the

right to off-set, reduce or withhold any payment to the CONTRACTOR until the dispute is resolved.

8. AUDIT BY CITY

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

9. COPIES OF DATA/DOCUMENTS

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

10. OWNERSHIP

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

11. WRITTEN AUTHORIZATION REQUIRED

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

12. DEFAULTS, TERMINATION OF AGREEMENT

12.1 If the CONTRACTOR fails to timely perform the Scope of Work or has failed in any other respect to satisfactorily perform in accordance with this Agreement; or, is in material breach of a term or condition of this Agreement, the City Manager or designee may give written notice to the CONTRACTOR specifying defaults to be remedied. Such notice shall set forth the basis for any dissatisfaction and suggest corrective measures. If the CONTRACTOR does not remedy defaults within the allotted time or commence good faith steps to remedy the default to the reasonable satisfaction of the City Manager or designee, the CITY may take such action to remedy the default and all expenses related thereto shall be borne by the CONTRACTOR including, without limitation, utilization of another contractor to provide for such work; and/or, the CITY may withhold any money

due or which may become due to the CONTRACTOR for such expense and/or work related to the claimed default. Alternatively, or in addition to the foregoing, if after three (3) days the CONTRACTOR has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the City Manager or designee, the CITY may elect to terminate this Agreement. No compensation shall be paid for de-mobilization, take-down, disengagement, wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

12.2 Notwithstanding paragraph 12.1, the CITY reserves the right and may elect to terminate this Agreement at any time, with or without cause, with notice from the City Manager or designee. At such time, the CONTRACTOR would be compensated only for that work which has been satisfactorily completed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement, wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

13. INSURANCE

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

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

13.3. The CONTRACTOR shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect the

CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

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

14. WAIVER OF BREACH

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

15. INDEMNITY

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

15.2 The CONTRACTOR's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the CONTRACTOR whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement.

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

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

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

16. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

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

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

17. ASSIGNMENT

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

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

18. SUCCESSORS AND ASSIGNS

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

19. OF TRIAL BY JURY

19.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

20. GOVERNING LAW AND REMEDIES

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

20.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

21. TIME IS OF THE ESSENCE

21.1 Time is of the essence in the delivery of the goods as specified herein.

22. NOTICES

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

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

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

Allied Universal Corp.
3901 NW 115 Ave
Miami, FL 33178

23. SEVERABILITY

23.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

24. DELAYS AND FORCES OF NATURE

24.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR's request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time. If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may decide. No extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary. The CONTRACTOR's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

25. COUNTERPARTS

25.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. Each of the parties shall sign a sufficient number of counterparts, so that each party will receive a fully executed original of this Agreement. This Agreement may be executed electronically.

26. LIMITATIONS OF LIABILITY

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

27. PUBLIC ENTITY CRIMES

27.1 CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

28. PREPARATION

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

29. PALM BEACH COUNTY INSPECTOR GENERAL

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

30. ENFORCEMENT COSTS

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

31. PUBLIC RECORDS

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

- (a) Keep and maintain public records required by the CITY to perform the services under this Agreement.
- (b) Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that said public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement, if the CONTRACTOR does not transfer the records to the CITY.
- (d) Upon the completion of the Agreement, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the services. If the CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, DANDREA@LAKEWORTHBEACHFL.GOV, OR BY MAIL AT CITY OF LAKE WORTH BEACH, ATTN: DEBBIE ANDREA, 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.

32. COPYRIGHTS AND/OR PATENT RIGHTS

32.1 CONTRACTOR warrants that there has been no violation of copyrights and/or patent rights in the manufacturing, producing or selling of the goods, shipped or ordered,

as a result of this Agreement and the CONTRACTOR agrees to hold the City harmless from any and all liability, loss, or expense occasioned by any such violation.

33. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH

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

34. FEDERAL AND STATE TAX

34.1 The CITY is exempt from Federal Tax and State Tax for Tangible Personal Property. The Procurement Official will sign an exemption certificate submitted by the CONTRACTOR if applicable. The CONTRACTOR shall not otherwise be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the CITY, nor shall the CONTRACTOR be otherwise authorized to use the City's tax Exemption Number in securing such materials.

35. PROTECTION OF PROPERTY

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

36. DAMAGE TO PERSONS OR PROPERTY

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

37. SAFETY: ACCIDENT PREVENTION.

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

job and the safety of the public and to protect property in connection with the performance of the work covered by this Agreement.

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

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

38. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (Applicable to all federally funded contracts and any subcontracts of \$100,000 or more.) By execution of this Agreement, CONTRACTOR, if applicable, will be deemed to have stipulated as follows:

(a) Any CITY facility or property that is or will be utilized in the performance of this Agreement, unless such Agreement is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

(b) CONTRACTOR agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

(c) CONTRACTOR shall promptly notify the CITY of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a CITY facility or property that is or will be utilized for this Agreement is under consideration to be listed on the EPA List of Violating Facilities.

39. SCRUTINIZED COMPANIES

39.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have

submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

39.2 If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

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

39.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

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

39.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

SURVIVABILITY

40.1 Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHERE OF the parties hereto have made and executed this Agreement for Goods and Services (Liquid Sodium Hypochlorite) on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Pam Triolo, Mayor

ATTEST:

By: _____
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

APPROVED FOR FINANCIAL SUFFICIENCY:

By: _____
Bruce T. Miller, Financial Services Director

CONTRACTOR: **ALLIED UNIVERSAL CORP.**

By: _____
[Signature]

Print Name: Jim Palmer

Title: President / CEO

[Corporate Seal]

STATE OF Florida)
COUNTY OF Miami-Dade)

The foregoing instrument was acknowledged before me this 24th day of September 2020, by Jim Palmer, who was physically present, as President/CEO (title), of **Allied Universal Corp.** which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following personally known as identification.

Notary Public: Tawana Houston
Print Name: Tawana Houston
My commission expires: June 12, 2023



Exhibit A

CONTRACTOR'S PRICE BID

(B4)

IFB #20-107
Liquid Sodium Hypochlorite

SCHEDULE OF UNIT PRICES

In order to evaluate the total bid amount, each Bidder must identify the unit prices for the work set forth in the Scope of Work. In the event additional quantities are added to the contract by Change Order, the following unit prices will be utilized (as applicable). The quantities below are estimated annual quantities. City does not guarantee a minimum order and reserves the right to adjust these quantities as considered in the best interest of the City. The bidder acknowledges that no additional payment will be made for adjustments in the quantities. **Price submitted includes all costs.**

Item	Description	Unit of Measure	Annual Usage	Unit Price	Annual Extended
	Liquid Sodium Hypochlorite		265,000 Gal		
	Full Truckload Price	1 Gal		\$0.518 /Gal	\$137,270.00 /Gal
	Partial Truckload Price (Up to 30,000 Gallons)	1 Gal		\$0.549 /Gal	\$145,485.00 /Gal

Name of Bidder: Allied Universal Corporation

Address: 3901 NW 115 Ave, Miami ST FL Zip 33178

Phone: (305) 888-2623 Email: Bids@Allieduniversal.com

Print Name: Cristhianne Munguia Title: Bid Coordinator

SIGNATURE:  DATE: September 1, 2020

Exhibit B

Scope of Work

1. **Delivery Location(s).** The CITY currently requires delivery of Liquid Sodium Hypochlorite at the below two (2) addresses. The CONTRACTOR understands, acknowledges, and agrees that the CITY may elect to add, remove, or revise delivery locations in the future via Purchase Order.

Location	Building	Address	Qty	Storage Tank Size
1	Water Plant	301 College Street, Lake Worth Beach, FL 33460	4	4,500 Gallons
			1	6,700 Gallons
2	Master Pump Station	202 South Golfview Road, Lake Worth Beach, FL 33460	1	1,450 Gallons

The delivery location(s) is located within a wellfield zone. Contractor shall comply with any and all Department of Environmental Resources Management (ERM) delivery and handling requirements.

2. **Delivery and Order Fulfillment.** Delivery shall be successfully completed within 48-72 hours of order placement by Purchase Order. Pertinent and specific delivery details shall be communicated at time of order placement.

The Contractor shall be responsible for pumping the Liquid Sodium Hypochlorite into the City's storage tanks at the delivery sites (City-owned property). Additionally, the Contractor shall be responsible for supplying all required tools and equipment to safely and efficiently offload the Liquid Sodium Hypochlorite.

The Contractor's vehicle shall be equipped with a 2" Cam Lock Filler Nozzle, or equivalent, for product dispensing (unload).

The Contractor shall be solely responsible for all spills resulting from the failure of it's, or its subcontractor's, equipment or delivery personnel proper performance of their duties. Contractor's delivery personnel, or contracted courier, shall routinely inspect and observe the offloading operations.

Contractor is required before, during, and after a public emergency, disaster, hurricane, flood, or Act of God to perform its services for the City on a "first priority". It is vital and imperative that the citizens are protected from any situation that threatens public health and safety.

Time of Delivery: Monday through Friday 8:00 am to 3:00 pm; exceptions can be made for emergencies.

3. **Quantities.** Quantities specified are based on annual estimates. Prices and quantities are to be quoted based on gallons, NOT weight. There shall be no minimum order requirements. Product shall be delivered in thoroughly cleaned tank trucks. The City of Lake Worth Beach reserves the right to order in quantities less than a tanker load (LTL). Quantities specified are based on annual estimates. The City makes no guarantee regarding the quantity to be purchased and reserves the right to vary the quantities, based on need.

Product shall be delivered in bulk as follows:

- Option 1 – 5,000 Gallons (Full Truckload)
- Option 2 – Less Than 5,000 Gallons (Partial Truck Load)

4. **Delivery & Invoice Documentation.** The City requires all shipments be accompanied by a packing list or bill of lading stating, at a minimum, a description of the product and quantity. Shipments shall bear

warning labels as specified by USDOT regulations. Invoices shall contain, at a minimum, the City Purchase Order number, delivery date, quantity, product description, price, and unique invoice number.

Delivery Reports: A certified report from the manufacturer shall be submitted for each Liquid Sodium Hypochlorite delivery to the City of Lake Worth Beach. The report shall contain the following data:

- A. Date & Time of Manufacturing Process
- B. Percent by weight of:
 - 1. Sodium Hypochlorite
 - 2. Available Chlorine
 - 3. Excess Sodium Hydroxide
- C. Specific Gravity (Referenced to a temperature)
- D. Suspended Solids Test Time

No deliveries will be accepted by the City of Lake Worth Beach unless accompanied by said certified laboratory report for the specific batch of sodium hypochlorite delivered showing the above data and that it conforms to the required specifications.

5. **Quality Assurance (QA) & Returned Goods.** The Contractor shall be solely responsible for ensuring that the Liquid Sodium Hypochlorite is the correct quantity and that it meets all the specifications outlined in the Agreement and the IFB. Deliveries that do not meet bid and purchase order specifications and requirements, including quality standards, shall be subject to delivery refusal and return to the vendor, at the expense of the vendor. No costs will be incurred by the City.

The Contractor shall submit a copy of the three (3) most recent years complete NSF samples results of the product from the facility that will be supplying their product to the City of Lake Worth Beach. The City of Lake Worth Beach will use these results to ensure compliance with specifications. Failure to submit this information may result in bid disqualification.

6. **Material Safety Data Sheet (MSDS) and Safety Compliance.** A current Material Safety Data Sheet (MSDS) must be submitted for each applicable item within seven (7) calendar days of notification of award and with each shipment. The Contractor shall comply with the rules and regulations of the Florida Department of Commerce regarding industrial safety and with the standards set forth in the Occupational Safety and Health Act of 1970 (OSHA and its amendments).

7. **Liquid Sodium Hypochlorite Technical Specifications.**

- Shall be NSF approved
- Product specifications (as per AWWA Standard B300 latest revision):
 - Trade name: Hypochlorite Solution, Bleach
 - Chemical formula: NaOCl
 - Composition: Minimum: 120 G/L (12.0 Trade %), 10.3 % available chlorine by weight or 10.8% Sodium Hypochlorite by weight
 - Specific gravity: at 20C - 1.1 - 1.2
 - Molecular weight: 74.5
 - Appearance: Light-yellow to green clear liquid solution
 - Solubility in water: Complete
 - Freezing Temperature: minus 7C to minus 10C
 - Total free alkali (expressed as NaOH) < 1.5% by weight

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Water Utilities

TITLE:

Agreement with Shrieve Chemical, Co. to purchase Sulfuric Acid for water treatment

SUMMARY:

This Agreement authorizes the purchase of bulk 93% Sulfuric Acid for the City of Lake Worth Water Utilities at a cost Not-to-Exceed \$25,000.00 for Fiscal Year 2021 from Shrieve Chemical, Co.

BACKGROUND AND JUSTIFICATION:

Sulfuric Acid is a necessary chemical used in the reverse osmosis treatment process for pH adjustment and odor control.

On September 10, 2020, bids were received under IFB 20-108 for the purchase of bulk 93% Sulfuric Acid needed for the Water Treatment Plant. These bids were evaluated by staff taking into account unit costs, minimum quantities, and penalties for partial deliveries. This agreement will also authorize the City Manager to extend the agreement if requested, and with the amount not to exceed amounts set forth in the 2022, 2023 and 2024 fiscal year budget.

MOTION:

Move to approve/disapprove the agreement to purchase bulk Sodium Hypochlorite from Allied Universal for an amount not to exceed \$25,000.00 for Fiscal Year 2021.

ATTACHMENT(S):

Fiscal Impact Analysis
Agreement

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$25,000	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
 Net Fiscal Impact	 \$25,000	 0	 0	 0	 0
 No. of Addn'l Full-Time Employee Positions	 0	 0	 0	 0	 0

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

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
402-7022-533.52-30	Operating Supplies/Chemicals	N/A	\$25,000.00	\$298,000.00	-\$25,000.00	\$273,000.00

**AGREEMENT FOR GOODS AND SERVICES
(93% Sulfuric Acid)**

THIS AGREEMENT is made _____, 2020, between the **City of Lake Worth Beach**, Florida, a municipal corporation, hereinafter the "CITY", with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, and **Shrieve Chemical Company**, a corporation authorized to do business in the State of Florida, hereinafter the "CONTRACTOR", with its office located at 1755 Woodstead Ct., The Woodlands, TX 77380.

RECITALS

WHEREAS, the CITY is a municipal corporation organized and existing pursuant to the Charter and the Constitution of the State of Florida; and

WHEREAS, the CITY issued Invitation for Bid #20-108 for the procurement of 93% Sulfuric Acid on an as needed basis (hereinafter "IFB"); and

WHEREAS, CONTRACTOR submitted a bid to provide 93% Sulfuric Acid as described and set out in the IFB; and

WHEREAS, the CITY desires to accept the CONTRACTOR's bid (with the CONTRACTOR's bid price attached hereto as **Exhibit "A"**) in order for CONTRACTOR to render the goods and services to the CITY as provided herein; and

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

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

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

1. TERM

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

2. SCOPE OF WORK

2.1 The Scope of Work includes supply and delivery of 93% Sulfuric Acid on an as needed basis as more specifically set forth in the IFB's Scope of Work, which is attached hereto as **Exhibit "B"**. Work shall commence upon the issuance of a Purchase Order by the City.

2.2 The CONTRACTOR represents to the CITY that the materials provided under this Agreement shall be in accordance with accepted and established trade practices and procedures

recognized in the CONTRACTOR's trade in general and that the CONTRACTOR's work shall conform to the highest standards and in accordance with this Agreement.

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

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

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

3. INDEPENDENT CONTRACTOR; USE OF AGENTS OR ASSISTANTS

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

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

4. MATERIALS

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

5. FEE AND ORDERING MECHANISM

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

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

5.3 The CITY's ordering mechanism for the Scope of Work (including each order of chemicals) under this Agreement will be by a City issued Purchase Order(s); however, the terms and conditions stated in a City Purchase Order(s) shall not apply. CONTRACTOR shall not provide goods under this Agreement without a City Purchase Order specifically for the stated goods.

CONTRACTOR shall provide the amount of requested goods and price listed in each Purchase Order and not exceed amounts expressed on any Purchase Order. CONTRACTOR shall be liable for any excess goods or costs not specifically stated in the Purchase Order(s). The City's Fiscal Year ends on September 30th of each calendar year. The City cannot authorize the purchase of goods or services beyond September 30th of each calendar year, prior to the annual budget being approved by the City Commission. Additionally, the City must have budgeted appropriate funds for the goods and services in any subsequent Fiscal Year. If the budget is approved for said goods and services, the City will issue a new Purchase Order(s) each Fiscal Year for required and approved goods.

6. MAXIMUM COSTS

6.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to complete the Scope of Work in accordance with the IFB and this Agreement is **Forty Three Thousand, Fifty Dollars (\$43,050.00) per fiscal year**, and no additional costs shall be authorized without prior written approval from the CITY.

7. INVOICE

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

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

8. AUDIT BY CITY

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

9. COPIES OF DATA/DOCUMENTS

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

10. OWNERSHIP

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

11. WRITTEN AUTHORIZATION REQUIRED

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

12. DEFAULTS, TERMINATION OF AGREEMENT

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

12.2 Notwithstanding paragraph 12.1, the CITY reserves the right and may elect to terminate this Agreement at any time, with or without cause. At such time, the CONTRACTOR would be compensated only for that work which has been satisfactorily completed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

13. INSURANCE

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

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

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

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

14. WAIVER OF BREACH

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

15. INDEMNITY

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

15.2 The CONTRACTOR's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the CONTRACTOR whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement.

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

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

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

16. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

16.1 This Agreement consists of the terms and conditions provided herein; **Exhibit "A"**, the Contractor's bid price; **Exhibit "B"**, the IFB's Scope of Work and the remainder of the IFB (including all specifications, exhibits and addenda attached thereto or referenced therein). To the extent that there exists a conflict between this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail with the **Exhibit**

“B” and the IFB (including all specifications, exhibits and addenda attached thereto) next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

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

17. ASSIGNMENT

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

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

18. SUCCESSORS AND ASSIGNS

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

19. OF TRIAL BY JURY

19.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

20. GOVERNING LAW AND REMEDIES

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

20.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

21. TIME IS OF THE ESSENCE

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

22. NOTICES

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

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

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

Shrieve Chemical Company
1755 Woodstead Ct.
The Woodlands, TX 77380

23. SEVERABILITY

23.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

24. DELAYS AND FORCES OF NATURE

24.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR's request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time. If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may

decide. No extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary. The CONTRACTOR's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

25. COUNTERPARTS

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

26. LIMITATIONS OF LIABILITY

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

27. PUBLIC ENTITY CRIMES

27.1 CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

28. PREPARATION

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

29. PALM BEACH COUNTY INSPECTOR GENERAL

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

30. ENFORCEMENT COSTS

30.1 All parties shall be responsible for their own attorneys' fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of

construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

31. PUBLIC RECORDS

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

- (a) Keep and maintain public records required by the CITY to perform the services under this Agreement.
- (b) Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that said public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement, if the CONTRACTOR does not transfer the records to the CITY.
- (d) Upon the completion of the Agreement, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the services. If the CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, DANDREA@LAKEWORTHBEACHFL.GOV, OR BY MAIL AT CITY OF LAKE WORTH BEACH, ATTN: DEBBORAH ANDREA, 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.

32. COPYRIGHTS AND/OR PATENT RIGHTS

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

33. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH

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

34. FEDERAL AND STATE TAX

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

35. PROTECTION OF PROPERTY

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

36. DAMAGE TO PERSONS OR PROPERTY

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

37. SAFETY: ACCIDENT PREVENTION.

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

37.2 It is a condition of this Agreement, and shall be made a condition of each subcontract, which the CONTRACTOR enters into pursuant to this Agreement (if authorized), that the CONTRACTOR and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health

standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

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

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

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

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

39. SCRUTINIZED COMPANIES

39.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

39.2 If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy

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

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

39.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.

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

39.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

40. SURVIVABILITY

40.1 Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement for Goods and Services (93% Sulfuric Acid) on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Pam Triolo, Mayor

ATTEST:

By: _____
Deborah M. Andrea, CMC, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

APPROVED FOR FINANCIAL SUFFICIENCY:

By: _____
Bruce T. Miller, Financial Services Director

CONTRACTOR:

SHRIVE CHEMICAL COMPANY

By: _____
[Signature]

Print Name: Chris Burns

Title: Marketing Manager

[Corporate Seal]

STATE OF Florida)
COUNTY OF Polk)

The foregoing instrument was acknowledged before me this 20th day of September 2020, by Chris Burns, who was physically present, as Marketing Manager (title), of **Shrieve Chemical Company**, which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following _____ as identification.

Notary Public: Lynda F. Ford
Print Name: Lynda F. Ford
My commission expires: _____

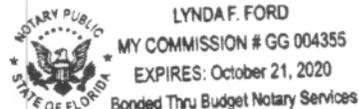


Exhibit A
CONTRACTOR'S PRICE BID

(B4)

IFB #20-108
93% Sulfuric Acid

SCHEDULE OF UNIT PRICES

In order to evaluate the total bid amount, each Bidder must identify the unit prices for the work set forth in the Scope of Work. In the event additional quantities are added to the contract by Change Order, the following unit prices will be utilized (as applicable). The quantities below are estimated annual quantities. City does not guarantee a minimum order and reserves the right to adjust these quantities as considered in the best interest of the City. The bidder acknowledges that no additional payment will be made for adjustments in the quantities. Price submitted includes all costs

Item	Description	Unit of Measure	Annual Usage	Unit Price	Annual Extended
	93% Sulfuric Acid		35,000 Gal		
	Full Truckload Price	1 Gal		\$ 1.23 /Gal	\$ 43,050 /Gal
	Partial Truckload Price	1 Gal		\$ 1.43 /Gal	\$ 50,050 /Gal

Name of Bidder: Shrieve Chemical Company, LLC

Address: 1755 Woodstead at The Woodlands TX Zip 77380

Phone: (281) 367-4286 Email: cburns@shrieve.com

Print Name: Chris Burns Title: Marketing Manager

SIGNATURE:  DATE: 9/8/20

Exhibit B
IFB Scope of Work

1. **Delivery Location(s)**. The City currently requires delivery of 93% Sulfuric Acid at the below address. The selected bidder understands, acknowledges, and agrees that the City may elect to add, remove, or revise delivery locations in the future.

Delivery Address: R/O WATER PLANT, 301 COLLEGE STREET, LAKE WORTH BEACH, FL 33460

Contractor shall comply with any and all applicable Federal, State, County, City regulations surrounding delivery and handling requirements.

2. **Delivery and Order Fulfillment**. Delivery shall be successfully completed within 48-72 hours of order placement or as stated by the ordering location. Pertinent and specific delivery details shall be communicated at time of order placement.

The contractor shall be responsible for pumping the 93% Sulfuric Acid into the City's storage tank(s) at the delivery site (City-owned property). Additionally, the contractor shall be responsible for supplying all required tools and equipment to safely and efficiently offload the 93% Sulfuric Acid.

The contractor shall be solely responsible for all spills resulting from the failure of its, or its subcontractor's, equipment or delivery personnel proper performance of their duties. Contractor's delivery personnel, or contracted courier, shall routinely inspect and observe the offloading operations.

Contractor is required that before, during, and after a public emergency, disaster, hurricane, flood, or Act of God that the municipal government, through the City, shall require a "first priority" basis for goods and services. It is vital and imperative that the citizens are protected from any situation that threatens public health and safety.

Time of Delivery: Monday through Friday 7:00 AM to 3:00 PM; exceptions can be made for emergencies.

3. **Quantities**. Quantities specified are based on annual estimates. Prices and quantities are to be quoted based on gallons, NOT weight. There shall be no minimum order requirements. Product shall be delivered in thoroughly cleaned tank trucks. The City of Lake Worth Beach reserves the right to order in quantities less than a tanker load (LTL).

4. **Delivery & Invoice Documentation**. The City requires all shipments be accompanied by a packing list or bill of lading stating, at a minimum, a description of the product and quantity. Shipments shall bear warning labels as specified by USDOT regulations. Invoices shall contain, at a minimum, the applicable City issued Purchase Order number, delivery date, quantity, product description, price, and unique invoice number.

Delivery Reports:

A certified report from the manufacturer shall be submitted for each Sulfuric Acid delivery to the City of Lake Worth Beach. The report shall contain the following data:

- A. Date & Time of Manufacture
- B. Percent by weight of:
 - 1. Strength in %
 - 2. Iron (ppm)
 - 3. NSF/ANSI Standard 60 Certification
 - 4. Quantity in Gallons
 - 5. Quantity in pounds
- C. Specific Gravity (Referenced to a temperature)

No deliveries will be accepted by the City of Lake Worth Beach unless accompanied by said certified laboratory report for the specific batch of 93% Sulfuric Acid delivered showing the above data and that it conforms to the required specifications.

5. **Quality Assurance (QA) & Returned Goods.** The successful bidder shall be solely responsible for ensuring that the 93% Sulfuric Acid is the correct quantity and that it meets all the specifications outlined in the Bid document. Deliveries that do not meet bid and purchase order specifications and requirements, including quality standards, shall be subject to delivery refusal and return to the vendor, at the expense of the vendor. No costs will be incurred by the City.

6. **Material Safety Data Sheet (MSDS) and Safety Compliance.** A current Material Safety Data Sheet (MSDS) must be submitted for each applicable item within seven (7) calendar days of notification of award and with each shipment. The successful bidder shall comply with the rules and regulations of the Florida Department of Commerce regarding industrial safety and with the standards set forth in the Occupational Safety and Health Act of 1970 (OSHA and its amendments).

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Water Utilities

TITLE:

Agreement with Department of Environmental Protection for State Revolving Fund loan for 2-inch Watermain Replacement Project Phase 5 & 6

SUMMARY:

This Agreement authorizes loan DW501750 from Florida Department of Environmental Protection (FDEP) for the 2-inch watermain replacement Phases 5 & 6 Construction project in the amount of \$2,931,051.

BACKGROUND AND JUSTIFICATION:

The City Water Utility Department has planned the replacement over six years of approximately 17 miles of 2-inch steel water pipes that are corroded and failing within the city water distribution system. The Commission directed staff to fund the capital improvement through water system revenue financing, which has resulted in award of loans under the Drinking Water State Revolving Fund. The current agreements DW501710, DW501720, DW501730, and DW501731 total \$8,645,710 and cover the first 4 phases.

This is the final agreement with the FDEP through the State Revolving Fund since the 2-inch watermain replacement program will be completed in this project. The project will encompass the final phases 5 & 6 as a single construction document. This project will also receive a principal forgiveness from the FDEP in the sum of \$694,589 or 20% of the reconciled loan amount, which ever is less.

MOTION:

Move to approve/disapprove the Agreement for loan DW501750 from Florida Department of Environmental Protection (FDEP) for the 2-inch watermain replacement Phase 5 & 6 Construction project in the amount of \$2,931,051

ATTACHMENT(S):

Fiscal Impact Analysis
FDEP Lake Worth Beach Offer Letter
Agreement DW501750

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	2,931,051	0	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	694,589	0	0	0	0
Net Fiscal Impact	2,931,051	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
422-7034-533.63-15	Water Distribution Improve	WT1902	\$5,190,000	\$5,190,000	\$2,931,051	\$2,258,949

C. Department Fiscal Review:_____

Brian Shields – Director
 Bruce Miller – Finance Director
 Christy Goddeau – Legal
 Michael Bornstein – City Manager



FLORIDA DEPARTMENT OF Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, FL 32399

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

August 14, 2020

Mr. Giles Rhoads, P.E
Utilities Engineer
City of Lake Worth Beach
301 College Street
Lake Worth Beach, Florida 33460

Re: DW501750 – Lake Worth Beach
Water Main Replacement Phase 5 & 6

Dear Mr. Rhoads:

Attached is a copy of the proposed State Revolving Fund loan agreement for the City's water main replacement for phase 5 and 6 project.

Please have the appropriate officials sign and seal two copies and return them to us within three weeks at 3900 Commonwealth Boulevard, MS 3505, Tallahassee, Florida, 32399-3000. We will sign the documents and mail a fully executed original to you. Please note that the Special Conditions listed in Section 10.08 of the Agreement must be provided before any funds can be released.

We appreciate your participation in the State Revolving Fund loan program. If you have any questions about the loan agreement, please call Megan Strohl at (850)245-2899.

Sincerely,

A handwritten signature in blue ink that reads "Angela Knecht".

Angela Knecht, Program Administrator
State Revolving Fund Management

AK/ms

Attachment

cc: Brian Shields, P.E – City of Lake Worth Beach
Michael Bornstein – City of Lake Worth Beach

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

AND

CITY OF LAKE WORTH BEACH, FLORIDA

**DRINKING WATER STATE REVOLVING FUND
CONSTRUCTION LOAN AGREEMENT**

DW501750

Florida Department of Environmental Protection
State Revolving Fund Program
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard, MS 3505
Tallahassee, Florida 32399-3000

DRINKING WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT

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DRINKING WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT

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**DRINKING WATER STATE REVOLVING FUND
CONSTRUCTION LOAN AGREEMENT
DW501750**

THIS AGREEMENT is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and the CITY OF LAKE WORTH BEACH, FLORIDA, (Project Sponsor) existing as a local governmental entity under the laws of the State of Florida. Collectively, the Department and the Project Sponsor shall be referred to as “Parties” or individually as “Party”.

RECITALS

Pursuant to Section 403.8532, Florida Statutes and Chapter 62-552, Laws of Florida, the Department is authorized to make loans to finance or refinance the construction of public water systems, the planning and design of which have been reviewed by the Department; and

The Department is authorized to allow Principal Forgiveness on Loans funded by the Federal Drinking Water Act; and

The Project Sponsor has applied for financing of the Project, and the Department has determined that such Project meets all requirements for a Loan and Principal Forgiveness.

AGREEMENT

In consideration of the Department loaning money to the Project Sponsor, in the principal amount and pursuant to the covenants set forth below, it is agreed as follows:

ARTICLE I - DEFINITIONS

1.01. WORDS AND TERMS.

Words and terms used herein shall have the meanings set forth below:

- (1) “Agreement” or “Loan Agreement” shall mean this construction loan agreement.
- (2) “Authorized Representative” shall mean the official of the Project Sponsor authorized by ordinance or resolution to sign documents associated with the Loan.
- (3) “Capitalized Interest” shall mean the finance charge that accrues at the Financing Rate on Loan proceeds from the time of disbursement until six months before the first Semiannual Loan Payment is due. Capitalized Interest is financed as part of the Loan principal.
- (4) “Depository” shall mean a bank or trust company, having a combined capital and unimpaired surplus of not less than \$50 million, authorized to transact commercial banking or savings and loan business in the State of Florida and insured by the Federal Deposit Insurance Corporation.

(5) “Final Amendment” shall mean the final agreement executed between the parties that establishes the final terms for the Loan such as the final Loan amount, the Financing Rate, Loan Service Fee, amortization schedule and Semiannual Loan Payment amount.

(6) “Final Unilateral Amendment” shall mean the Loan Agreement unilaterally finalized by the Department after Loan Agreement and Project abandonment under Section 8.06 that establishes the final amortization schedule for the Loan.

(7) “Financing Rate” shall mean the charges, expressed as a percent per annum, imposed on the unpaid principal of the Loan.

(8) “Gross Revenues” shall mean all income or earnings received by the Project Sponsor from the ownership or operation of its Water System, including investment income, all as calculated in accordance with generally accepted accounting principles. Gross Revenues shall not include proceeds from the sale or other disposition of any part of the Water System, condemnation awards or proceeds of insurance, except use and occupancy or business interruption insurance, received with respect to the Water System.

(9) “Loan” shall mean the amount of money to be loaned pursuant to this Agreement and subsequent amendments.

(10) “Loan Application” shall mean the completed form which provides all information required to support obtaining construction loan financial assistance.

(11) “Loan Debt Service Account” shall mean an account, or a separately identified component of a pooled cash or liquid account, with a Depository established by the Project Sponsor for the purpose of accumulating Monthly Loan Deposits and making Semiannual Loan Payments.

(12) “Loan Service Fee” shall mean an origination fee which shall be paid to the Department by the Project Sponsor.

(13) “Local Governmental Entity” means a county, municipality, or special district.

(14) “Monthly Loan Deposit” shall mean the monthly deposit to be made by the Project Sponsor to the Loan Debt Service Account.

(15) “Operation and Maintenance Expense” shall mean the costs of operating and maintaining the Water System determined pursuant to generally accepted accounting principles, exclusive of interest on any debt payable from Gross Revenues, depreciation, and any other items not requiring the expenditure of cash.

(16) “Parity Debt” shall mean any debt obligations issued that are on an equal commercial lien position with this Loan.

(17) “Pledged Revenues” shall mean the specific revenues pledged as security for repayment of the Loan and shall be the Gross Revenues derived yearly from the operation of the Water System after payment of the Operation and Maintenance Expense and the satisfaction of

all yearly payment obligations on account of the Senior Revenue Debt and any senior or parity obligations issued pursuant to Section 7.02 of this Agreement.

(18) “Principal Forgiveness” shall mean the amount of money awarded pursuant to this Agreement and subsequent amendments that is not to be repaid.

(19) “Project” shall mean the works financed by this Loan and shall consist of furnishing all labor, materials, and equipment to construct the water main replacement phases 5 and 6 in accordance with the plans and specifications accepted by the Department for the “Lake Worth Beach 2 Inch Water Main Replacement Phases V & VI” contract.

The Project is in agreement with the planning documentation accepted by the Department effective July 16, 2015. A Florida Categorical Exclusion Notice was published on July 16, 2015 and no adverse comments were received. The Project is an Equivalency Project as defined in Chapter 62-552, Florida Administrative Code.

(20) “Semiannual Loan Payment” shall mean the payment due from the Project Sponsor to the Department at six-month intervals.

(21) “Senior Revenue Debt” shall mean the following debt obligations:

(a) City of Lake Worth, Florida, Utility System Refunding Revenue Bonds, Series 2013, issued in the amount of \$54,030,000, pursuant to Resolution No. 27-2013; amending and supplementing Resolution No. 63-2004; and

(b) Any refunding bonds issued to refund the obligations identified above provided such bonds shall not increase annual debt service during the repayment period of this Loan.

(22) “Water System” shall mean all facilities owned by the Project Sponsor for supplying and distributing water for residential, commercial, industrial, and governmental use.

1.02. CORRELATIVE WORDS.

Words of the masculine gender shall be understood to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural and the word “person” shall include corporations and associations, including public entities, as well as natural persons.

ARTICLE II - WARRANTIES, REPRESENTATIONS AND COVENANTS

2.01. WARRANTIES, REPRESENTATIONS AND COVENANTS.

The Project Sponsor warrants, represents and covenants that:

(1) The Project Sponsor has full power and authority to enter into this Agreement and to comply with the provisions hereof.

(2) The Project Sponsor currently is not the subject of bankruptcy, insolvency, or reorganization proceedings and is not in default of, or otherwise subject to, any agreement or any law, administrative regulation, judgment, decree, note, resolution, charter or ordinance which would currently restrain or enjoin it from entering into, or complying with, this Agreement.

(3) There is no material action, suit, proceeding, inquiry or investigation, at law or in equity, before any court or public body, pending or, to the best of the Project Sponsor's knowledge, threatened, which seeks to restrain or enjoin the Project Sponsor from entering into or complying with this Agreement.

(4) All permits, real property interests, and approvals required as of the date of this Agreement have been obtained for construction and use of the Project. The Project Sponsor knows of no reason why any future required permits or approvals are not obtainable.

(5) The Project Sponsor shall undertake the Project on its own responsibility, to the extent permitted by law.

(6) To the extent permitted by law, the Project Sponsor shall release and hold harmless the State, its officers, members, and employees from any claim arising in connection with the Project Sponsor's actions or omissions in its planning, engineering, administrative, and construction activities financed by this Loan or its operation of the Project.

(7) All Project Sponsor representations to the Department, pursuant to the Loan Application and Agreement, were true and accurate as of the date such representations were made. The financial information delivered by the Project Sponsor to the Department was current and correct as of the date such information was delivered. The Project Sponsor shall comply with Chapter 62-552, Florida Administrative Code, and all applicable State and Federal laws, rules, and regulations which are identified in the Loan Application or Agreement. Minority and Women's Business Enterprise goals as stated in the plans and specifications apply to this Project. To the extent that any assurance, representation, or covenant requires a future action, the Project Sponsor shall take such action to comply with this agreement.

(8) The Project Sponsor shall maintain records using Generally Accepted Accounting principles established by the Financial Accounting Standards Board. As part of its bookkeeping system, the Project Sponsor shall keep accounts of the Water System separate from all other accounts and it shall keep accurate records of all revenues, expenses, and expenditures relating to the Water System, and of the Pledged Revenues, Loan disbursement receipts, and Loan Debt Service Account.

(9) In the event the anticipated Pledged Revenues are shown by the Project Sponsor's annual budget to be insufficient to make the Semiannual Loan Payments for such Fiscal Year when due, the Project Sponsor shall include in such budget other legally available non-ad valorem funds which will be sufficient, together with the Pledged Revenues, to make the Semiannual Loan Payments. Such other legally available non-ad valorem funds shall be budgeted in the regular annual governmental budget and designated for the purpose provided by this Subsection, and the Project Sponsor shall collect such funds for application as provided herein. The Project Sponsor shall notify the Department immediately in writing of any such

budgeting of other legally available non-ad valorem funds. Nothing in this covenant shall be construed as creating a pledge, lien, or charge upon any such other legally available non-ad valorem funds; requiring the Project Sponsor to levy or appropriate ad valorem tax revenues; or preventing the Project Sponsor from pledging to the payment of any bonds or other obligations all or any part of such other legally available non-ad valorem funds.

(10) Pursuant to Section 216.347 of the Florida Statutes, the Project Sponsor shall not use this Loan for the purpose of lobbying the Florida Legislature, the Judicial Branch, or a State agency.

(11) The Project Sponsor agrees to construct the Project in accordance with the Project schedule set forth in Section 10.07. Delays incident to strikes, riots, acts of God, and other events beyond the reasonable control of the Project Sponsor are excepted. If for any reason construction is not completed as scheduled, there shall be no resulting diminution or delay in the Semiannual Loan Payment or the Monthly Loan Deposit.

(12) The Project Sponsor covenants that this Agreement is entered into for the purpose of constructing, refunding, or refinancing the Project which will in all events serve a public purpose. The Project Sponsor covenants that it will, under all conditions, complete and operate the Project to fulfill the public need.

(13) The Project Sponsor shall update the revenue generation system annually to assure that sufficient revenues are generated for debt service; operation and maintenance; replacement of equipment, accessories, and appurtenances necessary to maintain the system design capacity and performance during its design life; and to make the system financially self-sufficient.

2.02. LEGAL AUTHORIZATION.

Upon signing this Agreement, the Project Sponsor's legal counsel hereby expresses the opinion, subject to laws affecting the rights of creditors generally, that:

(1) This Agreement has been duly authorized by the Project Sponsor and shall constitute a valid and legal obligation of the Project Sponsor enforceable in accordance with its terms upon execution by both parties; and

(2) This Agreement identifies the revenues pledged for repayment of the Loan, and the pledge is valid and enforceable.

2.03. AUDIT AND MONITORING REQUIREMENTS.

The Project Sponsor agrees to the following audit and monitoring requirements.

(1) The financial assistance authorized pursuant to this Loan Agreement consists of the following:

Federal Resources, Including State Match, Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
FS98452219-0	EPA	66.468	Capitalization Grants for Drinking Water State Revolving Fund	\$3,623,940	140129

(2) Audits.

(a) In the event that the Project Sponsor expends \$750,000 or more in Federal awards in its fiscal year, the Project Sponsor must have a Federal single audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. In determining the Federal awards expended in its fiscal year, the Project Sponsor shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F. An audit of the Project Sponsor conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F, will meet the requirements of this part.

(b) In connection with the audit requirements addressed in the preceding paragraph (a), the Project Sponsor shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR Part 200, Subpart F.

(c) If the Project Sponsor expends less than \$750,000, in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F, is not required. The Project Sponsor shall inform the Department of findings and recommendations pertaining to the State Revolving Fund in audits conducted by the Project Sponsor. In the event that the Project Sponsor expends less than \$750,000, in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from Project Sponsor resources obtained from other than Federal entities).

(d) The Project Sponsor may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at www.cfda.gov/index?cck=1&au=&cck=.

(3) Report Submission.

(a) Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F, and required by Subsection 2.03(2) of this Agreement shall be submitted, when required by 2 CFR Part 200, Subpart F, by or on behalf of the Project Sponsor directly to each of the following:

- (i) The Department at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of the Inspector General, MS40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-30000

or

Electronically:

FDEPSingleAudit@dep.state.fl.us

- (ii) The Federal Audit Clearinghouse designated in 2 CFR Section 200.501(a) at the following address:

<https://harvester.census.gov/facweb/>

- (iii) Other Federal agencies and pass-through entities in accordance with 2 CFR Section 200.512.

(b) Pursuant to 2 CFR Part 200, Subpart F, the Project Sponsor shall submit a copy of the reporting package described in 2 CFR Part 200, Subpart F, and any management letters issued by the auditor, to the Department at the address listed under Subsection 2.03(3)(a)(i) of this Agreement.

(c) Any reports, management letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely in accordance with 2 CFR Part 200, Subpart F, Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

(d) Project Sponsors, when submitting financial reporting packages to the Department for audits done in accordance with 2 CFR Part 200, Subpart F, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Project Sponsor in correspondence accompanying the reporting package.

(4) Record Retention.

The Project Sponsor shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date of the Final Amendment, and shall allow the Department, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The Project Sponsor shall ensure that audit working papers are made available to the Department, or its designee, Chief Financial Officer, or Auditor General upon request for a period of five years from the date of the Final Amendment, unless extended in writing by the Department.

(5) Monitoring.

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F, as revised (see audit requirements above), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by 2 CFR Part 200, Subpart F., and/or other procedures. By entering into this Agreement, the Project Sponsor agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Project Sponsor is appropriate, the Project Sponsor agrees to comply with any additional instructions provided by the Department to the Project Sponsor regarding such audit. The Project Sponsor understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. The Project Sponsor will comply with this duty and ensure that any subcontracts issued under this Agreement will impose this requirement, in writing, on its subcontractors.

ARTICLE III - LOAN REPAYMENT ACCOUNT

3.01. LOAN DEBT SERVICE ACCOUNT.

The Project Sponsor shall establish a Loan Debt Service Account with a Depository and begin making Monthly Loan Deposits no later than the date set forth for such action in Section 10.07 of this Agreement.

Beginning six months prior to each Semiannual Loan Payment, the Project Sponsor shall make six Monthly Loan Deposits. The first five deposits each shall be at least equal to one-sixth of the Semiannual Loan Payment. The sixth Monthly Loan Deposit shall be at least equal to the amount required to make the total on deposit in the Loan Debt Service Account equal to the Semiannual Loan Payment amount, taking into consideration investment earnings credited to the account pursuant to Section 3.02.

Any month in which the Project Sponsor fails to make a required Monthly Loan Deposit, the Project Sponsor's chief financial officer shall notify the Department of such failure. In addition, the Project Sponsor agrees to budget, by amendment if necessary, payment to the Department from other legally available non-ad valorem funds all sums becoming due before the same become delinquent. This requirement shall not be construed to give superiority to the Department's claim on any revenues over prior claims of general creditors of the Project Sponsor, nor shall it be construed to give the Department the power to require the Project Sponsor to levy and collect any revenues other than Pledged Revenues.

3.02. INVESTMENT OF LOAN DEBT SERVICE ACCOUNT MONEYS.

Moneys on deposit in the Loan Debt Service Account shall be invested pursuant to the laws of the State of Florida. Such moneys may be pooled for investment purposes. The maturity or redemption date of investments shall be not later than the date upon which such moneys may be needed to make Semiannual Loan Payments. The investment earnings shall be credited to the Loan Debt Service Account and applied toward the Monthly Loan Deposit requirements.

3.03. LOAN DEBT SERVICE ACCOUNT WITHDRAWALS.

The withdrawal of moneys from the Loan Debt Service Account shall be for the sole purpose of making the Semiannual Loan Payment or for discharging the Project Sponsor's obligations pursuant to Section 8.01.

3.04. ASSETS HELD IN TRUST.

The assets in all accounts created under this Loan Agreement shall be held in trust for the purposes provided herein and used only for the purposes and in the manner prescribed in this Agreement; and, pending such use, said assets shall be subject to a lien and charge in favor of the Department.

ARTICLE IV - PROJECT INFORMATION

4.01. PROJECT CHANGES.

Project changes prior to bid opening shall be made by addendum to plans and specifications. Changes after bid opening shall be made by change order. The Project Sponsor shall submit all addenda and all change orders to the Department for an eligibility determination. After execution of all construction, equipment and materials contracts, the Project contingency may be reduced.

4.02. TITLE TO PROJECT SITE.

The Project Sponsor shall have an interest in real property sufficient for the construction and location of the Project free and clear of liens and encumbrances which would impair the usefulness of such sites for the intended use.

4.03. PERMITS AND APPROVALS.

The Project Sponsor shall have obtained, prior to the Department's authorization to award construction contracts, all permits and approvals required for construction of the Project or portion of the Project funded under this Agreement.

4.04. ENGINEERING SERVICES.

A professional engineer, registered in the State of Florida, shall be employed by, or under contract with, the Project Sponsor to oversee construction.

4.05. PROHIBITION AGAINST ENCUMBRANCES.

The Project Sponsor is prohibited from selling, leasing, or disposing of any part of the Water System which would materially reduce operational integrity or Gross Revenues so long as this Agreement, including any amendments thereto, is in effect unless the written consent of the Department is first secured. The Project Sponsor may be required to reimburse the Department for the Principal Forgiveness funded cost of any such part, taking into consideration any increase or decrease in value.

4.06. COMPLETION MONEYS.

In addition to the proceeds of this Loan, the Project Sponsor covenants that it has obtained, or will obtain, sufficient moneys from other sources to complete construction and place the Project in operation on, or prior to, the date specified in Article X. Failure of the Department to approve additional financing shall not constitute a waiver of the Project Sponsor's covenants to complete and place the Project in operation.

4.07. CLOSE-OUT.

The Department shall conduct a final inspection of the Project and Project records. Following the inspection, deadlines for submitting additional disbursement requests, if any, shall be established, along with deadlines for uncompleted Loan or Principal Forgiveness requirements, if any. Deadlines shall be incorporated into the Loan Agreement by amendment. The Loan principal shall be reduced by any excess over the amount required to pay all approved costs. As a result of such adjustment, the Semiannual Loan Payment shall be reduced accordingly, as addressed in Section 10.05.

4.08. DISBURSEMENTS.

Disbursements shall be made only by the State Chief Financial Officer and only when the requests for such disbursements are accompanied by a Department certification that such withdrawals are proper expenditures. Disbursements shall be made directly to the Project Sponsor for reimbursement of the incurred construction costs and related services.

Disbursements for materials, labor, or services shall be made upon receipt of the following:

(1) A completed disbursement request form signed by the Authorized Representative. Such requests must be accompanied by sufficiently itemized summaries of the materials, labor, or services to identify the nature of the work performed; the cost or charges for such work; and the person providing the service or performing the work, and proof of payment.

(2) A certification signed by the Authorized Representative as to the current estimated costs of the Project; that the materials, labor, or services represented by the invoice have been satisfactorily purchased, performed, or received and applied to the project; that all funds received to date have been applied toward completing the Project; and that under the terms and provisions of the contracts, the Project Sponsor is required to make such payments.

(3) A certification by the engineer responsible for overseeing construction stating that equipment, materials, labor and services represented by the construction invoices have been satisfactorily purchased, or received, and applied to the Project in accordance with construction contract documents; stating that payment is in accordance with construction contract provisions; stating that construction, up to the point of the requisition, is in compliance with the contract documents; and identifying all additions or deletions to the Project which have altered the Project's performance standards, scope, or purpose since the issue of the Department construction permit.

(4) Such other certificates or documents by engineers, attorneys, accountants, contractors, or suppliers as may reasonably be required by the Department.

ARTICLE V - RATES AND USE OF THE WATER SYSTEM

5.01. RATE COVERAGE.

The Project Sponsor shall maintain rates and charges for the services furnished by the Water System which will be sufficient to provide, in each Fiscal Year, Pledged Revenues equal to or exceeding 1.15 times the sum of the Semiannual Loan Payments due in such Fiscal Year. In addition, the Project Sponsor shall satisfy the coverage requirements of all Senior Revenue Debt and Parity Debt obligations.

5.02. NO FREE SERVICE.

The Project Sponsor shall not permit connections to, or furnish any services afforded by, the Water System without making a charge therefore based on the Project Sponsor's uniform schedule of rates, fees, and charges.

5.03. RESERVED.

5.04. NO COMPETING SERVICE.

The Project Sponsor shall not allow any person to provide any services which would compete with the Water System so as to adversely affect Gross Revenues.

5.05. MAINTENANCE OF THE WATER SYSTEM.

The Project Sponsor shall operate and maintain the Water System in a proper, sound and economical manner and shall make all necessary repairs, renewals and replacements.

5.06. ADDITIONS AND MODIFICATIONS.

The Project Sponsor may make any additions, modifications or improvements to the Water System which it deems desirable and which do not materially reduce the operational integrity of any part of the Water System. All such renewals, replacements, additions, modifications and improvements shall become part of the Water System.

5.07. COLLECTION OF REVENUES.

The Project Sponsor shall use its best efforts to collect all rates, fees and other charges due to it. The Project Sponsor shall establish liens on premises served by the Water System for the amount of all delinquent rates, fees and other charges where such action is permitted by law. The Project Sponsor shall, to the full extent permitted by law, cause to discontinue the services of the Water System and use its best efforts to shut off water service furnished to persons who are delinquent beyond customary grace periods in the payment of Water System rates, fees and other charges.

ARTICLE VI - DEFAULTS AND REMEDIES

6.01. EVENTS OF DEFAULT.

Upon the occurrence of any of the following events (the Events of Default) all obligations on the part of Department to make any further disbursements hereunder shall, if Department elects, terminate. The Department may, at its option, exercise any of its remedies set forth in this Agreement, but Department may make any disbursements or parts of disbursements after the happening of any Event of Default without thereby waiving the right to exercise such remedies and without becoming liable to make any further disbursement:

(1) Failure to make any Monthly Loan Deposit or to make any installment of the Semiannual Loan Payment when it is due and such failure shall continue for a period of 30 days.

(2) Except as provided in Subsection 6.01(1), failure to comply with the provisions of this Agreement, failure in the performance or observance of any of the covenants or actions required by this Agreement or the Suspension of this Agreement by the Department pursuant to Section 8.14, below, and such failure shall continue for a period of 30 days after written notice thereof to the Project Sponsor by the Department.

(3) Any warranty, representation or other statement by, or on behalf of, the Project Sponsor contained in this Agreement or in any information furnished in compliance with, or in reference to, this Agreement, which is false or misleading, or if Project Sponsor shall fail to keep, observe or perform any of the terms, covenants, representations or warranties contained in this Agreement, the Note, or any other document given in connection with the Loan (provided, that with respect to non-monetary defaults, Department shall give written notice to Project Sponsor, which shall have 30 days to cure any such default), or is unable or unwilling to meet its obligations thereunder.

(4) An order or decree entered, with the acquiescence of the Project Sponsor, appointing a receiver of any part of the Water System or Gross Revenues thereof; or if such order or decree, having been entered without the consent or acquiescence of the Project Sponsor, shall not be vacated or discharged or stayed on appeal within 60 days after the entry thereof.

(5) Any proceeding instituted, with the acquiescence of the Project Sponsor, for the purpose of effecting a composition between the Project Sponsor and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from Gross Revenues of the Water System.

(6) Any bankruptcy, insolvency or other similar proceeding instituted by, or against, the Project Sponsor under federal or state bankruptcy or insolvency law now or hereafter in effect and, if instituted against the Project Sponsor, is not dismissed within 60 days after filing.

(7) Any charge is brought alleging violations of any criminal law in the implementation of the Project or the administration of the proceeds from this Loan against one or more officials of the Project Sponsor by a State or Federal law enforcement authority, which charges are not withdrawn or dismissed within 60 days following the filing thereof.

(8) Failure of the Project Sponsor to give immediate written notice of its knowledge of a potential default or an event of default, hereunder, to the Department and such failure shall continue for a period of 30 days.

6.02. REMEDIES.

All rights, remedies, and powers conferred in this Agreement and the transaction documents are cumulative and are not exclusive of any other rights or remedies, and they shall be in addition to every other right, power, and remedy that Department may have, whether specifically granted in this Agreement or any other transaction document, or existing at law, in equity, or by statute. Any and all such rights and remedies may be exercised from time to time and as often and in such order as Department may deem expedient. Upon any of the Events of Default and subject to the rights of others having prior liens on the Pledged Revenues, the Department may enforce its rights by, *inter alia*, any of the following remedies:

(1) By mandamus or other proceeding at law or in equity, cause to establish rates and collect fees and charges for use of the Water System, and to require the Project Sponsor to fulfill this Agreement.

(2) By action or suit in equity, require the Project Sponsor to account for all moneys received from the Department or from the ownership of the Water System and to account for the receipt, use, application, or disposition of the Pledged Revenues.

(3) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Department.

(4) By applying to a court of competent jurisdiction, cause to appoint a receiver to manage the Water System, establish and collect fees and charges, and apply the revenues to the reduction of the obligations under this Agreement.

(5) By certifying to the Auditor General and the Chief Financial Officer delinquency on loan repayments, the Department may intercept the delinquent amount plus six percent, expressed as an annual interest rate, penalty of the amount due to the Department from any unobligated funds due to the Project Sponsor under any revenue or tax sharing fund established by the State, except as otherwise provided by the State Constitution or State law. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.

(6) By notifying financial market credit rating agencies and potential creditors.

(7) By suing for payment of amounts due, or becoming due, with interest on overdue payments together with all costs of collection, including attorneys' fees.

(8) By accelerating the repayment schedule or increasing the interest rate on the unpaid principal of the Loan to as much as 1.667 times the Financing Rate.

6.03. DELAY AND WAIVER.

No course of dealing between Department and Project Sponsor, or any failure or delay on the part of Department in exercising any rights or remedies hereunder, shall operate as a waiver of any rights or remedies of Department, and no single or partial exercise of any rights or remedies hereunder shall operate as a waiver or preclude the exercise of any other rights or remedies hereunder. No delay or omission by the Department to exercise any right or power accruing upon Events of Default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised as often as may be deemed expedient. No waiver or any default under this Agreement shall extend to or affect any subsequent Events of Default, whether of the same or different provision of this Agreement, or shall impair consequent rights or remedies.

ARTICLE VII - THE PLEDGED REVENUES

7.01. SUPERIORITY OF THE PLEDGE TO THE DEPARTMENT.

From and after the effective date of this Agreement, the Department shall have a lien on the Pledged Revenues, which along with any other Department State Revolving Fund liens on the Pledged Revenues, of equal priority, will be prior and superior to any other lien, pledge or assignment with the following exception. All obligations of the Project Sponsor under this Agreement shall be junior, inferior, and subordinate in all respects in right of payment and security to the Senior Revenue Debt defined in Section 1.01 of this Agreement and to any additional senior obligations issued with the Department's consent pursuant to Section 7.02. The Department may release its lien on such Pledged Revenues in favor of the Department if the Department makes a determination in its sole discretion, based upon facts deemed sufficient by the Department, that the remaining Pledged Revenues will, in each Fiscal Year, equal or exceed 1.15 times the debt service coming due in each Fiscal Year under the terms of this Agreement.

7.02. ADDITIONAL DEBT OBLIGATIONS.

The Project Sponsor may issue additional debt obligations on a parity with, or senior to, the lien of the Department on the Pledged Revenues provided the Department's written consent is obtained. Such consent may be granted if the Project Sponsor demonstrates at the time of such issuance that the Pledged Revenues, which may take into account reasonable projections of growth of the Water System and revenue increases, plus revenues to be pledged to the additional proposed debt obligations will, during the period of time Semiannual Loan Payments are to be made under this Agreement, equal or exceed 1.15 times the annual combined debt service requirements of this Agreement and the obligations proposed to be issued by the Project Sponsor and will satisfy the coverage requirements of all other debt obligations secured by the Pledged Revenues.

ARTICLE VIII - GENERAL PROVISIONS

8.01. DISCHARGE OF OBLIGATIONS.

All Semiannual Loan payments required to be made under this Agreement shall be cumulative and any deficiencies in any Fiscal Year shall be added to the payments due in the

succeeding year and all years thereafter until fully paid. Payments shall continue to be secured by this Agreement until all of the payments required shall be fully paid to the Department. If at any time the Project Sponsor shall have paid, or shall have made provision for the timely payment of, the entire principal amount of the Loan and interest, the pledge of, and lien on, the Pledged Revenues to the Department shall be no longer in effect. Deposit of sufficient cash, securities, or investments, authorized by law, from time to time, may be made to effect defeasance of this Loan. However, the deposit shall be made in irrevocable trust with a banking institution or trust company for the sole benefit of the Department. There shall be no penalty imposed by the Department for early retirement of this Loan.

8.02. PROJECT RECORDS AND STATEMENTS.

Books, records, reports, engineering documents, contract documents, and papers shall be available to the authorized representatives of the Department for inspection at any reasonable time after the Project Sponsor has received a disbursement and until five years after the Final Amendment date.

8.03. ACCESS TO PROJECT SITE.

The Project Sponsor shall provide access to Project sites and administrative offices to authorized representatives of the Department at any reasonable time. The Project Sponsor shall cause its engineers and contractors to cooperate during Project inspections, including making available working copies of plans and specifications and supplementary materials.

8.04. ASSIGNMENT OF RIGHTS UNDER AGREEMENT.

The Department may assign any part of its rights under this Agreement after notification to the Project Sponsor. The Project Sponsor shall not assign rights created by this Agreement without the written consent of the Department.

8.05. AMENDMENT OF AGREEMENT.

This Agreement may be amended in writing, except that no amendment shall be permitted which is inconsistent with statutes, rules, regulations, executive orders, or written agreements between the Department and the U.S. Environmental Protection Agency (EPA). This Agreement may be amended after all construction contracts are executed to re-establish the Project cost, Loan amount, Project schedule, and Semiannual Loan Payment amount. A Final Amendment establishing the final Project and the Loan Service Fee based on actual Project costs shall be completed after the Department's final inspection of the Project records.

8.06. ABANDONMENT, TERMINATION OR VOLUNTARY CANCELLATION.

Failure of the Project Sponsor to actively prosecute or avail itself of this Loan (including e.g. described in para 1 and 2 below) shall constitute its abrogation and abandonment of the rights hereunder, and the Department may then, upon written notification to the Project Sponsor, suspend or terminate this Agreement.

(1) Failure of the Project Sponsor to draw Loan proceeds within eighteen months after the effective date of this Agreement, or by the date set in Section 10.07 to establish the Loan Debt Service Account, whichever date occurs first.

(2) Failure of the Project Sponsor, after the initial Loan draw, to draw any funds under the Loan Agreement for twenty-four months, without approved justification or demonstrable progress on the Project.

Upon a determination of abandonment by the Department, the Loan will be suspended, and the Department will implement administrative close out procedures (in lieu of those in Section 4.07) and provide written notification of Final Unilateral Amendment to the Project Sponsor.

In the event that following the execution of this Agreement, the Project Sponsor decides not to proceed with this Loan, this Agreement can be cancelled by the Project Sponsor, without penalty, if no funds have been disbursed.

8.07. SEVERABILITY CLAUSE.

If any provision of this Agreement shall be held invalid or unenforceable, the remaining provisions shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

8.08. SIGNAGE.

The Project Sponsor agrees to comply with signage guidance in order to enhance public awareness of EPA assistance agreements nationwide. A copy of this guidance is listed as on the Department's webpage at <https://floridadep.gov/wra/srf/content/state-revolving-fund-resources-and-documents> as "Guidance for Meeting EPA's Signage Requirements".

8.09. DAVIS-BACON ACT REQUIREMENTS.

(1) The Project Sponsor shall periodically interview 10% of the work force entitled to Davis-Bacon prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. Project Sponsors shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. As provided in 29 CFR 5.6(a)(5) all interviews must be conducted in confidence. The Project Sponsor must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from the EPA on request.

(2) The Project Sponsor shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Project Sponsor shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with Davis-Bacon posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Project Sponsors must conduct more frequent spot checks if the

initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with Davis-Bacon. In addition, during the examinations the Project Sponsor shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(3) The Project Sponsor shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor (DOL) or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of laborers, trainees, and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in items (1) and (2) above.

(4) Project Sponsors must immediately report potential violations of the Davis-Bacon prevailing wage requirements to the EPA Davis-Bacon contact Sheryl Parsons at Parsons.Sheryl@epamail.epa.gov and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/whd/america2.htm>.

8.10. AMERICAN IRON AND STEEL REQUIREMENT.

The Project Sponsor's subcontracts must contain requirements that all of the iron and steel products used in the Project are in compliance with the American Iron and Steel requirement as described in Section 608 of the Federal Water Pollution Control Act unless the Project Sponsor has obtained a waiver pertaining to the Project or the Department has advised the Project Sponsor that the requirement is not applicable to the Project.

8.11. RESERVERD.

8.12. PUBLIC RECORDS ACCESS.

(1) The Project Sponsor shall comply with Florida Public Records law under Chapter 119, F.S. Records made or received in conjunction with this Agreement are public records under Florida law, as defined in Section 119.011(12), F.S. The Project Sponsor shall keep and maintain public records required by the Department to perform the services under this Agreement.

(2) This Agreement may be unilaterally canceled by the Department for refusal by the Project Sponsor to either provide to the Department upon request, or to allow inspection and copying of all public records made or received by the Project Sponsor in conjunction with this Agreement and subject to disclosure under Chapter 119, F.S., and Section 24(a), Article I, Florida Constitution.

(3) IF THE PROJECT SPONSOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROJECT SPONSOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT (850)245-2118, by email at public.services@dep.state.fl.us, or at the mailing address below:

**Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Blvd, MS 49
Tallahassee, FL 32399**

8.13. SCRUTINIZED COMPANIES.

(1) The Project Sponsor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Project Sponsor or its subcontractors are found to have submitted a false certification; or if the Project Sponsor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

(2) If this Agreement is for more than one million dollars, the Project Sponsor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Project Sponsor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Project Sponsor, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

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

(4) As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

8.14. SUSPENSION.

The Department may suspend any or all of its obligations to Loan or provide financial accommodation to the Project Sponsor under this Agreement in the following events, as determined by the Department:

- (1) The Project Sponsor abandons or discontinues the Project before its completion,
- (2) The commencement, prosecution, or timely completion of the Project by the Project Sponsor is rendered improbable or the Department has reasonable grounds to be insecure in Project Sponsor's ability to perform, or
- (3) The implementation of the Project is determined to be illegal, or one or more officials of the Project Sponsor in responsible charge of, or influence over, the Project is charged

with violating any criminal law in the implementation of the Project or the administration of the proceeds from this Loan.

The Department shall notify the Project Sponsor of any suspension by the Department of its obligations under this Agreement, which suspension shall continue until such time as the event or condition causing such suspension has ceased or been corrected, or the Department has re-instated the Agreement.

Project Sponsor shall have no more than 30 days following notice of suspension hereunder to remove or correct the condition causing suspension. Failure to do so shall constitute a default under this Agreement.

Following suspension of disbursements under this Agreement, the Department may require reasonable assurance of future performance from Project Sponsor prior to re-instating the Loan. Such reasonable assurance may include, but not be limited to, a payment mechanism using two party checks, escrow or obtaining a Performance Bond for the work remaining.

Following suspension, upon failure to cure, correct or provide reasonable assurance of future performance by Project Sponsor, the Department may exercise any remedy available to it by this Agreement or otherwise and shall have no obligation to fund any remaining Loan balance under this Agreement.

ARTICLE IX - CONSTRUCTION CONTRACTS AND INSURANCE

9.01. AUTHORIZATION TO AWARD CONSTRUCTION CONTRACTS.

The following documentation is required to receive the Department's authorization to award construction contracts:

- (1) Proof of advertising.
- (2) Award recommendation, bid proposal, and bid tabulation (certified by the responsible engineer).
- (3) Certification of compliance with the conditions of the Department's approval of competitively or non-competitively negotiated procurement, if applicable.
- (4) Certification Regarding Disbarment, Suspension, Ineligibility and Voluntary Exclusion.
- (5) Certification by the Authorized Representative that affirmative steps were taken to encourage Minority and Women's Business Enterprises participation in Project construction.
- (6) Current certifications for Minority and Women's Business Enterprises participating in the contract. If the goals as stated in the plans and specifications are not met, documentation of actions taken shall be submitted.

(7) Certification that the Project Sponsor and contractors are in compliance with labor standards, including prevailing wage rates established for its locality by the DOL under the Davis-Bacon Act for Project construction.

(8) Certification that all procurement is in compliance with Section 8.10 which states that all iron and steel products used in the Project must be produced in the United States unless (a) a waiver is provided to the Project Sponsor by the EPA or (b) compliance would be inconsistent with United States obligations under international agreements.

9.02. SUBMITTAL OF CONSTRUCTION CONTRACT DOCUMENTS.

After the Department's authorization to award construction contracts has been received, the Project Sponsor shall submit:

- (1) Contractor insurance certifications.
- (2) Executed Contract(s).
- (3) Notices to proceed with construction.

9.03. INSURANCE REQUIRED.

The Project Sponsor shall cause the Project, as each part thereof is certified by the engineer responsible for overseeing construction as completed, and the Water System (hereafter referred to as "Revenue Producing Facilities") to be insured by an insurance company or companies licensed to do business in the State of Florida against such damage and destruction risks as are customary for the operation of Water Systems of like size, type and location to the extent such insurance is obtainable from time to time against any one or more of such risks.

The proceeds of insurance policies received as a result of damage to, or destruction of, the Project or the other Revenue Producing Facilities, shall be used to restore or replace damaged portions of the facilities. If such proceeds are insufficient, the Project Sponsor shall provide additional funds to restore or replace the damaged portions of the facilities. Repair, construction or replacement shall be promptly completed.

ARTICLE X - DETAILS OF FINANCING

10.01. PRINCIPAL AMOUNT OF LOAN.

The total amount awarded is \$3,623,940. Of that, the estimated amount of Principal Forgiveness is \$694,589. The estimated principal amount of the Loan to be repaid is \$2,931,051, which consists of \$2,929,351 to be disbursed to the Project Sponsor and \$1,700 of Capitalized Interest.

Capitalized Interest is not disbursed to the Project Sponsor, but is amortized via periodic Loan repayments to the Department as if it were actually disbursed. Capitalized Interest is computed at the Financing Rate, or rates, set for the Loan. It accrues and is compounded annually from the time when disbursements are made until six months before the first

Semiannual Loan Payment is due. Capitalized Interest is estimated prior to establishing the schedule of actual disbursements.

10.02. LOAN SERVICE FEE.

The Loan Service Fee is \$58,587 for the Loan amount authorized to date. The fee represents two percent of the Loan amount excluding Principal Forgiveness and Capitalized Interest; that is, two percent of \$2,929,351. The Loan Service Fee is estimated at the time of execution of the loan agreement and shall be revised with any increase or decrease amendment. The Loan Service Fee is based on actual Project costs and assessed in the final loan amendment. The Project Sponsor shall pay the Loan Service Fee from the first available repayment(s) following the Final Amendment.

10.03. FINANCING RATE.

The Financing Rate on the unpaid principal of the Loan amount specified in Section 10.01 is 0.07 percent per annum. However, if this Agreement is not executed by the Project Sponsor and returned to the Department before October 1, 2020, the Financing Rate may be adjusted.

10.04. LOAN TERM.

The Loan term shall be 20 years.

10.05. REPAYMENT SCHEDULE.

Repayments shall be made semiannually (twice per year). The Semiannual Loan Payment shall be computed based upon the principal amount of the Loan less the Principal Forgiveness plus the estimated Loan Service Fee and the principle of level debt service. The Semiannual Loan Payment amount may be adjusted, by amendment of this Agreement, based upon revised information. After the final disbursement of Loan proceeds, the Semiannual Loan Payment shall be based upon the actual Project costs, the actual Loan Service Fee and the Loan Service Fee capitalized interest, if any, and actual dates and amounts of disbursements, taking into consideration any previous payments. Actual Project costs shall be established after the Department's inspection of the completed Project and associated records. The Department will deduct the Loan Service Fee and any associated interest from the first available repayments following the Final Amendment.

Each Semiannual Loan Payment shall be in the amount of \$75,278 until the payment amount is adjusted by amendment. The interest portion of each Semiannual Loan Payment shall be computed on the unpaid balance of the principal amount of the Loan, including Capitalized Interest. Interest also shall be computed on the unpaid balance of the Loan Service Fee. Interest shall be computed as of the due date of each Semiannual Loan Payment.

Semiannual Loan Payments shall be received by the Department beginning on November 15, 2022 and semiannually thereafter on May 15 and November 15 of each year until

all amounts due hereunder have been fully paid. Funds transfer shall be made by electronic means.

The Semiannual Loan Payment amount is based on the total amount to be repaid of \$2,989,638, which consists of the Loan principal plus the Loan Service Fee with its capitalized interest.

10.06. PROJECT COSTS.

The Project Sponsor and the Department acknowledge that the actual Project costs have not been determined as of the effective date of this Agreement. Project cost adjustments may be made as a result of construction bidding or mutually agreed upon Project changes. Capitalized Interest will be recalculated based on actual dates and amounts of Loan disbursements. If the Project Sponsor receives other governmental financial assistance for this Project, the costs funded by such other governmental assistance will not be financed by this Loan. The Department shall establish the final Project costs after its final inspection of the Project records. Changes in Project costs may also occur as a result of the Project Sponsor's Project audit or a Department audit.

The Project Sponsor agrees to the following estimates of Project costs:

<u>CATEGORY</u>	<u>PROJECT COSTS (\$)</u>
Construction and Demolition	3,019,951
Contingencies	301,995
Technical Services After Bid Opening	301,994
SUBTOTAL (Disbursable Amount)	3,623,940
Less Principal Forgiveness	(694,589)
SUBTOTAL (Loan Amount)	2,929,351
Capitalized Interest	1,700
TOTAL (Loan Principal Amount)	2,931,051

Technical services costs of up to 5% of the construction costs are eligible for Principal Forgiveness. Costs that exceed 5% of the construction costs are only eligible for Loan funds.

10.07. SCHEDULE.

The Project Sponsor agrees by execution hereof:

(1) This Agreement shall be effective on February 12, 2020. Invoices submitted for work conducted on or after this date shall be eligible for reimbursement.

(2) Completion of Project construction is scheduled for May 15, 2022.

(3) The Loan Debt Service Account shall be established and Monthly Loan Deposits shall begin no later than May 15, 2022.

(4) The first Semiannual Loan Payment in the amount of \$75,278 shall be due November 15, 2022.

10.08. SPECIAL CONDITIONS.

Prior to any funds being released, the Project Sponsor shall submit the following:

(1) A Legal Opinion addressing the availability of Pledged Revenues, the right to increase rates, and subordination of the pledge; and

(2) A completed EPA Preaward Compliance Report and Federal Funding Accountability and Transparency Act (FFATA) form.

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ARTICLE XI - EXECUTION OF AGREEMENT

This Loan Agreement DW501750 may be executed in two or more counterparts, any of which shall be regarded as an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the Department has caused this Agreement to be executed on its behalf by the Secretary or Designee and the Project Sponsor has caused this Agreement to be executed on its behalf by its Authorized Representative and by its affixed seal. The effective date of this Agreement shall be as set forth below by the Department.

for
CITY OF LAKE WORTH BEACH

Mayor

Attest:

I attest to the opinion expressed in Section 2.02,
entitled Legal Authorization.

City Clerk

City Attorney

SEAL

for
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Secretary or Designee

Date

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Water Utilities

TITLE:

Change Order 01 to David Mancini & Sons Inc. for the Lake Osborne Estates Watermain Improvement Project Phase 1

SUMMARY:

Change Order 01 authorizes a contract cost increase and time extension to David Mancini & Sons Inc. on the Lake Osborne Estates Watermain Improvement Project Phase 1 for \$349,429.19 and 232 days.

BACKGROUND AND JUSTIFICATION:

The water utilities department began Lake Osborne Improvement project early the fiscal year 2020 to relocate and replace watermains that have limited maintenance access and are approaching the end of their useful life. The Contractor David Mancini and Sons (DMSI) began construction in October of 2019 and since the project started there have been several unforeseen items or changes that need to be addressed in a change order. This change order addresses both construction time and contract cost.

During construction, Palm Beach County milled and resurfaced High Ridge Road, this was done prior to the water utility crossing that were planned and permitted in the watermain improvement project. The Contractor was asked to perform the two watermain crossings as horizontal direction drills to avoid cutting the newly paved roadway. In addition, the utility discovered several locations where watermains were missing and not constructed as shown in the record atlas. Therefore, the utility department fast tracked a design plan to incorporate the missing mains into DMSI's contract so that the distribution system would function as the original design anticipated. Finally, an unforeseen permitting condition surfaced during the construction phase. The Palm Beach County Department of Health (DOH) reviews and authorizes "Onsite Sewage Treatment and Disposal Systems for Construction Permits" and as a condition of granting the plumbing permits the DOH must authorize these releases.

MOTION:

Move to approve/disapprove Change Order 01 to David Mancini and Sons Inc. for the Lake Osborne Improvement Project Phase 1 with the addition of 232-day time extension and \$349,429.19 added the contract.

ATTACHMENT(S):

Fiscal Impact Analysis
Change Order 01

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	\$349,429.19	0	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	\$349,429.19	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
422-7034-533.63-15	Water Distribution Improve	WT1803	\$5,190,000	\$5,190,000	\$349,429.19	\$4,840,570.81



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

CHANGE ORDER

Project Number: WT 1803 **Contractor:** David Mancini & Sons Inc.

Project Name: Lake Osborne Estate Watermain Improvement Project – Ph 1

Change Order Number: 01

Change Order Effective Date: 10/06/2020 **Contractor Phone:** 954-977-3556

Change Order Type: Increasing **Existing Purchase Order Number:** 181019

Description of Change:

1. Contractor was asked to perform two (2) 8" horizontal direction drills at High Ridge Road in order to avoid the recently completed roadwork by Palm Beach County. Cost of work is \$37,149.18 and will be paid out of contract construction contingency line. Change adds 25 contract days.
2. The water utility discovered several missing sections of the Lake Osborne Estates distribution system previously unknown until field investigations uncovered the unforeseen condition. The water department fast tracked a design plan to resolve the missing loops and to standardize the locations of the mains and meters as designed in Phase 1. In addition, the utility desired to relocate the rear meters on several properties that could be accommodated by utilizing existing watermains. The contractor has agreed to do this work under the current Phase 1 contract utilizing contract line items. The expansion work adds 90 contract days

This task 2 proposal also includes additional administrative and permit costs associated to the unforeseen requirement established by the Palm Beach County Department of Health for obtaining "Onsite Sewage Treatment and Disposal Systems for Construction Permit" as a condition of granting the plumbing permits for the properties. The unforeseen permit requirement caused a contract delay of 117 days.

The total cost of task 2 expansion work and the unforeseen permit increases the contract by \$349,429.19.

1. Horizontal Direction Drill at High Ridge Road



3401 N. Miami Ave Miami Florida, 33127 Suite 213,214
 PH: (305) 532-8827 FAX: (305) 532-8835

2601 Wiles Rd Pompano Beach Florida 33073
 PH: (954) 977-3556 FAX: (954) 944-2040

PROJECT: LAKE OSBORNE ESTATES WATER MAIN IMPROVEMENTS PHASE I
 CONTRACTOR: David Mancini & Sons, Inc. (DMSI)
 Date: 3/18/2020

Description: Furnishing and installing two (2) - 8" HDD w.HDPE DR-11 DIPS.

Excludes: Permitting, Restoration Work to be billed under current Pay Items.

Location: +/- Sta. 39+75 and Sta. 53+18

SUMMARY OF DIRECT COSTS

TOTAL LABOR (DMSI)	\$	5,517.75
TOTAL EQUIPMENT (DMSI)	\$	3,290.08
TOTAL MATERIAL (DMSI)	\$	1,995.81
TOTAL SUB (CENTERLINE & FILLIPELLI)	\$	21,500.00
Subtotal Direct Cost	\$	32,303.64
Contractor's Markup 15%	\$	4,845.55
Total Direct Cost	\$	37,149.18

SUMMARY OF TIME IMPACT (REQUEST FOR ADDITIONAL TIME)

#	Description	DELAY		Unit	CONTRACT TIME
		START	END	WORKING DAYS	
<u>1</u>	Additional Time Required to cover Extra Work				25
	Additional Time Required to complete the work				25.0

LABOR COSTS -

LABOR BURDEN MULTIPLIER (LBM)	58.20%
Social Security Contributions & Excise and Payroll	6.20%
Medicare Rate	1.45%
Unemployment	5.49%
Workmens Compensation	7.16%
Health Benefits	14.20%
Retirement Benefits	23.70%

VACATION MULTIPLIER (VM)	13.00%
Sick Leave (1 week out of 52)	
Vacation (2 weeks out of 52)	
Holiday Pay (1 week out of 52)	

Insurance Schedule	4.35%
General Liability Insurance	4.35%

Total Burden Rate	75.55%
--------------------------	---------------

SUMMARY - LABOR COSTS

SUPERVISION		See Below
MAINLINE CREW		See Below
SERVICE CREW		See Below
RESTORATION		See Below
TOTAL LABOR		\$ 5,517.75

SUPERVISION	Hourly Rate (Salary)	Hours (Salary)	Total Cost
Project Manager (Fabio Angarita)	\$ 55.00	2	\$ 110.00
Superintendent (Richard Mancini)	\$ 45.00	4	\$ 180.00
Ass. Project Manager (David Hearn)	\$ 25.00	8	\$ 200.00
TOTAL SUPERVISION			\$ 490.00

MAINLINE CREW - Water Main DMSI	Hourly Rate	OT- Rate	Power Tool Rate	Hours	OT-Hours	Power Tools Hours	Total Cost
Foreman	\$ 30.00	\$ 45.00	\$ 0.50	20.0			\$ 1,053.30
Backhoe Operator	\$ 24.50	\$ 36.75	\$ 0.50	16.0			\$ 688.16
Loader Operator	\$ 24.50	\$ 36.75	\$ 0.50	16.0			\$ 688.16
Pipelayer	\$ 19.00	\$ 28.50	\$ 0.50	20.0			\$ 667.09
Pipelayer	\$ 21.00	\$ 31.50	\$ 0.50	20.0			\$ 737.31
Laborer	\$ 18.00	\$ 27.00	\$ 0.50	20.0			\$ 631.98
Laborer	\$ 16.00	\$ 24.00	\$ 0.50	20.0			\$ 561.76
TOTAL LABOR							\$ 5,027.75

EQUIPMENT COST

EQUIPMENT COSTS - MAINLINE CREW & RESTORATION

Excavators	Hourly Rate	Idle	Running HRS	Stand By	Total Cost
Mini Excavator CAT 308 CR	\$ 56.34	\$ 38.61	16		\$ 901.44
Loaders	Hourly Rate	Stand-by	Running HRS	Stand By	Total Cost
Deere 624 K	\$ 70.10	\$ 52.59	16		\$ 1,121.60
Trucks	Hourly Rate	Stand-by	Running HRS	Stand By	Total Cost
Dump Truck (18 CY) (Falero Rental Rate)	\$ 45.00		16		\$ 720.00
Pick-Up Truck - Chevy 2500 (DMSI)	\$ 24.60	\$ 20.35	16		\$ 393.60
Miscellaneous Equipment	Hourly Rate	Stand-by	Running HRS	Stand By	Total Cost
3" Trash Pump and Hoses (DMSI)	\$ 8.80	\$ 5.17	16		\$ 140.80
Chop Saw (DMSI)	\$ 0.79	\$ 0.06	16		\$ 12.64
TOTAL EQUIPMENT					\$ 3,290.08

MATERIAL COSTS

Material Description	QTY	Unit	Unit Cost	Total Cost
8" HDPE DR-11	120	LF	\$ 11.19	\$ 1,342.80
8" HDPE MJ ADAPTERS	4	EA	\$ 93.83	\$ 375.32
8" MJ ACCESSORIES	4	EA	\$ 36.78	\$ 147.12
7% Sales Tax				\$ 130.57
TOTAL MATERIAL				\$ 1,995.81

SUBCONTRACTORS

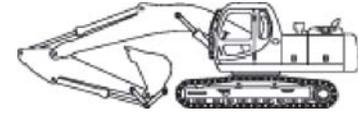
Description	QTY	Unit	Unit Cost	Total Cost
Installation of 8"HDD Under High Ridge Rd (Excluding materials, pit excavation, backfilling, restoration hydrostatic testing and As-Builts)	2	EA	\$ 10,000.00	\$ 20,000.00
Survey and As-Builts	1	LS	\$ 1,500.00	\$ 1,500.00
TOTAL SUBCONTRACTORS				\$ 21,500.00

Rental Rate Blue Book®

March 18, 2020

Caterpillar 308E2 CR

Crawler Mounted Hydraulic Excavators



Size Class:

8.1 - 10.0 MTons

Weight:

N/A
Configuration for 308E2 CR

Bucket Capacity - Heaped	0.1 cu yd	Net Horsepower	65 hp
Operating Weight	18519 lbs	Power Mode	Diesel

Blue Book Rates

** FHWA Rate is equal to the monthly ownership cost divided by 176 plus the hourly estimated operating cost.

	Ownership Costs				Estimated Operating Costs	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
Published Rates	USD \$5,535.00	USD \$1,550.00	USD \$390.00	USD \$59.00	USD \$24.89	USD \$56.34
Adjustments						
Region (100%)	-	-	-	-		
Model Year (2020: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$5,535.00	USD \$1,550.00	USD \$390.00	USD \$59.00	USD \$24.89	USD \$56.34

Non-Active Use Rates

	Hourly
Standby Rate	USD \$16.67
Idling Rate	USD \$38.61

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	37%	USD \$2,047.95/mo
Overhaul (ownership)	46%	USD \$2,546.10/mo
CFC (ownership)	10%	USD \$553.50/mo
Indirect (ownership)	6%	USD \$332.10/mo
Fuel (operating) @ USD 3.07	29%	USD \$7.16/hr

Revised Date: 1st half 2020

These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book Print. Visit the Cost Recovery Product Guide on our Help page for more information.

The equipment represented in this report has been exclusively prepared for DAVID MANCINI
(dmancinijr@dmsi.co)

Rental Rate Blue Book®

March 18, 2020

Deere 624K (disc. 2016)

4-Wd Articulated Wheel Loaders

 Size Class:
175 - 199 HP
 Weight:
33477 lbs

Configuration for 624K (disc. 2016)

 Bucket Capacity - Heaped
 Operator Protection

3.5 cu yd
ROPS/FOPS

 Net Horsepower
 Power Mode

186.0 hp
Diesel
Blue Book Rates

** FHWA Rate is equal to the monthly ownership cost divided by 176 plus the hourly estimated operating cost.

	Ownership Costs				Estimated Operating Costs	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
Published Rates	USD \$6,030.00	USD \$1,690.00	USD \$425.00	USD \$64.00	USD \$35.84	USD \$70.10
Adjustments						
Region (100%)	-	-	-	-		
Model Year (2016: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$6,030.00	USD \$1,690.00	USD \$425.00	USD \$64.00	USD \$35.84	USD \$70.10

Non-Active Use Rates

	Hourly
Standby Rate	USD \$21.58
Idling Rate	USD \$52.59

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	41%	USD \$2,472.30/mo
Overhaul (ownership)	37%	USD \$2,231.10/mo
CFC (ownership)	12%	USD \$723.60/mo
Indirect (ownership)	10%	USD \$603.00/mo
Fuel (operating) @ USD 3.07	51%	USD \$18.33/hr

Revised Date: 1st half 2020

These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book Print. Visit the Cost Recovery Product Guide on our Help page for more information.

 The equipment represented in this report has been exclusively prepared for DAVID MANCINI
 (dmancinijr@dmsi.co)

Rental Rate Blue Book®

March 18, 2020

GMC\CHEVY 2500

4 n-Nighway Wight L kty prkczs

 Si: e u lass*
200 - 299 HP
 F eight*
N/A

Configuration for 2500

AbE u onfigkration	4.0 x 2.0	u aC pyHe	Crew
NorseHwer	280.0 hp	Oower Mode	Gasoline
pon Pating	3.0 / 4.0		

Blue Book Rates

FRBNF A Pate is eqkal to the monthly ownershiH cost divided Cy 176 Hks the hokrly estimated oHerating cost.

	Ownership Costs				Estimated Operating Costs	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
OkDished Pates	USL \$1,110.00	USL \$310.00	USL \$78.00	USL \$12.00	USL \$18.2D	USL \$29.60
Adjustments						
Pegion (1005)	-	-	-	-		
Model %ear (2020* 1005)	-	-	-	-		
AdKsted Nokrly 4 wnershiH u ost (1005)	-	-	-	-		
Nokrly 4 Herating u ost (1005)					-	
Total:	USD \$1,110.00	USD \$310.00	USD \$78.00	USD \$12.00	USD \$18.29	USD \$24.60

Non-Active Use Rates

StandCy Pate	Hourly	USL \$9.60
Idling Pate	Hourly	USL \$20.3j

Rate Element Allocation

Element	Percentage	Value
LeHeciation (ownershiH)	j 95	USL \$j DD.90/mo
4 verhakl (ownershiH)	275	USL \$2DD.70/mo
u b u (ownershiH)	75	USL \$77.70/mo
Indirect (ownershiH)	125	USL \$133.20/mo
bkel (oHerating) @ USL 2.j 1	775	USL \$19.09/hr

Pevised Late* 1st half 2020

phese are the most ackkrate rates for the selected Pevision Late(s). Nowever, dke to more freqkent online kHdates, these rates may not match Pental Pate Tike Tooz Orint. Visit the uost Pecovery Orodkt Gkide on okr NelH Hage for more information.

 phe eqkiHment reHresented in this reHort has Ceen eBclksively HeHared for LAVIL MAX u lx l
 (dmanciniY@dmsi.co)

Rental Rate Blue Book®

March 18, 2020

Miscellaneous 14 CHOP SAW

Cut-Off Machines

Size Class:

All

Weight:

47 lbs

Configuration for 14 CHOP SAW

Cut Capacity	To 5' (Pipe O.D.)	Power Mode	Electric
Type	14' Chop saw		

Blue Book Rates

** FHWA Rate is equal to the monthly ownership cost divided by 176 plus the hourly estimated operating cost.

	Ownership Costs				Estimated Operating Costs	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
Published Rates	USD \$11.00	USD \$3.00	USD \$0.75	USD \$0.11	USD \$0.73	USD \$0.79
Adjustments						
Region (100%)	-	-	-	-		
Model Year (2020: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$11.00	USD \$3.00	USD \$0.75	USD \$0.11	USD \$0.73	USD \$0.79

Non-Active Use Rates

	Hourly
Standby Rate	USD \$0.06
Idling Rate	USD \$0.06

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	71%	USD \$7.81/mo
Overhaul (ownership)	0%	USD \$0.00/mo
CFC (ownership)	17%	USD \$1.87/mo
Indirect (ownership)	13%	USD \$1.43/mo

Fuel cost data is not available for these rates.

Revised Date: 1st half 2020

These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book Print. Visit the Cost Recovery Product Guide on our Help page for more information.

The equipment represented in this report has been exclusively prepared for DAVID MANCINI (dmancinijr@dmsi.co)

Rental Rate Blue Book®

March 18, 2020

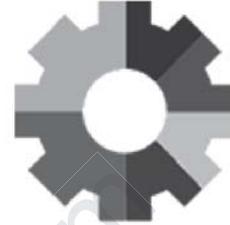
Wacker Neuson PDT 3A

Diaphragm Pumps

Size Class:

3 Inch

Weight:

N/A

Configuration for PDT 3A

Horsepower	3.5 hp	Power Mode	Gasoline
Pump Capacity	88 gal/min	Size	3 in

Blue Book Rates

** FHWA Rate is equal to the monthly ownership cost divided by 176 plus the hourly estimated operating cost.

	Ownership Costs				Estimated Operating Costs	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
Published Rates	USD \$805.00	USD \$225.00	USD \$56.00	USD \$8.00	USD \$4.23	USD \$8.80
Adjustments						
Region (100%)	-	-	-	-		
Model Year (2020: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$805.00	USD \$225.00	USD \$56.00	USD \$8.00	USD \$4.23	USD \$8.80

Non-Active Use Rates

Standby Rate	Hourly	USD \$1.10
Idling Rate	Hourly	USD \$5.17

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	16%	USD \$128.80/mo
Overhaul (ownership)	76%	USD \$611.80/mo
CFC (ownership)	3%	USD \$24.15/mo
Indirect (ownership)	5%	USD \$40.25/mo
Fuel (operating) @ USD 2.51	14%	USD \$0.60/hr

Revised Date: 1st half 2020

These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book Print. Visit the Cost Recovery Product Guide on our Help page for more information.

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 (dmancinijr@dmsi.co)

GENERAL CONTRACTOR

BLANKET SUBCONTRACTOR - PURCHASE ORDER

PROJECT NAME:	LAKE OSBORNE ESTATES WATER MAIN PHASE I PROJECT NO. WT1803	BLANKET SUB No.:	19-BL.AFD.08		
VENDOR:	A. FALERO DISTRIBUTORS		P.O. No.:	19-LW.LOWM # 08	
VENDOR PHONE:	305-665-9196	ATTN:	ALEX FALERO	COUNTY:	PALM BEACH
VENDOR ADDRESS:	10420 SW 77TH AVENUE, SUITE 202, PINECREST, FL 33156		START DATE:	12/9/2019	
JOB ADDRESS:	CITY OF LAKE WORTH BEACH - Lake Osborne Dr & High Ridge Dr, Lake Worth, Fl.				

PLEASE FABRICATE/PROCURE THE FOLLOWING ITEMS: After Shop Drawing Approval (If applicable) PRICES FIRM FOR PROJECT DURATION

ITEM No.	Vendor Code	DESCRIPTION	COST CODE	QTY	PRICE	UM	TOTAL PRICE
1	AFALTR	Limerock (Material)	1-100	500	\$ 7.50	TON	\$ 3,750.00
2	AFALTR	Material 57 Rock	1-100	100	\$ 14.75	TON	\$ 1,475.00
3	AFALTR	Material LBR-40	1-100	100	\$ 6.50	TON	\$ 650.00
Subtotal Material							\$ 5,875.00
Tax 7%							\$ 411.25
4	AFALTR	Limerock (Hauling)	1-100	500	\$ 8.00	TON	\$ 4,000.00
5	AFALTR	Hauling 57 Rock	1-100	100	\$ 8.00	TON	\$ 800.00
6	AFALTR	Hauling of LBR-40	1-100	100	\$ 8.00	TON	\$ 800.00
7	AFALTR	Truck by hour 160 hours.	1-100	160	\$ 45.00	HR	\$ 7,200.00
8	AFALTR	Haul and disposal of asphalt	1-100	20	\$ 150.00	LD	\$ 3,000.00
9	AFALTR	Haul and disposal of concrete (Tractor Trailer)	1-100	5	\$ 250.00	LD	\$ 1,250.00
10	AFALTR	Haul and disposal of vegetation	1-100	5	\$ 500.00	LD	\$ 2,500.00
11	AFALTR	Haul and disposal of muck	1-100	5	\$ 150.00	LD	\$ 750.00

IMPORTANT: In order for any payment to be processed, "Blanket SUB No.", "P.O. No." and "Item No." MUST APPEAR ON ALL INVOICES **Mail all original invoices and correspondence to Main Office (2601 Wiles Road Pompano Beach, Florida 33073)**

Total P.O. Amount: \$ 26,586.25

Subcontractor is required to call in their own locate tickets for any applicable work.

The acceptance of this offer to enter into this Blanket Subcontractor - Purchase Order is limited to the terms of this Blanket Subcontractor Purchase Order and referenced Blanket Subcontract. Any different or additional term(s) proposed by Seller, whether contained in Seller's acceptance, sales orders, delivery tickets or other like document are objected to by David Mancini & Sons, Inc. (DMSI) and shall not become part of this Blanket Subcontractor - Purchase Order. This Blanket Subcontractor - Purchase Order becomes a contract when DMSI receives a written acceptance thereto or upon Seller delivering goods to DMSI. The term "goods" includes associated materials, components, services and facilities. Seller shall furnish those goods as set forth in this Blanket Subcontractor - Purchase Order. Seller's form of acceptance, sales order(s), delivery ticket(s), or other like document shall not govern the relationship between the parties, and any different, additional or contradictory terms and conditions contained in Seller's document shall not affect DMSI's or Seller's rights, remedies and obligations. Reference in this Blanket Subcontractor - Purchase Order to Seller's quotation, sales literature, or other documents are for purposes of description and price only.

**Payment will be made on completed work; no partial payment will be made unless owner agrees. **

**Payment will be delayed if delivery tickets and pick up tickets are not signed by DMSI personnel **

Subcontractor will adhere to applicable Wage Schedule for the year the work is performed.

When the term "Contractor" is utilized in prime contract documents, it is understood that "Subcontractor" is responsible for Project requirements regarding subcontractors works.

Vendor will include a copy of the corresponding release and delivery receipt. Failure to do so will result in NON PAYMENT.

Bill line items using Forms AIA G702 & G703 Application for Payment or similar.

** Vendor agrees NOT to charge restocking fees to DMSI on products included in this Purchase Order Agreement **

DAVID MANCINI & SONS, INC. APPROVAL

By: Fabio Angarita	Signature:
Title: Project Manager	Date: 12/06/2019

A. FALERO DISTRIBUTORS APPROVAL

By:	Signature:
Title:	Date:



Bill To:
116717
DAVID MANCINI & SONS INC
1939 NW 40TH CT
POMPANO BEACH, FL 33064

Ship To:
DAVID MANCINI & SONS INC
COUNTRY CLUB VILLAGE
INFRASTRUCTURE UPGRADE
BOCA RATON, FL 33427

Quote Number	09041495
Quote Date	12/12/19
Expiration Date	01/03/20
Page	1 of 1

Payment Terms NET 30	Customer Job/Project Name COUNTRY CLUB VILLAGE	Written By STEVE HERP, Ext 6665
Freight Terms PREPAID AND ALLOW	Contact	Sales Rep BRYAN FLETCHER
Ship Via Best Way	Additional Info Country Club Village Infrastructure Upgrade (Boca Raton, FL)	

#	Qty	UM	Product	Description	Each	Extended
1	480	FT	10181112	18" DR 11 DIPS PIPE HDPE AWWA BLUE STR 40' JOINTS	47.62	22,857.60
2	200	FT	10081110	8" DR 11 DIPS PIPE HDPE AWWA BLUE STR 40' JOINTS	11.19	2,238.00
3	200	FT	10061110	6" DR 11 DIPS PIPE HDPE AWWA BLUE STR 40' JOINTS	6.50	1,300.00
4	2	EA	53181115	18" DR11 DIPS MJ ADAPTER ONLY PE WITHOUT SS STIFFENER	402.75	805.50
5	2	EA	53180037	18" ACCESSORY KIT C110 FOR MJ ADAPTER W/ BOLTS, GASKET	64.64	129.28
6	2	EA	53180047	18" IPS / DIPS GLAND C110 RING FOR MJ ADAPTER	136.93	273.86
7	2	EA	53081126	8" DR 11 DIPS MJ ADAPTER ONLY PE WITHOUT SS STIFFENER	93.83	187.66
8	2	EA	53080091	8" ACCESSORY KIT C153 FOR MJ ADAPTER W/GLAND, BOLTS, GASKET	36.78	73.56
9	2	EA	53061132	6" DR 11 DIPS MJ ADAPTER ONLY PE WITHOUT SS STIFFENER	88.50	176.60
10	2	EA	53060080	6" ACCESSORY KIT C153 FOR MJ ADAPTER W/GLAND, BOLTS, GASKET	27.95	55.90
11	1	EA	99999998	PRICING INCLUDES FREIGHT DELIVERED TO BOCA RATON, FL	0.00	0.00
Subtotal						28,097.96
UNAPPROVED ALTERNATE ON FPVC						
12	1,500	FT	10261710	26" DR 17 IPS PIPE HDPE 50' JOINTS	49.52	74,280.00
13	1,500	FT	10181112	18" DR 11 DIPS PIPE HDPE AWWA BLUE STR 50' JOINTS	41.34	62,010.00
14	1	EA	99999998	PRICING INCLUDES FREIGHT DELIVERED TO BOCA RATON, FL	0.00	0.00
Subtotal						136,290.00

ISCO Standard Terms and Conditions apply. Please visit <http://www.isco-pipe.com/terms-and-conditions.aspx>

Merchandise Total	Tax(1)	Freight(2)	Quote Total
164,387.96	9,863.28	0.00	US \$ 174,251.24
<p>1 Sales tax will be charged based on the ship to address at the time of invoice if there is no tax certificate on file.</p> <p>2 Freight amount in this quote is an estimate only. Actual freight terms and charges will be determined at the time the order is placed.</p>		<p>Accepted By: _____</p> <p>Printed Name: _____</p> <p>Date: _____</p>	

100 WITHERSPOON ST * LOUISVILLE, KY 40202
800-345-4726

2. Expansion Work and Unforeseen Permitting



September 24, 2020

VIA Email

Giles Rhodes, P.E.
Assistant Director
Water Utilities
City of Lake Worth Beach

Project: Lake Osborne Estates – Cost Proposal for Water Main Expansion

Dear Mr. Rhodes:

We are hereby submitting a Cost Proposal for a Water Main Expansion for the additional work included in correspondence received on August 11, 2020 which incorporates seven (7) new water services along Lake Osborne Drive between Lantana Dr and Crest Dr, three (3) new water services along High Ridge for the properties 5581, 5573 and 1407, water main extension along High Ridge to connect to the existing water main South of Lake Geneva Dr, Water Main Expansion along Lake Geneva Drive from High Ridge Road to Cochran Dr, three (3) new water services along Nanette Ct and new water services for three (3) properties along Ontario Dr for a not to exceed amount of \$349,429.19 and ninety (90) additional contract days. (Breakdown attached).

The cost proposal also includes in the Item # 51 and 52, all the additional administrative and permit cost associated to the unforeseen requirement established by the Department of Health of obtaining a "Onsite Sewage Treatment and Disposal System for Construction Permit" as a condition of granting the Plumbing Permits for the properties of the Phase I and for the Expansion.

The unforeseen Sewage Permit requirement caused, as of now, a Contract delay of one hundred and seventeen (117) days which resembles the period between the first correspondence received from the Florida Department of Health, January 9, 2020 requesting additional information and the date when we started receiving their approvals May 5, 2020.

Respectfully,

A handwritten signature in blue ink, appearing to read "Fabio Angarita", is written over a light blue rectangular background.

Fabio Angarita
Project Manager
David Mancini & Sons Inc.

**Lake Osborne Estates Expansion
Summary of Cost**

ITEM	DESCRIPTION	UNIT	QTY	U. PRICE	TOTAL
General					
1	Mobilization and Demobilization (5%)	LS	1.00	15,062.00	15,062.00
2	Maintenance of Traffic (4%)	LS	1.00	12,049.00	12,049.00
3	Testing (2%)	LS	1.00	6,025.00	6,025.00
4	Survey Stake -out & As-Builts (2%)	LS	1.00	6,025.00	6,025.00
5	Erosion Control/ SWPPP w/ all permit fees (3%)	LS	1.00	9,037.00	9,037.00
				Subtotal	48,198.00
Water Main					
6	4" C-900 PVC WM (incl. backfill, subgrade and base)	LF	50.00	21.00	1,050.00
7	6" C-900 PVC WM (incl. backfill, subgrade and base)	LF	1,364.00	20.00	27,280.00
8	6" DIP WM (incl. backfill, subgrade and base)	LF	28.00	32.00	896.00
9	4" GV	EA	2.00	1,019.00	2,038.00
10	6" GV	EA	4.00	1,166.00	4,664.00
11	DIP Fittings	TN	2.00	5,000.00	10,000.00
12	NEW Fire Hydrant Assembly (W/ 6" gv)	EA	2.00	4,000.00	8,000.00
13	Connect to Exist. 4" CI WM (incl. hymax coupling or equal and trust block)	EA	1.00	2,000.00	2,000.00
14	Connect to Exist. 4" ACPI WM (incl. hymax coupling or equal and trust block)	EA	1.00	2,700.00	2,700.00
15	Connect to Exist. 6" PVC WM (incl. hymax coupling or equal and trust block)	EA	1.00	2,000.00	2,000.00
16	Connect to Exist. 6" ACP WM (incl. hymax coupling or equal and trust block)	EA	1.00	2,700.00	2,700.00
17	Connect to Exist. 8" PVC WM (incl. hymax coupling or equal and trust block)	EA	1.00	2,500.00	2,500.00
18	1" PE Short Single Water Service (open cut), inc. Meter Box	EA	9.00	811.00	7,299.00
19	1" PE Short Double Water Service (open cut), inc. Meter Box	EA	5.00	955.00	4,775.00
20	2" PE Long Single Water Service (open cut), inc. Meter Box	EA	1.00	3,000.00	3,000.00
21	1" PE Long Single Water Service (trenchless with 2" casing) inc Meter Box	EA	16.00	965.00	15,440.00
22	1" PE Long Double Water Service (trenchless with 2" casing) inc Meter Box	EA	3.00	1,170.00	3,510.00
23	Sample Point (Inc. Bacteriological Sampling)	EA	5.00	375.00	1,875.00
24	Reroute existing house service from rear to front property including relocation of existing meter	EA	37.00	1,165.00	43,105.00
25	Connect to existing meter s at Frontage	EA	2.00	750.00	1,500.00
26	6" WM CAP w/ 2" Blowoff Assembly	EA	1.00	1,480.00	1,480.00
				Subtotal	147,812.00
Demo					
27	Grout Fill & Abandon-In-Place Existing 4" ACP WM (R/W Areas)	LF	50.00	5.50	275.00
28	Grout Fill & Abandon-In-Place Existing 6" ACP WM (R/W Areas)	LF	33.00	6.00	198.00
29	Grout Fill & Abandon -In-Place Existing 6" DIP WM (R/W Areas)	LF	473.00	7.00	3,311.00
33	Cut/ Cap Existing 6" ACP WM	EA	6.00	810.00	4,860.00
34	Cut/ Cap Existing 6" ACI WM	EA	4.00	810.00	3,240.00
36	Remove Existing FH assembly	EA	1.00	500.00	500.00
				Subtotal	12,384.00
Restoration Items					
37	Asphalt Driveway Restoration	SY	20.00	109.00	2,180.00
38	Concrete Driveway Restoration	SY	126.00	54.00	6,804.00
39	Paver Driveway Restoration	SY	25.00	61.00	1,525.00
40	Asphalt Pavement 1.5" Milling (MINIMUM CHARGE)	LS	1.00	3,500.00	3,500.00
41	Asphalt Resurface with 1.5" FOOT SP12.5 (incl. WM trenchless)	SY	709.50	11.45	8,123.78
42	Asphalt Path Restoration	SY	38.50	15.25	587.13
43	Concrete Sidewalk Restoration - 4" thick	SY	244.20	43.00	10,500.60
44	Concrete Sidewalk Restoration - 6" thick at driveways	SY	546.70	53.00	28,975.10
45	ADA HC Ramps	EA	2.00	480.00	960.00
46	Detectable warnings	EA	2.00	393.00	786.00
47	Concrete Curb Restoration	LF	20.00	30.00	600.00
48	Sod and Swale restoration (incl. grading) per PBC Standards	SY	1,538.90	6.70	10,310.63
49	New wood fencing (Lake Osborne Drive)	LF		28.00	-
50	Remove and replace existing fencing in R/W	LF	50.00	23.00	1,150.00
				Subtotal	76,002.23

ITEM	DESCRIPTION	UNIT	QTY	U, PRICE	TOTAL
	Additional Items related to the DOH Sewer Application				
51	Additional administrative and labor cost related to the unforeseen requirement by DOH of applying for "ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM FOR CONSTRUCTION" as a requirement to obtain a Plumbing Permit to perform the transfers of the water meters from the back to the front of the properties.	LS	1.00	42,677.96	42,677.96
52	Additional Permit Fees by DOH	EA	263.00	85.00	22,355.00
				Subtotal	65,032.96
TOTALS					349,429.19



2601 Wiles Rd Pompano Beach Florida 33073
 PH: (954) 977-3556 FAX: (954) 944-2040

PROJECT: LAKE OSBORNE ESTATES WATER MAIN IMPROVEMENTS PHASE I
 CONTRACTOR: David Mancini & Sons, Inc. (DMSI)
 Date: 9/15/2020

Description: Total administrative, labor and permit fees related to the unforeseen requirement by the DOH of filling an application for "ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM FOR CONSTRUCTION" with sketches showing location of existing water meter, proposed water meter and clearances between proposed pipes and existing septic tanks and drain fields.

SUMMARY OF DIRECT COSTS

TOTAL LABOR (DMSI)	\$	37,111.27
TOTAL EQUIPMENT (DMSI)	\$	-
TOTAL MATERIAL (DMSI)	\$	-
TOTAL SUB	\$	-
Subtotal Direct Cost	\$	37,111.27
Contractor's Markup 15%	\$	5,566.69
Total Direct Cost	\$	42,677.96
Permit Fees	263	\$85/property
Grand Total	\$	65,032.96

SUMMARY OF TIME IMPACT (REQUEST FOR ADDITIONAL TIME)

#	Description	DELAY		Unit	CONTRACT TIME
		START	END	WORKING DAYS	
<u>1</u>	Additional Time Related to Unforeseen Requirement by DOH	1/9/2020	5/5/2020	117	117
					117.0

LABOR COSTS -

LABOR BURDEN MULTIPLIER (LBM)	58.20%
Social Security Contributions & Excise and Payroll	6.20%
Medicare Rate	1.45%
Unemployment	5.49%
Workmens Compensation	7.16%
Health Benefits	14.20%
Retirement Benefits	23.70%

SUMMARY - LABOR COSTS		
SUPERVISION		See Below
MAINLINE CREW		See Below
SERVICE CREW		See Below
RESTORATION		See Below
TOTAL LABOR		\$ 37,111.27

VACATION MULTIPLIER (VM)	13.00%
Sick Leave (1 week out of 52)	
Vacation (2 weeks out of 52)	
Holiday Pay (1 week out of 52)	

Insurance Schedule	4.35%
General Liability Insurance	4.35%

Total Burden Rate	75.55%
--------------------------	---------------

Elaboration of 245 sketches showing location of existing meter, proposed meter on top of sketch received from CAS showing location of existing drain fields and septic tanks and related field work.

SUPERVISION	Hourly Rate (Salary)	Hours (Salary)	Labor Burden	Total Cost				
Project Manager (Fabio Angarita)	\$ 57.50	40	75.55%	\$ 4,037.65				
Ass. Project Manager (Leydis Colomina)	\$ 31.25	480.0	75.55%	\$ 26,332.50				
TOTAL SUPERVISION				\$ 30,370.15				
MAINLINE CREW - Water Main DMSI	Hourly Rate	OT- Rate	Power Tool Rate	Hours	OT-Hours	Power Tools Hours	Total Cost	
Foreman	\$ 30.00	\$ 45.00	\$ 0.50	80.0			\$ 4,213.20	
Laborer	\$ 18.00	\$ 27.00	\$ 0.50	80.0			\$ 2,527.92	
TOTAL LABOR							\$ 6,741.12	

IN WITNESS WHEREOF, the OWNER/CITY has approved this Change Order No. 01 to the Lake Osborne Estates Watermain Improvement Phase 1 Project on October __, 20____.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Deborah M. Andrea, City Clerk

By: _____
Pam Triolo, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Water Utilities

TITLE:

Change Order 01 to David Mancini & Sons Inc. for the Park of Commerce Phase 1B Project

SUMMARY:

Change Order 01 authorizes a contract cost increase and time extension to David Mancini & Sons Inc. on the Park of Commerce Phase 1 Project for \$48,196.80 and 83 days.

BACKGROUND AND JUSTIFICATION:

The City's Park of Commerce Phase 1B project started the beginning of this calendar year with David Mancini and Sons as the prime contractor. The project is continuing its progress and working toward completion, however several changes are required to be memorialized per the contract.

The 4th Ave N roadway section was realigned to avoid the relocation of several power poles in the segment of roadway. In addition, on 7th Ave N between Barnett Dr and the Fitch ditch it was determined that the sidewalk, roadway shoulder and a several driveways should be modified to better suit the conditions that existed in the northside of this right of way. This work will add 45 days to the contract. Another utility conflict was identified with the proposed stormwater installation in 4th Ave N. This resulted in the need to deflect the watermain system around the proposed utility and to replumb several water services. This work will add 10 days to the contract. The watermain system located on the northside of the LWDD canal was evaluated and a portion of the existing main was determined to be past its useful life. The water utility determined the need to install an additional 200 LF of 12" watermain and pipe fitting to connect the system. This work will add \$6,241.49 and 15 days to the contract. Finally, the City entered a cost sharing agreement with 1937 7th Ave N LLC on 9/1/20 for installation of water infrastructure in this project. This change order will address the adding reimbursable cost and time with this agreement.

MOTION:

Move to approve/disapprove Change Order 01 to David Mancini and Sons Inc. for the Park of Commerce Phase 1B project with the addition of 83-day time extension and \$48,196.80 added the contract.

ATTACHMENT(S):

Fiscal Impact Analysis
Change Order 01

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	48,196.80	0	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
 Net Fiscal Impact	 48,196.80	 0	 0	 0	 0
 No. of Addn'l Full-Time Employee Positions	 0	 0	 0	 0	 0

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

Account Number	Account Description	Project Number	FY21 Budget	Current Balance	Agenda Expenditure	Balance
422-7034-533.63-60	Water Distribution Improve	SG1803	\$730,051	\$730,051	\$48,196.80	\$681,854.20



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

CHANGE ORDER

Project Number: SG 1803 **Contractor:** David Mancini & Sons Inc.

Project Name: Park of Commerce Phase 1B – Infrastructure Improvements

Change Order Number: 01

Change Order Effective Date: 10/06/2020 **Contractor Phone:** 954-977-3556

Change Order Type: Increasing **Existing Purchase Order Number:** 182735

Description of Change:

1. Realignment of 4th Ave North from Sta 60+87.58 to 66+75.83 to avoid pole conflicts. Addition of a driveway apron at the City's electrical substation on 7th Ave N at Sta. 50+50 +/-, and miscellaneous sodding and crushed concrete on the north side of 7th Ave N between Stations 50+00 and 56+00. 45 day extension
2. Installation of 8" line stop to facilitate WM deflection around Str. S-8, installation of sample point and re-installation of three (3) 1" water services at 4th Ave N Sta 70+31. Additional cost of \$9,235.56 to be paid from General Allowance Drainage Conflicts, 10 day extension.
3. Installation of additional 200 LF of 12" WM Pipe and Fittings to connect to the 6" WM located about 180' west of the plan connection point on the north side of the LWDD L-11 canal west of the Keller Canal for an additional total cost of \$56,241.49. The portion of \$50,000 to be paid from the contract line for General Allowance for Utility Conflicts and the balance of \$6,241.49 to be added to the contract and 15 day extension.
4. Installation of water utilities on 7th Ave N per a Cost Sharing contract between 1937 7th Ave N LLC and the City of Lake Worth Beach approved in the September 1, 2020 commission meeting. The cost sharing agreement was for the installation of miscellaneous utility infrastructure to be added under the City's construction contract. Following the installation of the miscellaneous utilities the developer of 1937 7th Ave N will reimburse the City \$41,955.31, the cost added to the contract via this change order. The utility improvements add a 13 day extension. Cost sharing agreement approved on September 1, 2020 previously increased the contract by \$12,544.33 for utilities the City's agreed to install that benefit the surrounding properties.

ADDITIONAL SCOPE - 4TH AVE. N.

REQUEST FOR PROPOSAL # 1



PROJECT #: PARK OF COMMERCE PHASE IB
 CONTRACTOR: David Mancini & Sons, Inc. (DMSI)
 Date: 7/6/2020

Description: Installation of 8" Linestop for facilitate WM deflexion around S-8, installation of sample point and re-installation of 3-1" Water services.

Location: 4TH Avenue N - +/-Sta. 70+31.

SUMMARY OF DIRECT COSTS

CONTRACT ITEMS					
ITEM	DESCRIPTION OF WORK	UNIT	QUANTITY	UNIT PRICE	TOTAL
W-8	Furnish Utility Crew & Equipment (Uncovering and backfill pipe at linestop location (3Hrs), installation of 3-1" water services from new pipe and connect to existing 1"	HR	5.00	687.00	3,435.00
SUBTOTAL					3,435.00

MATERIAL COSTS					
MATERIAL DESCRIPTION	UNIT	QUANTITY	UNIT COST	TOTAL	
8"x1" SS Saddle	EA	3	\$ 85.00	\$	255.00
1" Ball Corp Stop	EA	3	\$ 62.00	\$	186.00
1" Insert	EA	6	\$ 1.50	\$	9.00
1x100 Blue PE Tubing CTS	LF	30	\$ 0.45	\$	13.50
Comp. Coupling CTSxCTS	EA	3	\$ 35.00	\$	105.00
8"x3/4" SS Saddle	EA	1	\$ 85.00	\$	85.00
3/4" Ball Corp Stop	EA	1	\$ 40.00	\$	40.00
3/4x100 Blue PE Tubing CTS	LF	15	\$ 0.30	\$	4.50
				\$	-
				\$	-

SUBTOTAL MATERIAL 698.00
TAX 48.86
MATERIAL MARKUP (15%) PER GC 11.04.C 104.70
TOTAL MATERIAL **851.56**

SUBCONTRACTORS					
DESCRIPTION	UNIT	QUANTITY	UNIT COST	TOTAL	
8" Linestop	EA	1	\$ 4,500.00	\$	4,500.00
				\$	-
				\$	-
SUBTOTAL SUBCONTRACTORS					4,500.00
SUBCONTRACTORS MARKUP (10%) PER GC 11.04.C					450.00
TOTAL SUBCONTRACTORS					4,950.00
TOTAL CONTRACT ITEMS + MATERIALS + SUBCONTRACTORS					9,236.56

SUMMARY OF TIME IMPACT (REQUEST FOR ADDITIONAL TIME)

#	Description	Unit	QTY
	Procurement of Materials (Linestop Fitting)	DAY	10.00
SUBTOTAL			10.00
TIME ADDED TO CONTRACT			10.00

ADDITIONAL SCOPE - WEST OF KELLER CANAL

RFP # 3



9601 Wiles Rd Pompano Beach Florida 33073
 PH: (954) 977-8550 FAX: (954) 944-9040

PROJECT #: PARK OF COMMERCE PHASE IB
 CONTRACTOR: David Mancini & Sons, Inc. (DMSI)
 Date: 7/6/2020

Description: Additional 12" WM Pipe and Fittings due to unforeseen conditions found at the west connection point, the 10" pipe was not in service therefore we needed to connect to the 6" WM located about 180' West of the original location.

Location: 7TH Avenue N, Sta 386+80 to Sta 388+40

SUMMARY OF DIRECT COSTS

CONTRACT ITEMS					
ITEM	DESCRIPTION OF WORK	UNIT	QUANTITY	UNIT PRICE	TOTAL
W-2	12" DIP (CL 350) Cement Lined Watermain	LF	200.00	85.00	17,000.00
W-4	12" Gate Valve w/box	EA	1.00	2,760.00	2,760.00
W-8	Furnish Utility Crew & Equipment (Soft Dig to expose existing WM (4Hrs), Tapping Sleeve + Valve Installation, test and support for Tap Sub (8Hrs), Pipe Uncovering and Removal 16 hrs + Deflection under existing Force Mains 8 Hrs)	HR	36.00	687.00	24,732.00
W-9	Furnish Additional Ductile Iron Fittings (cement lined)	LB	336.00	1.20	403.20
R-14	soa Bahio (Qty 373 X3U)	SY	1,243.00	5.00	6,215.00
SUBTOTAL					51,110.20

MATERIAL COSTS

MATERIAL DESCRIPTION	UNIT	QUANTITY	UNIT COST	TOTAL
6X6 TYLER 5149 MJ TAP SLV DI C153 COMPACT F/DIP #377139	EA	1	\$ 1,163.76	\$ 1,163.76
6 FG114 MJ RW TAP VLV OL L/ACC	EA	1	\$ 1,188.46	\$ 1,188.46
6 EBAA MEGALUG MJ DI 1106 RSTR F/DI PIPE, BLACK	EA	1	\$ 53.31	\$ 53.31
6 MJ REGULAR ACC SET L/GLAND(LESS GLAND)	EA	1	\$ 30.00	\$ 30.00
6X1/8 FLG ACC FF 304SS	EA	1	\$ 40.00	\$ 40.00
6X1/8 FLG FF NEOPRENE GASKET	EA	1	\$ 3.58	\$ 3.58
461-S VALVE BOX L/LID DOM 10T, 15B, NO LID	EA	1	\$ 109.00	\$ 109.00
5-1/4 VB LID M/WATER USA	EA	1	\$ 19.00	\$ 19.00
BRZ DISC F/6" VLV (VLV MARKER)	EA	1	\$ 21.00	\$ 21.00
SUBTOTAL MATERIAL				2,628.11
TAX				183.97
MATERIAL MARKUP (15%) PER GC 11.04.C				394.22
TOTAL MATERIAL				3,206.29

SUBCONTRACTORS

DESCRIPTION	UNIT	QUANTITY	UNIT COST	TOTAL
Test and Tapping Existing 6" WM (By EA Tapping)	LS	1	\$ 500.00	\$ 500.00
Fence Restoration	LS	1	\$ 750.00	\$ 750.00
Disposal of trash (Existing Pipe)	Load	1	\$ 500.00	\$ 500.00
SUBTOTAL SUBCONTRACTORS				1,750.00
SUBCONTRACTORS MARKUP (10%) PER GC 11.04.C				175.00
TOTAL SUBCONTRACTORS				1,925.00
TOTAL CONTRACT ITEMS + MATERIALS + SUBCONTRACTORS				56,241.49

SUMMARY OF TIME IMPACT (REQUEST FOR ADDITIONAL TIME)

#	Description	Unit	QTY
	Procurement of Materials	DAY	10.00
	Pipes and Fittings Installation	DAY	5.00
SUBTOTAL			15.00
TIME ADDED TO CONTRACT		Working Days	15.00

ADDITIONAL SCOPE - 7TH AVE N



2601 Wiles Rd Pompano Beach Florida 33073
 PH: (954) 977-3556 FAX: (954) 944-2040

PROJECT #: PARK OF COMMERCE PHASE IB
 CONTRACTOR: David Mancini & Sons, Inc. (DMSI)
 Date: 5/22/2020

Description: RE: Furnishing and installing 2-12x8 and 1-12x6 Water Main stub outs for the future, 1-12x2 Service Tap and meter box, 1- Fire Hydrant assembly, 1-8" Sanitary sewer connection and clean out up to the R/O/W line, temporary restoration & As-Builts.
 Location: 7TH Avenue N at 1939 7th Ave N

SUMMARY OF DIRECT COSTS

CONTRACT ITEMS					
ITEM	DESCRIPTION OF WORK	UNIT	QUANTITY	UNIT PRICE	TOTAL
W-8	Furnish Utility Crew & Equipment (10 Hours per each 8X2 tap + stub out, 8 hour per tap and FH Assy, 16 hour per sanitary sewer connection and 4 hours for 8x2 tap + service)	HR	48.00	687.00	\$ 32,976.00
SUBTOTAL					32,976.00

Water Utility to pay for the cost of the Fire Hydrant Assembly: Total Labor Cost FH Assy (5,496.00)

MATERIAL COSTS	
SUBTOTAL MATERIAL (Breakdown attached)	14,712.00
TAX 7%	1,029.84
MATERIAL MARKUP (15%) PER GC 11.04.C	2,206.80
TOTAL MATERIAL	17,948.64

Water Utility to pay for the cost of tax, mark-up and material cost of Fire Hydrant assy (6,498.33)

SUBCONTRACTORS					
	DESCRIPTION	UNIT	QUANTITY	UNIT COST	TOTAL
	2 INCH TAP	EA	1	\$ 300.00	\$ 300.00
	6 INCH TAP	EA	1	\$ 500.00	\$ 500.00
	8 INCH TAP	EA	2	\$ 600.00	\$ 1,200.00
	Survey & As-Built	LS	1	\$ 800.00	\$ 800.00
	ADD MOT	LS	1	\$ 450.00	\$ 450.00
SUBTOTAL SUBCONTRACTORS					3,250.00
SUBCONTRACTORS MARKUP (10%) PER GC 11.04.C					325.00
TOTAL SUBCONTRACTORS					3,575.00
					(550.00)

Water Utility to pay for the cost of 6-inch tap and mark up for tap

TOTAL CONTRACT ITEMS + MATERIALS + SUBCONTRACTORS	54,499.64
	TOTAL OF WATER UTILITIES COST FOR FH ASSY (12,544.33)
	TOTAL DEVELOPER'S COST PER UTILITY AGREEMENT \$41,955.31

SUMMARY OF TIME IMPACT (REQUEST FOR ADDITIONAL TIME)

#	Description	Unit	QTY
	Procurement of Materials	DAY	5.00
	Scheduling Subcontractor	DAY	2.00
	Work	DAY	6.00
SUBTOTAL			13.00

TIME ADDED TO CONTRACT	Working Days	13.00
-------------------------------	---------------------	--------------

MATERIAL COSTS

Material Description	QTY	Unit	Unit Cost	Total Cost
ITEM F-12: 12X6 TAPN SLV & VLV				
12X6 H615 MJ TAP SLV BLK F/DI	1.00	EA	\$ 2,300.00	\$ 2,300.00
6 F6114 MJ RW TAP VLV OL L/ACC	1.00	EA	\$ 675.00	\$ 675.00
6 EBAA MEGALUG MJ DI 1106 RSTR F/DI PIPE BLACK	1.00	EA	\$ 23.00	\$ 23.00
6X1/8 FLG FF NEOPRENE GASKET	1.00	EA	\$ 3.50	\$ 3.50
6 MJ REGULAR ACC SET L/GLAND	1.00	EA	\$ 13.00	\$ 13.00
461-S VALVE BOX IMPORT	1.00	EA	\$ 92.00	\$ 92.00
5-1/4 VLV BOX LID M/WATER	1.00	EA	\$ 17.00	\$ 17.00
BRZ DISC F/6" VLV (VLV MARKER)	1.00	EA	\$ 13.00	\$ 13.00
ROADWAY TRACER BOX BLUE WATER PART# RB14BTP	1.00	EA	\$ 65.00	\$ 65.00
				\$ -
ITEM 73: 12X8 TAP ASSEMBLY				
12X8 H615 MJ TAP SLV BLK F/DI	2.00	EA	\$ 2,465.00	\$ 4,930.00
8 T2361-19 MJ RW TAP VLV OL ON	2.00	EA	\$ 1,063.00	\$ 2,126.00
8X1/8 FLG FF NEOPRENE GASKET	2.00	EA	\$ 6.00	\$ 12.00
8 MJ REGULAR ACC SET L/GLAND	2.00	EA	\$ 14.00	\$ 28.00
8 MJ PLUG C153 IMP	2.00	EA	\$ 55.00	\$ 110.00
461-S VALVE BOX IMPORT	2.00	EA	\$ 75.00	\$ 150.00
5-1/4 VLV BOX LID M/WATER	2.00	EA	\$ 20.00	\$ 40.00
BRZ DISC F/8" VLV (VLV MARKER)	2.00	EA	\$ 15.00	\$ 30.00
ROADWAY TRACER BOX BLUE WATER PART# RB14BTP	2.00	EA	\$ 65.00	\$ 130.00
				\$ -
ITEM 7-16: FH ASSEMBY GV & TEE				
6 F6100 MJ RW GV OL ON L/ACC CLOW GATE VALVE EPOXY COATED W/STAINLESS STEEL BOLTS & NUTS	-	EA	\$ 475.00	\$ -
6 EBAA MEGALUG C900&IPS 2006PV RED	-	EA	\$ 28.00	\$ -
6 MJ REGULAR ACC SET L/GLAND	-	EA	\$ 13.00	\$ -
461-S VALVE BOX IMPORT	-	EA	\$ 92.00	\$ -
5-1/4 VLV BOX LID M/WATER	-	EA	\$ 17.00	\$ -
ROADWAY TRACER BOX BLUE WATER PART# RB14BTP	-	EA	\$ 65.00	\$ -
BRZ DISC F/6" VLV (VLV MARKER)	-	EA	\$ 13.00	\$ -
5-1/4VO MED HYD 4'B 6MJ YELLOW	1.00	EA	\$ 1,700.00	\$ 1,700.00
6 EBAA MEGALUG C900&IPS 2006PV RED	1.00	EA	\$ 28.00	\$ 28.00
6 MJ REGULAR ACC SET L/GLAND	1.00	EA	\$ 13.00	\$ 13.00
3/4 HOT DIP GALV ALL THRD ROD PV35797	12.00	FT	\$ 2.75	\$ 33.00
3/4 HOT DIPPED GALV FLAT WASHE	8.00	EA	\$ 0.50	\$ 4.00
3/4 HEAVY HEX NUT HD GALV	8.00	EA	\$ 0.50	\$ 4.00
2-W 1-C #DB BLUE REFLEC MARKER	1.00	EA	\$ 3.00	\$ 3.00
6 TJ CL50 PR350 DI PIPE	20.00	FT	\$ 17.00	\$ 340.00
				\$ -
ITEM 79: 2" SNGL WTR SRVC & BOX				
404-1320-15CC 12X2CC SADDLE	1.00	EA	\$ 138.00	\$ 138.00
FB1000-7NL 2 BALL CORP STOP CXPJ CTS NO LEAD	1.00	EA	\$ 243.00	\$ 243.00
#55 2 SS INSERT F/CTS PE	2.00	EA	\$ 3.00	\$ 6.00
2X100' BLUE PE TUBING CTS 200 PSI	50.00	FT	\$ 2.00	\$ 100.00
4 SCH40 PVC PIPE SWB 20'	20.00	FT	\$ 2.00	\$ 40.00
COPPERHEAD 1245B-EHS-500 #12	100.00	FT	\$ 0.25	\$ 25.00
BFA43-777WNL 2" ANG BALL METER BALL METER VALVE PJCTSXMF LOW LEAD	1.00	EA	\$ 329.00	\$ 329.00
66 METER BOX BODY ONLY	1.00	EA	\$ 99.00	\$ 99.00
B36 LID 30-1/2X17-1/2 M/WATER	1.00	EA	\$ 71.00	\$ 71.00
				\$ -
CUT-IN 8X6" LATERAL				
8 PVC SDR26 HW SWR PIPE (G) 14'	14.00	FT	\$ 4.75	\$ 66.50
1002-88RC 8 CLAYXCI/PVC CPLG STRONGBACK	2.00	EA	\$ 75.00	\$ 150.00
8X6 HW SWR SDR26 T-WYE GXG	1.00	EA	\$ 63.00	\$ 63.00
6X14' SDR26 HW PVC SWR PIPE G	28.00	FT	\$ 3.00	\$ 84.00
				\$ -
CLEAN-OUT ASSEMBLIES				
6 SDR35 CLEANOUT ADPT HXF L/PL	1.00	EA	\$ 14.00	\$ 14.00
6 BRASS CO PLUG W/CNTR SUNK	1.00	EA	\$ 18.00	\$ 18.00
7621 REV. HANDHOLE R&C M/SEWER	1.00	EA	\$ 43.00	\$ 43.00
				\$ -
COLD ASPHALT FOR TEMPORARY RESTORATION	4.00	TON	\$ 85.00	\$ 340.00

\$ 14,712.00

Price of Original Contract: \$ 1,695,685.50 authorized by Commission on 12/12/19 Agenda Item 9.C

Current Price of Contract (including Change Orders): \$1,695,685.50

Price of Current Change Order: \$48,196.80

New Contract Price: \$1,743,882.30

Basis of Price Change: Unit Price Time & Material Lump Sum

Contract Time Change

No Change Extended Decreased by 83 work days

The CONTRACTOR and the OWNER agree that this CHANGE ORDER represents the complete agreement of the parties with respect to these matters as of the date of this CHANGE ORDER. By approving this Change Order, the CONTRACTOR releases any and all claims that it may have against the OWNER under the subject contract including, but not limited to claims for equitable adjustments, which occurred or accrued prior to the effective date of this CHANGE ORDER.

This Change Order may be executed in counterparts and is not effective until approved by either the City Manager or City Commission (as designated on the last page of this Change Order).

Reviewed and Accepted by: Fabio Angarita, David Mancini and Sons, Inc.
(Contractor Name)

[Signature] Project Manager 9/25/2020
Contractor Representative (Signature) Title Date

Approved by: Brian Shields [Signature] 9/28/20
(Department Director) - Water (Date)

IN WITNESS WHEREOF, the OWNER/CITY has approved this Change Order No. 01 to the Park of Commerce Phase 1B Project on October __, 20__.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Deborah M. Andrea, City Clerk

By: _____
Pam Triolo, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Water Utilities

TITLE:

Ordinance No. 2020-09 – Second Reading – Amend the Comprehensive Plan to include an updated water supply plan and transmit the plan to the State of Florida for review

SUMMARY:

The ordinance amends policies in the infrastructure element of the City's Comprehensive Plan, adopts the 2020 10-Year Water Supply Facilities Work Plan by reference and transmits the plan to the State of Florida for review.

BACKGROUND AND JUSTIFICATION:

The City of Lake Worth's Comprehensive Plan was last adopted October 20, 2009 (with amendments approved October 17, 2017). At that time, a 10-Year Water Supply Facilities Work Plan was adopted to coordinate with South Florida Water Management District's (SFWMD) Lower East Coast (LEC) Water Supply Plan. Work Plans are required to be updated every five (5) years to coordinate with 5-year updates to the LEC. The purpose of this report is to update the City's 10-Year Water Supply Facilities Work Plan in order to keep the City current with overall planning strategies and projection data. SFWMD updated the LEC Water Supply Plan, which was adopted by the SFWMD governing board in November 2018. The City has 18 months from the date of adoption of the LEC, or by May 2020, to revise their Comprehensive Plan to incorporate the updated 10-Year Water Supply Facilities Work Plan. However, due to various COVID-19 delays, the City is submitting this update now. Work Plan details are included in Exhibit A, and recommended Comprehensive Plan updates are included in Exhibit B.

The Historic Resources Preservation Board at its regularly scheduled meeting on June 10, 2020 reviewed the amendments to the Comprehensive Plan and voted to recommend approval to the City Commission.

On June 17, 2020, the Planning & Zoning Board at its regularly scheduled meeting discussed the amendment to the Comprehensive Plan and voted to recommend approval to the City Commission.

On July 7, 2020, the City Commission voted unanimously to transmit the proposed Comprehensive Plan text amendment to the Department of Economic Opportunity for review under the Expedited State Review Process.

On August 14, 2020, the Department of Economic Opportunity notified the City via letter that the state review process had been completed. No comments or objections related to adverse impacts to important state resources and facilities were identified.

MOTION:

Move to approve/disapprove Ordinance 2020-09 on second reading to amend the Comprehensive Plan to include an updated water supply plan and transmit the plan to the State of Florida for review.

ATTACHMENT(S):

Fiscal Impact Analysis – not applicable
P&ZB Staff Report
2020 10-Year Water Supply Facilities Plan
Comp Plan Amendment
Ordinance 2020-09



MEMORANDUM DATE: June 3, 2020

AGENDA DATE: June 10, 2020 and June 17, 2020

TO: Chair and Members of the Historic Resources Preservation Board and Planning and Zoning Board

RE: **10-Year Water Supply Facilities Work Plan**

FROM: Brian Shields, Water Utilities Director
Julie Parham, Assistant Water Utilities Director

TITLE: **PZB/HRPB 20-00400002:** Consideration to recommend to the City Commission to transmit to the State of the Florida the City's 2020 10-Year Water Supply Facilities Work Plan for review including the adoption of related amendments to the Comprehensive Plan.

BACKGROUND:

The City of Lake Worth Beach's Comprehensive Plan was last adopted October 20, 2009, with an amendment approved October 19, 2017. At that time, a 10-Year Water Supply Facilities Work Plan ("Water Supply Plan") was adopted to coordinate with South Florida Water Management District's (SFWMD) Lower East Coast (LEC) Water Supply Plan. The City's Water Supply Plan is required to be updated every five (5) years to coordinate with 5-year updates to the LEC.

Section 373.709, Florida Statutes, Section 163.3177(6)(c)3, Florida Statutes, further requires that the Water Supply Plan be updated within 18 months after a water management district's governing board approves an updated regional water supply plan to reflect applicable changes.

The SFWMD governing board adopted updates to the LEC Water Supply Plan in November 2018. Pursuant to the aforementioned statute, the City has to revise the overall planning strategies and projection data of its Comprehensive Plan by May 2020.

The attached 2020 10-Year Water Supply Facilities Work Plan is presented at this time in order meet this requirement. The amendments associated with the Goals, Objectives and Policies recommended for adoption in the City's Comprehensive Plan are provided in attachment B of this report.

The decision of the Boards will be a recommendation to the City Commission, which will subsequently make the final decision to transmit the 2020 10-Year Water Supply Facilities Work Plan to the State of Florida for review including the adoption of related amendments to the Comprehensive Plan.

POTENTIAL MOTION:

I MOVE TO **RECOMMEND/NOT RECOMMEND** PZB/HRPB PR No. **20-00400002** to the City Commission to transmit to the State of the Florida the 2020 10-Year Water Supply Facilities Work Plan for review including the adoption of related amendments to the Comprehensive Plan..

ATTACHMENTS:

- A. 2020 10-Year Water Supply Facilities Work Plan
- B. Comprehensive Plan Amendment – Goals, Objectives and Policies
- C. Ordinance 2020-09

CITY OF LAKE WORTH BEACH, FLORIDA



**CITY OF LAKE WORTH BEACH
2020 10-YEAR WATER SUPPLY
FACILITIES WORK PLAN**

prepared by

MOCK • ROOS

CONSULTING ENGINEERS

Engineer's Project No. B9019.00

2020 10-Year Water Supply Facilities Work Plan

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SECTION 1



Introduction

Section 1

Introduction

1.1 Project Background

Adopted by the 1985 Florida Legislature, the “*Local Government Comprehensive Planning and Land Development Regulation Act*” (reference Chapter 163, Part II, F.S., also known as Florida's “*Growth Management Act*”) requires all of Florida's 67 counties and 410 municipalities to adopt Local Government Comprehensive Plans that guide future growth and development. Comprehensive plans contain chapters or “elements” that address future land use, housing, transportation, infrastructure, coastal management, conservation, recreation and open space, intergovernmental coordination, and capital improvements. The City of Lake Worth Beach’s Comprehensive Plan was last adopted April 2018 (with amendments approved April 2019).

Water Supply Facilities Work Plans are required to be developed by Local Governments in order to identify specific water supply planning needs. The Work Plans are subsequently coordinated with the Local Government’s Comprehensive Plan amendments, and these work plans are required to be updated every five (5) years to coordinate with 5-year updates to the South Florida Water Management District’s (SFWMD) Lower East Coast (LEC) Water Supply Plan.

1.2 Project Purpose and Scope

The purpose of this report is to serve as the City’s 10-Year Water Supply Facilities Work Plan in order to keep the City current with overall planning strategies and projection data. The City’s Work Plan will be used to coordinate with SFWMD and their recent update to the LEC Water Supply Plan which was adopted by the SFWMD governing board on November 2018. The City has 18 months from the date of adoption of the LEC, or by May 2020, to revise their Comprehensive Plan to incorporate the 10-Year Water Supply Facilities Work Plan. Work Plan details are included in Sections 2 through 4 of this report and recommended Comprehensive Plan updates are included in Section 5.

SECTION 2



Overview of Lake Worth's Existing Water Supply System

Section 2

Existing Water Supply System

2.1 Service Area

The City of Lake Worth Beach is a coastal community located in central Palm Beach County, Florida. The City's water service area includes approximately 10 square miles of residential and commercial property, and serves a population of approximately 38,261 within the City, and a population of approximately 11,118 outside of the municipal boundaries for a total population of approximately 49,379 (2018 basis).. There are approximately 20,621 ERUs in the City's service area, and the City current serves approximately 13,965 water accounts. The water service area includes areas in unincorporated Palm Beach County, and one (1) large/bulk water area which serve Lake Clarke Shores/Hypoluxo Village (bulk water sales agreement) (refer to Appendix A for a copy of the bulk water agreement). The City's water service area is shown in **Figure 2-1**.

2.2 SFWMD Water Use Permit

The City's existing Water Use Permit No. 50-00234-W was issued by the South Florida Water Management District (SFWMD) on October 29, 2012 and has a 20-year permit duration (through October 29, 2032). A letter modification was issued December 15, 2016 with the same expiration date. The current permit provides for an annual allocation of 4,106 million gallons per year (MGY) (which equates to an equivalent annual average daily flow of 11.25 MGD) and a maximum monthly allocation of 356.5 million gallons. The City's raw water sources are the Surficial Aquifer System and the Floridan Aquifer System.

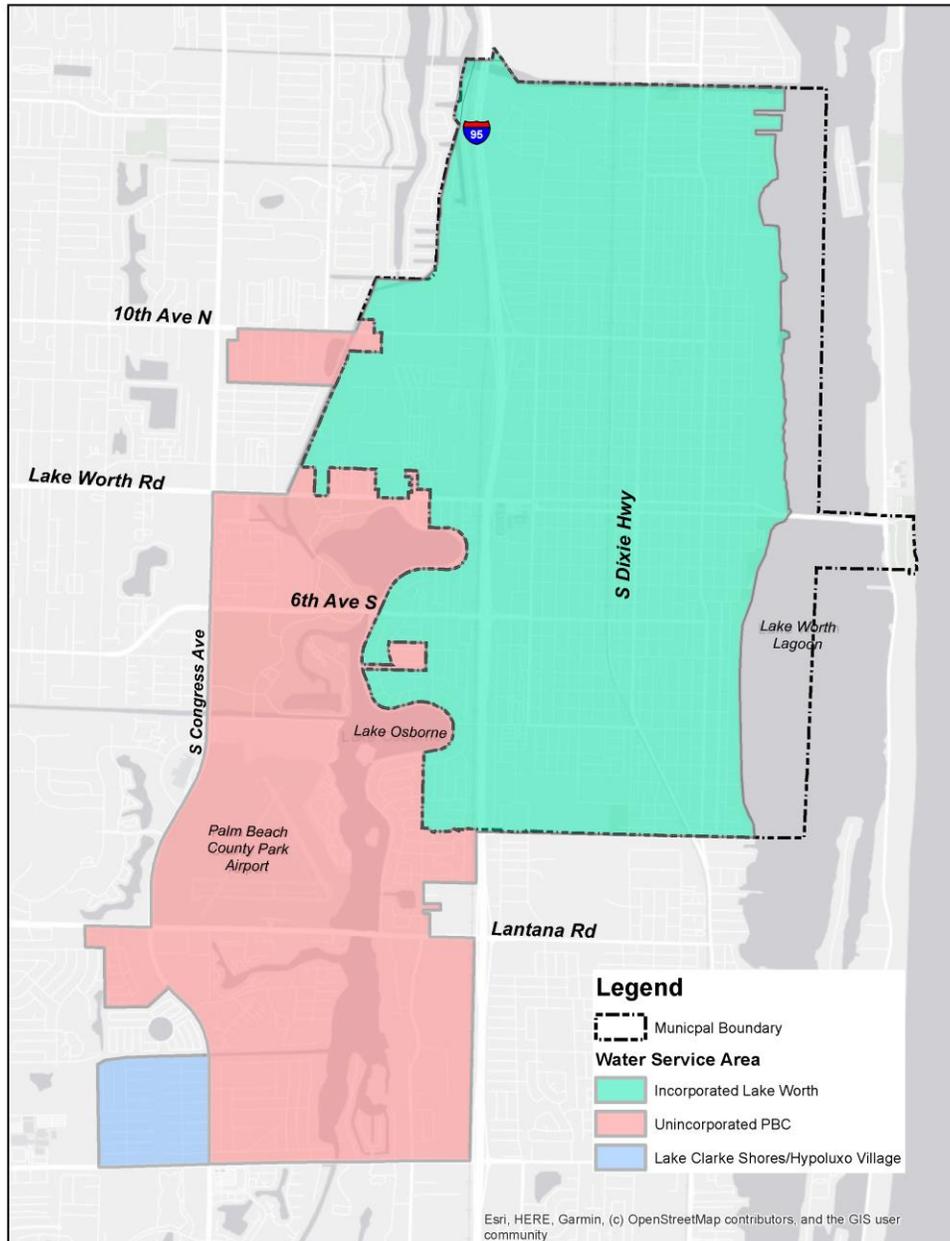
The following withdrawal limitations from specified sources are stipulated:

Table 2.1
Lake Worth Beach WUP Raw Water Withdrawal Limitations

Criteria	Surficial Aquifer System	Floridan Aquifer System
Annual Withdrawal, MG (equiv. MGD)	1,916 (5.25)	2,190 (6.0)
Maximum Monthly Withdrawal, MG (equiv. MGD)	180 (5.92)	206 (6.77)
Monthly Average Dry Season (Dec. thru May), MG (equiv. MGD)	152 (5.0)	n/a
Monthly Average Wet Season (Jun. thru Nov.), MG (equiv. MGD)	168 (5.5)	n/a
SAS Wells 1-15, Monthly Average Dry Season (Dec. thru May), MG (equiv. MGD)	101 (3.3)	n/a
SAS Wells 1-15 Monthly Average Wet Season (Jun. thru Nov.), MG (equiv. MGD)	112 (3.68)	n/a

Source: SFWMD WUP No. 50-00234-W issued October 29, 2012.

Figure 2-1
Lake Worth Beach Water Supply Service Area



2.3 Raw Water Sources

The Surficial Aquifer and the Floridan Aquifer are the sources that are utilized by the City of Lake Worth Beach for its raw water supply. The wells consist of casings that are 12-inch to 16-inch in diameter. The raw water is withdrawn by either submersible turbine pumps (Surficial) or surface mounted horizontal split case pumps (Floridan) that discharge through a raw water collection and transmission system.

Well descriptions and details are included in **Table 2.2**.

The total wellfield capacity is approximately 22 MGD but is limited to average annual and maximum monthly withdrawal per the SFWMD water use permit described above in **Section 2.2**.

2.3.1 Surficial Aquifer Source

There are fourteen (14) Surficial Aquifer wells as shown in **Figure 2-2**. Ten (10) wells are active, and two (2) wells are proposed. The Surficial Aquifer wells provide raw water to be treated at the City's Lime Softening Water Treatment Plant.

The Surficial Aquifer source is a renewable water resource, but must be managed to maintain the salt water interface at a significant distance from the wellfield. The Water Use Permit discussed previously recognized that a higher allocation was appropriate during the rainy season when Surficial Aquifer water resources were more plentiful. In addition, capturing some of the rainy season rainfall can benefit aquifer recharge. The City has implemented multiple approaches to achieve this goal including:

- Installing infiltration trench storm drains on many roadway projects,
- Installing or enlarging dry detention areas for City projects,
- Working with developers to provide dry detention for stormwater, and
- Working with other agencies to provide dry detention for stormwater.

The implementation of these strategies had resulted in increases in the seasonal ground water elevations to the benefit of the Surficial Aquifer.

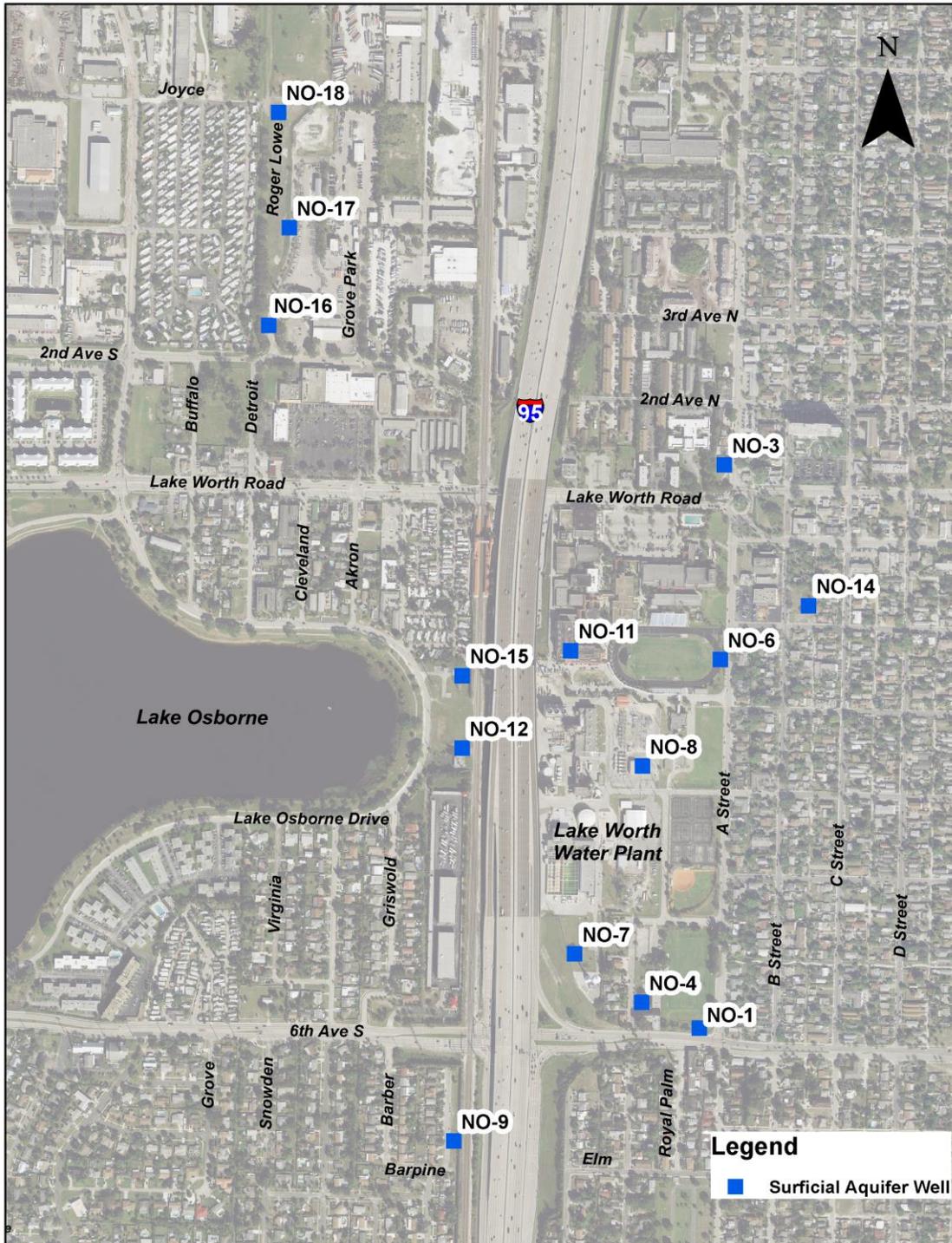
2.3.1.1 Salt Water Interference

The City monitors the salt water interface through a series of eight monitoring wells located along the length of 5th Avenue South as well as other strategically located monitoring wells. **Figure 2-3** is a plot of the chloride levels from 2007 to 2020 for monitoring wells LW-2 and LW-4. Monitoring Well LW-2 is located at Palmway and 5th Avenue South and is located vertically near the face of the salt water wedge. Monitoring Well LW-4 is located at 'M' Street and 5th Avenue South and is located vertically near the bottom of the fresh water interface with the salt water zone. A one-year rolling average is utilized to smooth out the data points.

Table 2.2
Lake Worth Beach Raw Water Wellfield

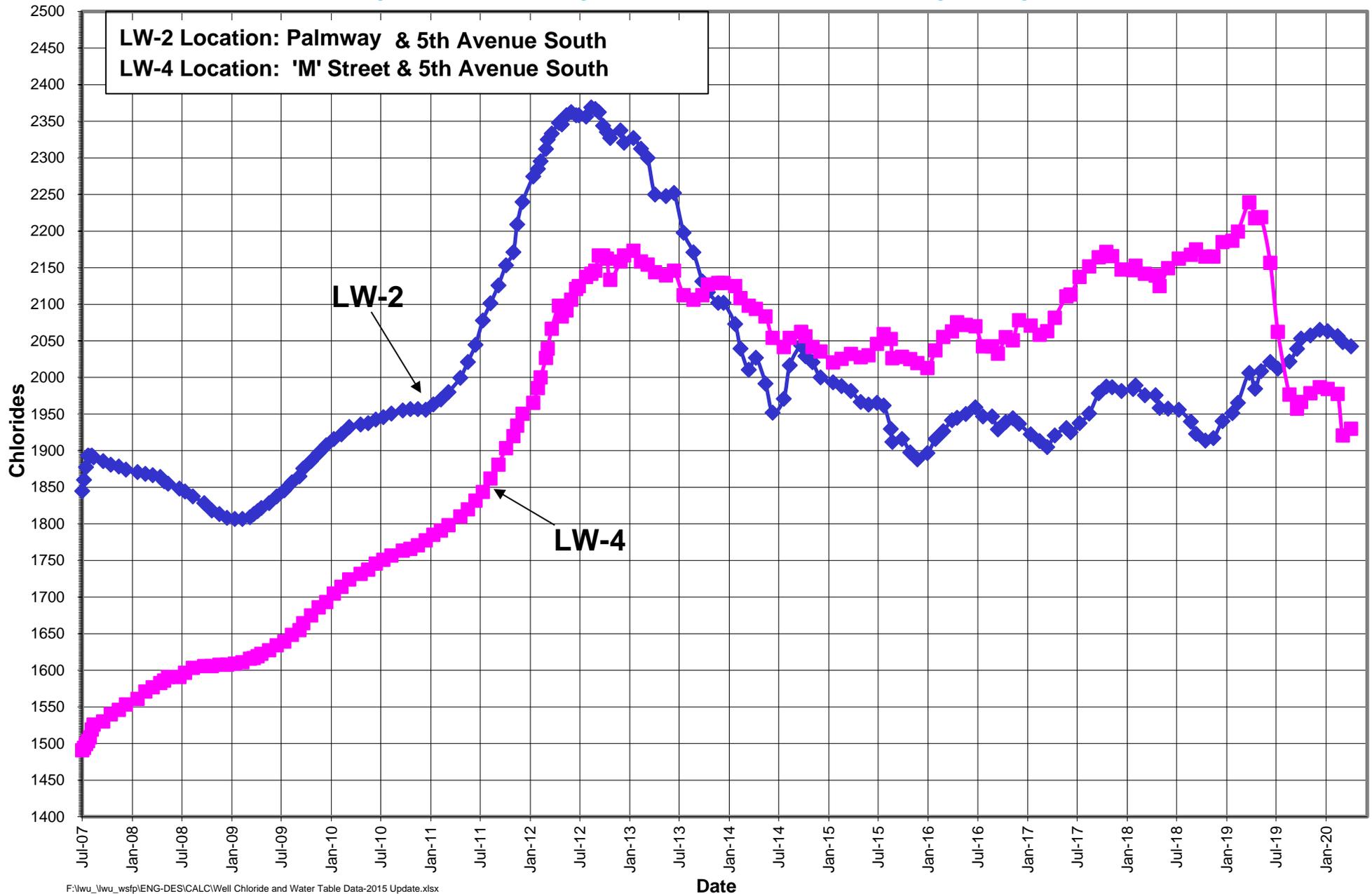
Well No.	Status	Diameter (in.)	Depth (feet)	Year Installed	Initial Capacity (gpm)
Surficial Aquifer Wells					
LW-1	Active Primary	12	250	1980	1000
LW-3	Active Standby	14	250	2000	800
LW-4	Active	12	110	1944	750
LW-6	Active Primary	14	175	1988	800
LW-7	Active Primary	14	150	1986	1000
LW-8	Active Primary	14	138	1987	700
LW-9R	Active Primary	12	258	2005	800
LW-11	Active Primary	14	102	1952	750
LW-12	Active Standby	14	160	2003	800
LW-14	Active	12	250	1974	800
LW-15R	Active Primary	14	280	2010	800
LW-16	Active Primary	16	284	2014	800
LW-17	Proposed Primary	16	TBD	TBD	800
LW-18	Proposed Primary	16	TBD	TBD	800
		Total Active + Proposed Capacity, gpm (MGD):			11,200 (16)
		Total Active + Proposed Firm Capacity, gpm (MGD):			10,200 (14.7)
Floridan Aquifer Wells					
F-1	Active	16	1520	2004	1500
F-2	Active	16	1484	2005	1500
F-3	Active	16	1490	2006	1500
F-4	Proposed (2020)	16	1550	TBD	1500
F-5	Proposed	16	1550	TBD	1500
F-6	Proposed	16	1550	TBD	1500
F-7	Proposed	16	1550	TBD	1500
F-8	Proposed	16	1550	TBD	1500
F-9	Proposed	16	1550	TBD	1500
F-10	Proposed	16	1550	TBD	1500
		Total Active Capacity, gpm (MGD):			4,500 (6.48)
		Total Active Firm Capacity, gpm (MGD):			3,000 (4.32)
		Total Active & Proposed Capacity, gpm (MGD):			15,000 (21.6)
		Total Active & Proposed Firm Capacity, gpm (MGD):			13,500 (19.4)

Figure 2-2
Lake Worth Beach Surficial Aquifer Wellfield



Source: SFWMD WUP No. 50-00234-W issued October 29, 2012. Wells LW-2, LW-5, LW-10 and LW-13 have been abandoned.

Figure 2-3: Monitoring Well Chloride Data -Year Rolling Average



After the RO plant started operation and demands on the surficial aquifer were reduced, the chloride concentration in both of these monitoring wells trended down. Initially Monitoring Well LW-2 trended down more sharply indicating that the salt water wedge was retreating oceanward. Since 2014 the chloride concentration in this well has been contained in a small range indicating that it is relatively stable. Monitoring Well LW-4 trended lower more slowly until 2016 and then began a gradual rise. In 2019 the well experienced a sharp drop in chlorides continuing to date. This drop in chlorides indicates that the surficial aquifer water table elevation likely increased exerting more pressure to depress the salt water interface. Overall the salt water interface has been retreating since 2012. This is a very positive indication that the City is managing its surficial aquifer withdrawals in a responsible manner.

2.3.2 Floridan Aquifer Source

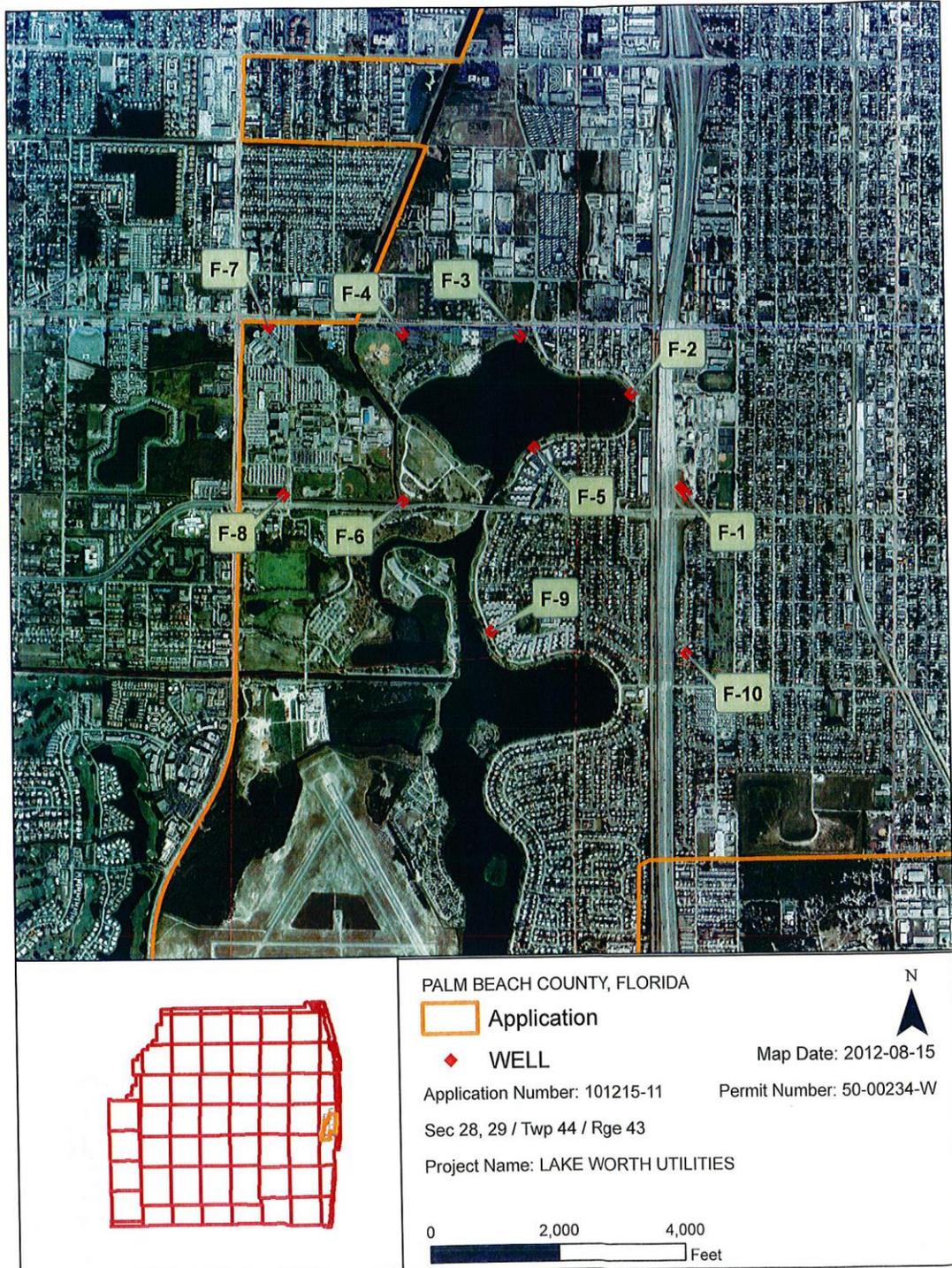
There are three (3) existing and seven (7) proposed Floridan Aquifer wells as shown in **Figure 2-4**. The Floridan Aquifer wells provide brackish raw water to be treated at the City's Reverse Osmosis (RO) Water Treatment Plant.

The Floridan Aquifer wells were first placed in operation in 2011. Therefore, they have been in operation for approximately nine years. In the operation of a Floridan Aquifer wellfield, it is critically important to rotate operation and rest the wells. While some increase in chloride concentration is anticipated over the life of the well, over pumping the wells can cause undesirable increases in the chloride concentration.

Figure 2-5 shows a plot of the three-month rolling average of the chloride concentration for all three wells starting in 2011. The average starting chloride concentration was 2,025 mg/l while the current average concentration is 2,106 mg/l. This represents a very minor 4-percent increase over the first nine years of wellfield operation. This minor increase in chlorides is proof that the City is doing an excellent job operating the Floridan Aquifer wellfield in an appropriate manor of resting and rotating the wells. Figure 2-4 even demonstrates that Well F-3 had maintained a lower chloride concentration for the last four years than when it initially started production.

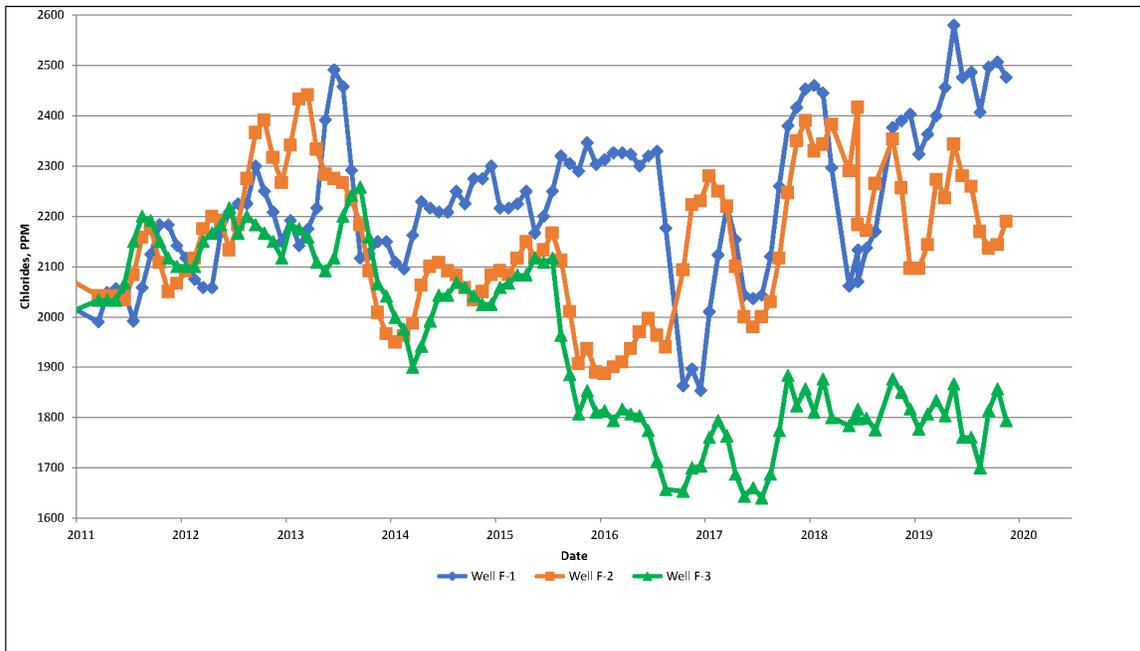
For reference the RO plant was designed to treat an average raw water chloride concentration of 3,000 mg/l as a minimum. The variable speed membrane feed pumps adjust their speed and pressure to accommodate an increasing chloride concentration. Based on other Floridan Aquifer well data in the County, the Floridan waters in some wells can increase to 4,000 mg/l chloride while other wells remain at a much lower concentration. Thus, an average blended concentration of 3,000 mg/l chlorides was utilized in the RO WTP Design Assumptions. Based on the current chloride concentrations noted above, the City's Floridan Aquifer wells are substantially below these typical levels and appear that they will remain so for the foreseeable future.

Figure 2-4
Lake Worth Beach Floridan Aquifer Wellfield



Source: SFWMD WUP No. 50-00234-W issued October 29, 2012.

Figure 2-5
Floridan Aquifer Wells
3-Month Rolling Average Chloride Concentration



2.4 Water Treatment Facilities

The City owns and operates the City of Lake Worth Beach Water Treatment Plant (WTP) which provides potable water to the City's water service area. The plant includes two (2) treatment processes: a lime softening treatment plant which utilizes raw water from the Surficial Aquifer, and a Reverse Osmosis (RO) treatment plant which utilizes raw water from the Floridan Aquifer.

The lime softening WTP provides 12.9 MGD capacity, and includes lime softening, filtration, chemical addition and disinfection treatment processes. The lime softening facility consists of a rapid-mix chamber, two (2) horizontal flocculation and sedimentation basins (settling basins), and six (6) multimedia gravity filters. Each gravity filter has a capacity of 3.0 MGD, but is operated at a capacity of 2.5 MGD, yielding a total capacity of 15 MGD. Consequently, the overall capacity of the water treatment facilities is limited only by the 12.9 MGD capacity of the lime softening unit process.

The RO WTP was constructed in 2011 and provides 4.5 MGD total capacity, with three (3) membrane trains each rated at 1.5 MGD. The RO WTP is designed to be expanded in the future for a total capacity of 9.0 MGD, with six (6) membrane trains at 1.5 MGD each. Each membrane train is expandable by 15% capacity by the addition of 6 pressure vessels on the top row of the membrane train frame.

The RO WTP includes cartridge filtration, membrane feed pumps, chemical addition (acid, scale inhibitor and caustic), degasification/odor control, and disinfection treatment processes. RO concentrate is disposed through a deep injection well. The RO WTP is designed for a recovery rate of 75%.

A raw water bypass blend line and pipeline connection has been provided to allow 5 to 10 percent of the Floridan raw feed water to be blended with the permeate water stream. The purpose of this blend water stream is to add Hardness back to the permeate water flow.

The finished water from the two treatment processes is blended together prior to distribution.

2.5 Water Storage Facilities

The City's water storage facilities include a 1.8 MG clearwell (used for disinfection contact time), a 1.0 MG clearwell, a 1.5 MG ground storage tank and a 0.3 MG elevated storage tank at the water treatment facility. Total water storage volume at the water treatment plant site (not including the 1.8 MG clearwell) is 2.8 MG.

The City's water storage facilities also include several off-site facilities, including a 0.3 MG elevated storage tank at 22nd Avenue N and N "D" Street, a 0.5 MG ground storage tank at the South Booster Station, and a 0.5 MG ground storage tank at the North Booster Station. Total water storage volume at the offsite facilities is 1.3 MG.

The water storage facilities are shown on **Figure 2-6**. The City's total water storage volume for the plant and for the offsite facilities combined is 5.9 MG and provides sufficient capacity to meet peak hourly and fire flow demands, and to provide adequate contact time for disinfection prior to distribution.

2.6 Water Distribution System and Interconnects with Other Municipalities

The water distribution system consists of a piping network made up of transmission mains sized 12-inch to 36-inch in diameter, and distribution mains sized 2-inch to 10-inch in diameter. The majority of the distribution piping is 6-inch diameter and smaller. Most of the 2-inch lines are galvanized steel. The 4-inch through 36-inch lines are a combination of cast iron, PVC and ductile iron.

The water distribution system is supplied by five (5) high service water distribution pumps. Two (2) of the pumps (#1 and #2) are rated for 5,000 gpm (300 Hp), one (1) pump (#5) is rated for 3,900 gpm (250 Hp) and two (2) of the pumps (#3 and #4) are rated for 2,500 gpm (150 Hp) at a design system operating pressure of 72 psi. This provides a total pumping capacity of 18,900 gpm, and a total firm pumping capacity of 13,900 gpm with the largest unit as stand by.

The water distribution system includes two (2) booster pumping stations: the North Booster Station and the South Booster Station. The North Booster Station includes two (2) 1,500 gpm pumps, and the South Booster Station has two (2) 1,125 gpm pumps, for a total pumping capacity of 5,250 gpm, and a total firm pumping capacity of 2,625 gpm.

Five (5) interconnects exist between the City of Lake Worth Beach and neighboring water suppliers, which are listed in **Table 2.3** as follows:

Table 2.3
Lake Worth Beach Potable Water Interconnects

Interconnecting Municipality	Type	Interconnect Location	Interconnect Size
Palm Beach County	Emergency	6 th Avenue South and Congress Avenue	10-inch
Palm Beach County	Emergency	Lake Worth Road and Congress Avenue	8-inch
West Palm Beach	Emergency	West Palm Beach Canal / C-51 and Gregory Road	16-inch
Lantana	Emergency	Ridge Road	6-inch
Lantana	Emergency	Dixie Highway	6-inch

These interconnects can be used to maintain water supply within the City during emergency conditions, or to provide emergency water to the neighboring utility from the City of Lake Worth Beach. Currently, one of the interconnects with the Town of Lantana (on Dixie Highway) is disconnected.

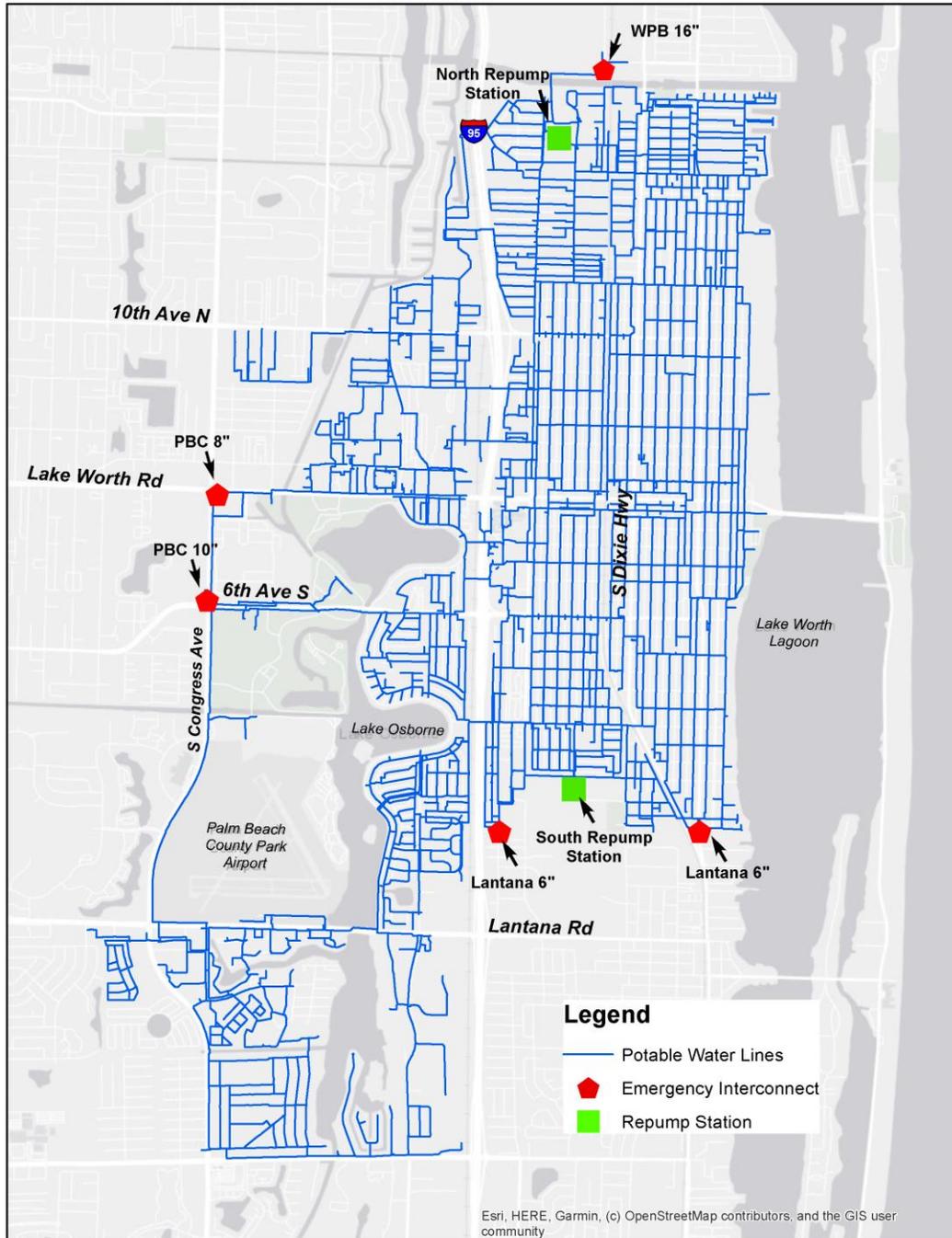
The City’s water distribution system and interconnects are shown in **Figure 2-6**.

2.7 Domestic Self-Supply Systems

Domestic self-supply systems are private water wells used by customers for their own domestic water supply source. These private systems are regulated by the Palm Beach County Environmental Control Rule II (ECR II), which is implemented and enforced through the Palm Beach County Health Department. The ECR II requires private water systems to connect to an approved community water system if there is an available water main within 100 feet in a public right-of-way (ROW) or easement abutting the property on which the building(s) are located.

There are a few, isolated individual homes within the City of Lake Worth Beach’s service area that use private wells for water supply. Currently, the City does not require connection to the City’s water system but encourages connection on a voluntary basis. Due to the few numbers of these private systems, connection of these systems will not affect or impact the City’s projected water supply needs.

Figure 2-6
Lake Worth Beach Water Distribution System



2.8 Conservation Program

The City of Lake Worth Beach Implemented a Water Conservation Program which includes the following:

◆ Irrigation Ordinance

The City of Lake Worth Beach Implemented year-round landscape irrigation conservation measures in times of water shortage. The City adopted Florida Administration Code 40E which describes water use restriction during different levels of water shortage. During times of water shortage, the City allows irrigation for three days per week. Irrigation during these times are prohibited during the hours from 10:00 am to 4:00pm.

The City allows year-round watering seven (7) days a week if the home owner uses low volume irrigation, micro-irrigation, low-volume hand watering methods, and rain barrels, cisterns, or other similar rain-harvesting devices.

The City is currently reviewing their irrigation ordinance and comparing it with the model ordinances in the SFWMD Local Government Model Ordinances and Codes webpage. The goal is to update their irrigation ordinance with the appropriate new provisions.

◆ Landscape Regulations

The City's Ordinance Section 23.6 "Landscaping Regulations" focuses on the conservation of potable and non-potable water by setting landscape design standards to promote planting of native species, using shade trees, limiting lawn grass, and designing yard to retain storm runoff.

◆ Public Education Programs

The City promotes water conservation through handouts which are distributed at Board Meeting, Commission Meetings, Public Meetings, and with Utility bills. The handouts contain AWWA and SFWMD information which educates the public on the benefits of conserving water, water conservation tips and how to check and replace leaky faucets, shower heads, toilets and irrigation systems. The City also supports the "Florida-Friendly Landscaping" Program.

◆ Ultra-Low Volume Plumbing Fixture Ordinance

The City previously adopted the Standard Plumbing Code (1997 ed.) that requires the use of ultra-low volume plumbing fixtures.

◆ Water Conservation Rate Structure

The City previously adopted a Water Conservation Rate Structure. The rate structure establishes block rates based on volume of water usage, with increasing rates at higher usage.

◆ **Leak Detection Program**

The City has taken a number of steps to reduce unaccounted-for water losses. A meter replacement program has been in place to improve metered flow accuracy to large users. The City is currently replacing 2-inch galvanized water mains that are 50 years plus old with a 6-year phased program that began in 2015. This program is showing benefits since the 2019 unaccounted for water has been reduced to 6.24%.

◆ **Rain Sensor Device Ordinance**

The City has adopted a Rain Sensor Device Ordinance. The Ordinance will require that customers install rain sensors on new irrigation systems. The sensors detect when it is raining and automatically turn the irrigation system off.

◆ **Automatic Meter Infrastructure**

The City has implemented an Automatic Meter Infrastructure (AMI) and is accumulating data for future analysis.

2.9 Reuse

The City of Lake Worth Beach's wastewater treatment is provided by the East Central Regional Water Reclamation Facility (ECRWRF) located in West Palm Beach, Florida. The City's wastewater is conveyed to the ECRWRF through Lake Worth Beach's and Palm Beach County's wastewater collection and transmission systems. The ECRWRF is approximately 10-miles northwest of Lake Worth Beach. The ECRWRF has implemented a reuse water program that primarily provides reuse water to FPL under separate contract with PBC. There are no facilities in the vicinity of Lake Worth Beach that provide reuse water from the ERCWRF. Currently, reuse water is not an alternative water supply that is available to the City of Lake Worth Beach from the ERCWRF or any other water reclamation facility.

2.10 Regional Water Supply Issues

The City of Lake Worth Beach shares common goals with the Lower East Coast (LEC) Region, such as decreasing the regions dependency on the Surficial Aquifer, lowering per capita water use, increasing conservation and continuing reclaimed water efforts.

The City constructed a Reverse Osmosis (RO) Treatment Process at their Water Treatment Plant to take in brackish water from the Floridan Aquifer. Currently the RO Treatment Process consists of three treatment trains rated at 1.5 MGD each for a total of 4.5 MGD. The RO Treatment Process is designed to be expandable to over 9.0 MGD. Treating water from the Floridan Aquifer reduces the regional dependency on the Surficial Aquifer. Currently, the City has three (3) Floridan Aquifer wells and plans to add an additional seven (7) Floridan wells to increase withdrawal from the Floridan Aquifer and decrease withdrawal from the Surficial Aquifer.

The City has implemented an extensive CIP and R&R program which included \$32 million dollars' worth of water system improvements between 2014 and 2020. Projects included water main replacement, Water Treatment Plant maintenance, high service pump maintenance, well replacement, and storage tank rehabilitation. These projects increased overall water system efficiency and reduced water loss from the City's water main system.

In order to continually achieve lower per capita water use, the City created a strong conservation program which includes strict irrigation hours, ultra-low volume plumbing fixtures, block rate structure (to decrease demand), leak detection programs, rain sensor devices with automatic irrigation shut-off, and a public education program.

The East Central Regional Water Reclamation Facility (ECRWF) treats wastewater from the City of Lake Worth Beach, the City of West Palm Beach, Palm Beach County and the Town of Palm Beach. A portion of the ECRWF's wastewater is converted to reclaimed water which is used by Florida Power and Light for cooling water for their power plant located on SR 80. Lake Worth Beach participates in this regional group to promote the use of reclaimed water as an alternative water supply source.

SECTION 3



Potable Water Needs Assessment

Section 3

Potable Water Needs Assessment

3.1 Population Projections

Each year, the Bureau of Economic and Business Research (BEBR) at the University of Florida prepares the official population projections, in five-year intervals, for each Florida County. Since BEBR issues only a single countywide figure for each county, the Planning Division of the Palm Beach County (PBC) Planning Department annually allocates these figures to smaller geographies for localized planning efforts.

PBC prepares the Population Allocation Model every other year as a tool for long-range service delivery planning in Palm Beach County. Ch. 163.3177(1)(f)3, F.S., requires that each comprehensive plan be based upon population projections published by the Office of Economic and Demographic Research (OEDR) or generated by the local government based upon professionally acceptable methodology. The OEDR publishes the projections prepared by BEBR. PBC utilizes the OEDR/BEBR medium range projections for the County's Population Allocation Model.

The population projections developed for the City of Lake Worth Beach are based on the PBC Planning Departments' 2019 Population Allocation Model. The projected population for the City of Lake Worth Beach water service area was estimated by overlaying a map of Lake Worth Beach's service area onto PBC's GIS base map containing population segregated into Traffic Analysis Zones (TAZ) (refer to **Figure 3-1**). Population projections for the City were developed by assessing a percentage of service area located within each TAZ and summing the population projections of the individual TAZs within the overall service area. A summary of the final population projections is included in **Table 3.1**.

Figure 3-1
Lake Worth Beach Water Service Area and TAZ Map

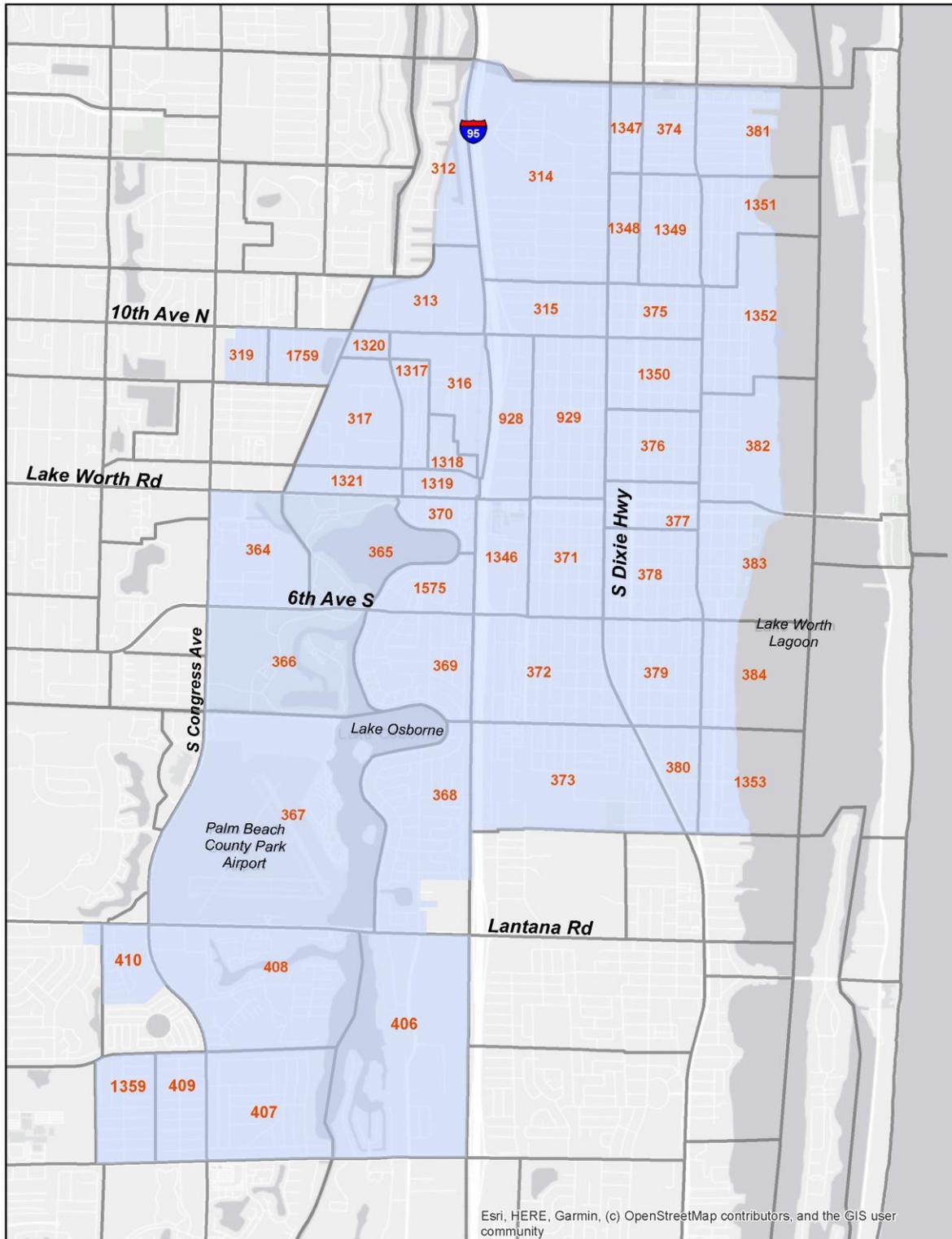


Table 3-1
Lake Worth Beach Water Service Area
Population Projections through 2040

TAZ	% of TAZ Population in	2018	2020	2025	2030	2035	2040	Percent Growth 2018-2040
Incorporated Lake Worth Beach								
312	30%	262	266	266	269	271	279	6%
313	100%	181	194	194	194	316	370	104%
314	100%	2,809	2,904	3,286	3,584	3,694	3,760	34%
315	100%	946	946	948	948	956	977	3%
316	100%	5	5	5	5	255	262	5140%
317	100%	499	697	1,091	1,326	1,361	1,384	177%
368	30%	582	592	598	623	636	647	11%
369	95%	1,276	1,307	1,379	1,401	1,417	1,443	13%
370	90%	532	544	550	584	620	639	20%
371	100%	2,705	2,718	2,743	2,832	2,860	2,910	8%
372	100%	3,475	3,544	3,599	3,621	3,644	3,719	7%
373	100%	2,532	2,587	2,644	2,734	2,760	2,811	11%
374	100%	605	615	624	637	645	659	9%
375	100%	741	741	750	783	794	809	9%
376	100%	1,331	1,360	1,420	1,499	1,700	1,758	32%
377	100%	400	401	406	445	535	649	62%
378	100%	1,734	1,774	1,797	1,813	1,832	1,872	8%
379	100%	2,314	2,365	2,419	2,500	2,525	2,570	11%
380	100%	727	740	741	741	745	761	5%
381	100%	629	644	652	668	676	690	10%
382	100%	740	752	762	803	815	831	12%
383	100%	1,112	1,137	1,152	1,160	1,172	1,194	7%
384	100%	265	277	308	326	330	338	28%
928	100%	1,268	1,272	1,677	2,036	2,087	2,126	68%
929	100%	3,571	3,588	3,634	3,738	3,764	3,830	7%
1317	100%	440	444	449	459	465	475	8%
1318	100%	0	0	0	0	0	0	0%
1319	80%	10	10	10	10	10	10	8%
1320	100%	0	0	0	0	0	0	0%
1321	30%	359	362	363	368	374	383	7%
1346	100%	40	42	46	47	47	49	23%
1347	100%	341	347	351	358	362	370	9%
1348	100%	359	371	375	384	454	541	51%
1349	100%	1069	1082	1096	1133	1145	1170	9%
1350	100%	1539	1573	1657	1735	1756	1794	17%
1351	100%	730	738	757	769	778	794	9%
1352	100%	652	666	675	693	702	718	10%
1353	100%	601	609	617	657	666	680	13%
1575	100%	881	895	907	945	1006	1040	18%
Total		38,261	39,108	40,948	42,829	44,176	45,312	18%

Potable Water Needs Assessment

Table 3-1
Lake Worth Beach Water Service Area
Population Projections through 2040

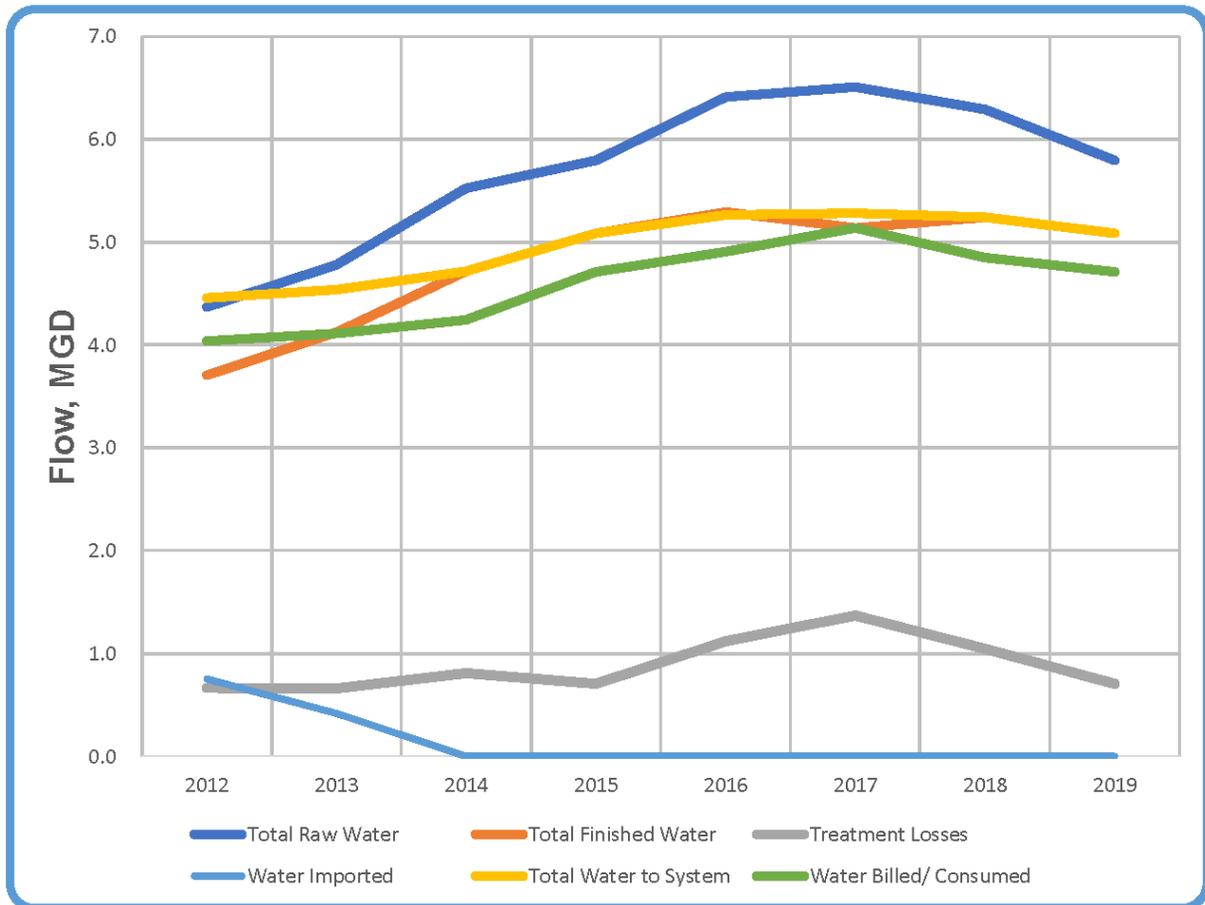
TAZ	% of TAZ Population in Service Area	2018	2020	2025	2030	2035	2040	Percent Growth 2018-2040
Unincorporated Palm Beach County								
319	100%	542	563	572	607	625	642	18%
364-PBSC	100%	0	0	0	0	0	0	0%
365-Park	100%	0	0	0	0	0	0	0%
366-Park	100%	0	0	0	0	0	0	0%
367-Airport	100%	0	0	0	0	0	0	0%
368	60%	1,163	1,184	1,196	1,246	1,271	1,293	11%
369	5%	67	69	73	74	75	76	13%
370	10%	59	60	61	65	69	71	20%
406	100%	757	806	887	914	929	952	26%
407	100%	1,220	1,278	1,292	1,316	1,329	1,343	10%
408	100%	3,357	3,487	3,583	3,609	3,626	3,648	9%
410	30%	539	541	542	544	624	641	19%
1319	20%	2	2	2	3	3	3	8%
1321	70%	837	844	846	858	872	894	7%
1759	100%	1,122	1,166	1,174	1,176	1,177	1,187	6%
Total		9,666	10,000	10,228	10,411	10,599	10,750	11%
Lake Clarke Shores/Hypoluxo Village								
409	100%	594	626	632	647	659	676	14%
1359	100%	858	913	940	969	982	1,006	17%
Total		1,452	1,539	1,572	1,616	1,641	1,682	16%
Total		49,379	50,647	52,748	54,856	56,416	57,744	0
Source: PBC Planning Department 2019 Population Allocation Model								

3.2 Historical Potable Water Demands and Levels of Service

Data from 2012 through 2019 was evaluated to establish recent historical potable water demands for the City of Lake Worth Beach. Consumption data records from the City’s billing accounts, as well as raw and finished water flow data from the City’s water treatment plant operation records were reviewed and summarized.

Lake Worth Beach’s historical raw, finished and billed/consumed water flows are shown in **Figure 3-2**. A complete summary of the City’s historical water data is provided in **Appendix B**.

Figure 3-2
Lake Worth Beach Historical Water Flows



Based upon the historical demand evaluation, **Table 3.2** shows the Levels of Service that are established for the City:

Table 3.2
Lake Worth Beach Potable Water Levels of Service

Service Item	Value
Average Per Capita Finished Water Demand	105 gal/capita/day
Average Person per Household ¹	2.65
Max. Month: Average Day Demand Factor	1.16
Max. Day: Average Day Demand Factor	1.5
Peak Hour: Max Day Demand Factor ²	2.0
Minimum Water Distribution System Pressure at Peak / Fire Flow Conditions ²	30 psi
Minimum Fire Flow Requirements ²	1,000 gpm Residential 2,000 gpm Multi-Family, Commercial, and Industrial

(1) Source: U.S. Census 2010 data.

(2) Source: Lake Worth Beach Water Distribution System Hydraulic Model, by Mock Roos

3.3 Water Demand Projections and Capacity Evaluation

The population projections established under **Section 3.1** were coupled with the projected Levels of Service established under **Section 3.2** to develop water demand projections for the City. The water demand projections are provided in **Table 3.3**.

Based on the projections, in the next 10 years, the City is anticipated to have a total finished water demand (average day) of 5.8 MGD and a maximum day demand of 8.7 MGD in the Year 2030. The water treatment plant currently has a permitted capacity of 17.4 MGD, which provides for sufficient capacity to meet the City's water demand needs over the next 10-year planning period.

However, the plant capacity is limited by the volume of raw water which is permitted to be withdrawn by the South Florida Water Management District (SFWMD) through the City's Water Use Permit (WUP). The current WUP allows for withdrawal of 4,106 million gallons per year, which is equivalent to an average daily withdrawal of 11.25 MGD, with a maximum monthly allocation of 356.5 million gallons (equivalent to 11.72 MGD maximum month average daily flow). The projected raw water needs in 2030 are 6.8 MGD average daily flow, and 10.2 MGD maximum month average daily flow. Based on the projections, the current permit is sufficient to meet the 10-year water supply needs of the City (through Year 2030).

Based on the projections, raw water capacity of the current WUP will meet the water supply needs of the City for the 20-year duration of the permit (through the Year 2032) and beyond.

Table 3.3
Lake Worth Beach Water Demand Projections

Year	Service Area Population				Water Demand					Water Treatment Capacity, MGD	WTP Capacity Surplus/ (Deficit), ADDF MGD	WTP Capacity Surplus/ (Deficit) MDF MGD	Permitted Wellfield Allocation, AADF MGD ⁵	Permitted Wellfield Allocation, Surplus/ (Deficit), AADF MGD
	Incorp. Lake Worth Beach	Unincorp. Palm Beach County	Lake Clarke Shores/ Hypoluxo Village	Total	Average Raw Water, MGD	Average Finished + Bulk Water, MGD ¹	Average Consumed / Billed Water, MGD ²	Gallons per Capita per Day, GPCD ³	Projected Max. Day Finished Water, MGD ⁴					
2015	36,617	10,206	1,481	48,304	5.4	4.6	4.2	86.1		17.4				
2016	37,165	10,026	1,471	48,662	6.4	5.3	4.5	92.3		17.4				
2017	37,713	9,846	1,462	49,021	6.5	5.1	4.6	93.2		17.4				
2018	38,261	9,666	1,452	49,379	6.30	5.2	4.9	99.2		17.4				
2019	38,685	9,833	1,496	50,013	6.54	5.3	4.5	90.8		17.4				
2020	39,108	10,000	1,539	50,647	6.67	5.6	5.3	105.0	8.5	17.4	10.73	7.63	11.25	4.58
2025	40,948	10,228	1,572	52,748	6.95	5.9	5.5	105.0	8.8	17.4	10.45	7.23	11.25	4.30
2030	42,829	10,411	1,616	54,856	7.22	6.1	5.8	105.0	9.2	17.4	10.18	6.82	11.25	4.03
2035	44,176	10,599	1,641	56,416	7.43	6.3	5.9	105.0	9.4	17.4	9.97	6.52	11.25	3.82
2040	45,312	10,750	1,682	57,744	7.60	6.4	6.1	105.0	9.7	17.4	9.80	6.26	11.25	3.65

Legend and Notes:

= Historical Data

= Projected Data

AADF = Annual Average Design Flow

MDF = Maximum Day Flow

(1) Average Treatment Plant Water Loss = 15.38%

(2) Average Distribution System Water Loss = 6.36%

(3) Comprehensive Plan Level of Service Standard of 105 GPCD used for future projections.

(4) Maximum Day/Average Day Demand = 1.5

(5) Wellfield capacity based on SFWMD WUP AADF withdrawal allocation for Surficial + Floridan Aquifer systems.

Regarding the City's water distribution system, a "*Water Distribution System Hydraulic Model*" was developed by the City's Engineering Consultant, Mock•Roos, in December 2005, with an update provided in April 2013. The hydraulic model evaluated the City's water distribution system under future water demand and fire flow conditions. Deficiencies noted in the evaluation were developed into a water system Capital Improvement Program (CIP) (refer to **Section 4**).

The Hydraulic Model utilized the following assumptions for future flow conditions:

- Average Water Demand (existing) = 7.1 MGD
- Future Average Water Demand = 8.52 MGD (current demand x 1.2 peak factor)
- Future Maximum Day Demand = 12.78 MGD (future average demand x 1.5 peak factor)
- Future Peak Hour Demand = 25.56 MGD (future maximum day demand x 2.0 peak factor)

When compared to the water demand projections presented above, the assumptions utilized in the City's Hydraulic Model exceed the projected 10-year Average Day Demand of 5.8 MGD and Maximum Day Demand of 8.7 MGD. Therefore, with implementation of the recommended CIP projects, the distribution system has adequate capacity to serve the City's 10-year water supply needs.

Regarding the City's water distribution high service pumps and booster pump stations, it was previously noted in **Section 2.6** that the City has a firm pumping capacity of 13,900 gpm. The 10-year water demand projections estimate a Maximum Daily Flow of 8.7 MGD in 2030, with a Peak Hour Flow of 17.4 MGD (12,083 gpm). Since the firm pumping capacity of 13,900 gpm exceeds the projected peak hour demand of 12,083 gpm, the water distribution high service pumps and booster pump stations have adequate capacity to serve the City's 10-year peak hour water demands.

SECTION 4



Capital Improvements Program

Section 4

Capital Improvement Program

4.1 Capital Improvement Program (CIP) Summary

The City of Lake Worth Beach Water Utility Department creates a Capital Improvement Program (CIP) to outline the necessary capital improvement and renewal & replacement upgrades that are required for the water distribution system and Water Treatment Plant. The City's 5-Year CIP is listed in **Table 4.1** and consists of \$19M of water system improvements between 2021 and 2025.

The City is continuing an extensive water main replacement program which includes replacing 2-inch lines and upgrading pipes to provide improved fire protection. The Water Treatment Plant is scheduled to replace one (1) High Service Pump and rehabilitate the ground storage tanks. The City also plans to complete construction of well LW-17, LW-18, F-4, and F-5.

Table 4.1
Lake Worth Beach Water System
5-Year Capital Improvement Program

Lake Worth Beach Water System CIP						
Description	Proposed FY 2021	Proposed FY 2022	Proposed FY 2023	Proposed FY 2024	Proposed FY 2025	Total
Water Distribution System Projects						
Lake Bass Canal WM Reloc.		\$ 450,000				\$ 450,000
6th Ave. So. Bridge WM Adjust		\$ 250,000				\$ 250,000
10th Ave. No. WM Extension West of Canal to Congress Ave.		\$ 725,000				\$ 725,000
AC/Transite WM Replacement		\$ 100,000				\$ 100,000
EOC Complex/Fleet Maint. Bldg				\$ 1,000,000	\$ 1,000,000	\$ 2,000,000
2" WM Replacement - Phase V/VI	\$ 4,000,000					\$ 4,000,000
Floral Park/Lanair WM Expansion			\$ 900,000	\$ 750,000		\$ 1,650,000
Subtotal Water Distribution System	\$ 4,000,000	\$ 1,525,000	\$ 900,000	\$ 1,750,000	\$ 1,000,000	\$ 9,175,000
Water Treatment Projects						
RO Membrane Replacement		\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 1,000,000
Scrubber/Degas Packing Replacement			\$ 250,000			\$ 250,000
WTP Roof Evaluation/Redo	\$ 90,000					\$ 90,000
WTP Structural Enhancements/Hardening		\$ 575,000				\$ 575,000
Clearwell Structural Imp., etc.	\$ 175,000					\$ 175,000
Wash Water Recovery Basin			\$ 1,200,000			\$ 1,200,000
S Booster Station Upgrades			\$ 600,000			\$ 600,000
East Clearwell Roof Coating		\$ 425,000				\$ 425,000
HS Pump #5 Replacement		\$ 500,000				\$ 500,000
MIT Deep Injection Well	\$ 150,000					\$ 150,000
Surficial Well Rehab	\$ 140,000	\$ 140,000	\$ 140,000	\$ 140,000	\$ 140,000	\$ 700,000
Well No. 17 Construction		\$ 60,000	\$ 662,000			\$ 722,000
Flash Mixer Struct. Mod		\$ 500,000				\$ 500,000
Well No. 18 Construction	\$ 60,000	\$ 662,000				\$ 722,000
Raw WM Well 16-17-18 & Repump Genset Connection		\$ 170,000				\$ 170,000
Dual Zone Monitoring Well				\$ 1,000,000		\$ 1,000,000
Floridan Aquifer Well F-4 Construction		\$ 80,000	\$ 1,500,000			\$ 1,580,000
Floridan Aquifer Well F-5 Construction			\$ 80,000	\$ 1,500,000		\$ 1,580,000
Radio Upgrade Project Phase 1 & 2		\$ 50,000	\$ 200,000			\$ 250,000
Water Treatment Projects Subtotal	\$ 615,000	\$ 3,412,000	\$ 4,882,000	\$ 2,890,000	\$ 390,000	\$ 12,189,000
Grand Total	\$ 4,615,000	\$ 4,937,000	\$ 5,782,000	\$ 4,640,000	\$ 1,390,000	\$ 21,364,000

SECTION 5



Comprehensive Plan Goals,
Objectives and Policies (GOP)

Section 5

Comprehensive Plan Goals, Objectives and Policies (GOP)

5.1 Comprehensive Plan GOP

As noted in 163.3177(6)(c)3, F.S., local governments are required to update their Water Supply Facilities Work Plan through an amendment to their Comprehensive Plan within 18 months of the SFWMD Governing Board's adoption of the regional Water Supply Plan.

The most recent update to the LEC Water Supply Plan was adopted by the SFWMD governing board in November 2018. Therefore, by May 2020, the City is required to revise their Comprehensive Plan to incorporate the updated 10-Year Water Supply Facilities Work Plan.

The City's Goals, Objectives and Policies should be amended as follows in the City's 2020 Comprehensive Plan amendments:

INFRASTRUCTURE ELEMENT

Policy 4.1.1.3: The City will continue to provide annual review of system demand and supply, and to update facility demand and capacity information based on issuance of development permits. The City will also prepare and include considerations of being a regional provider that may sell water in the future.

Policy 4.1.7.3: The City will maintain a water supply facilities work plan that is coordinated with SFWMD's 2018 *Lower East Coast Regional Water Supply Plan* and Palm Beach County by updating its own work plan within 18 months of an update to SFWMD's 2018 *Lower East Coast Regional Water Supply Plan*.

Policy 4.1.7.4: By March 2027, the City shall coordinate with SFWMD and update the City's 10-year water supply facilities work plan considering the *Lower East Coast (LEC) Regional Water Supply Plan*. The City hereby adopts by reference the "City of Lake Worth 2020 10-Year Water Supply Facilities Work Plan." The City shall send a letter to SFWMD which identifies projects for future water supply needs of the City. Projects must be selected from the LEC Regional Water Supply Plan or must be prior approved by SFWMD.

APPENDIX A

City of Lake Worth Beach Bulk Water Service Contract

INTERLOCAL AGREEMENT
BETWEEN THE CITY OF LAKE WORTH AND
THE TOWN OF LAKE CLARKE SHORES FOR THE
PURCHASE AND SALE OF BULK POTABLE WATER

THIS AGREEMENT made and entered into this 15 day of February, 2011, by and between THE CITY OF LAKE WORTH, FLORIDA, a municipality organized under the laws of the State of Florida (hereinafter "CITY"), and the TOWN OF LAKE CLARKE SHORES, FLORIDA, a municipality organized under the laws of the State of Florida (hereinafter "TOWN").

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, the parties hereto have the common power to provide essential public utility services within their respective geographic jurisdictions; and

WHEREAS, the TOWN entered into an Interlocal Agreement with the CITY on October 13, 1993, for the CITY to provide bulk water sales to the Seminole Manor service area; and

WHEREAS, in October 2002 the TOWN paid for an additional 82 equivalent residential units to serve the Hypoluxo Village Service Area; and

WHEREAS, this previous Interlocal Agreement expired on October 13, 2008; and

WHEREAS, the TOWN owns and operates a Community Public Water System to serve residents living within the Seminole Manor Service Area and Hypoluxo Village Service Area as shown on Exhibit A; and

WHEREAS, the TOWN wishes to purchase bulk potable water from the CITY for distribution and sale to its customers within the Hypoluxo Village Service Area; and

WHEREAS, the CITY wishes to sell the TOWN bulk potable water within the Hypoluxo Village Service Area pursuant to the terms and conditions of this Agreement; and

WHEREAS, the TOWN and CITY both wish to discontinue bulk potable water sales from the CITY to the Seminole Manor Service Area; and

WHEREAS, the TOWN and CITY both wish to leave the water connection from the CITY to the Seminole Manor Service Area active in case it is needed as an emergency service connection; and

WHEREAS, as a consecutive system, the TOWN and CITY wish that the TOWN implement and facilitate conservation of water resources in accordance with the direction of the CITY, and restrictions in effect on the CITY's system; and

WHEREAS, the physical, chemical and biological quality of all treated potable waters produced by the CITY currently meets or exceeds all Federal, State and local laws, regulations and requirements, and the CITY will take reasonable steps to maintain the quality of treated waters to the Point of Connection (as later defined in this Agreement); and

WHEREAS, it is solely the responsibility of the TOWN to operate and maintain the water delivery system on the discharge side of the Point of Connection so that the physical, chemical and biological quality of the treated water meets or exceeds all Federal, State and local laws, regulations and requirements.

NOW, THEREFORE, for and in consideration of these premises, the mutual undertakings and Agreements herein contained and assumed, the CITY and TOWN hereby covenant and agree as follows:

1. The foregoing statements are true and correct and are incorporated herein by reference.
2. Scope of Agreement. The CITY agrees to furnish, and the TOWN agrees to purchase and accept, a supply of Potable Water in accordance with the terms and conditions of this Agreement. The CITY shall furnish, and the TOWN shall accept, the Potable Water at the Point(s) of Connection shown in Exhibit "A."
3. Term. This Agreement shall commence on the Effective Date of this Agreement and continue for a term of ten (10) years. The Term of this Agreement may be extended for successive periods of five (5) years each, upon the same terms and conditions as herein provided, by written agreement of both of the parties to this Agreement prior to expiration of the initial term of this Agreement or any renewal thereof.
4. Effective Date. This Agreement shall become effective upon approval by both parties. The Effective Date of this Agreement shall be the date the Agreement is ratified by the City of Lake Worth Commission.
5. Prior Agreements: This document, upon its execution by both parties shall supersede any and all prior negotiations, correspondence, conversations, agreements, including the expired prior agreement and any amendments thereto, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed by the parties that there shall be no deviation from the terms hereof which shall be predicated upon any prior representation or agreements whether oral or written, unless said are specifically provided for herein.

6. Definitions. The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:
- (a) “Average Daily Flow (ADF)” – the average daily flow rate of potable water collectively measured through all Points of Connection. The Average Daily Flow rate is calculated by dividing the total amount of Potable Water flowing through the Points of Connection in any one fiscal year by the number of days in that same fiscal year;
 - (b) “Capacity Fee” – A one-time fee to be paid by the TOWN to the CITY based on the ADF of capacity reserved. This fee is assessed irrespective of the actual quantity of Potable Water flowing through the Point(s) of Connection.
 - (c) “CITY’s Potable Water System” – the system owned and/or operated by the CITY for the production and distribution of Potable Water to all retail, wholesale, and/or bulk customers of the CITY, said system being located on the CITY’s side of the various Points of Connection and including all Potable Water meters and related appurtenances located at the Point(s) of Connection.
 - (d) “Commodity Rate” - A fee to be paid by the TOWN to the CITY on a monthly basis for the supply of Potable Water to the TOWN at the Point(s) of Connection.
 - (e) “Equivalent Residential Unit (ERU)” - A factor used to convert a given average dally flow of bulk supply to equivalent number of residential connections. For this purpose of this Agreement, the average daily flow of one Equivalent Residential Unit is set at 350 gallons per day.
 - (f) “Point(s) of Connection” – The location(s) where the CITY’s Potable Water System is connected with the TOWN’s Potable Water System, as shown in Exhibit “A”, which is incorporated herein and attached hereto. The Potable Water System of the CITY shall include the water meter(s) and related appurtenances located at the Point(s) of Connection, with said water meter(s) being utilized for the measurement and payment of bulk Potable Water obtained by the TOWN.
 - (g) “Potable Water” – Water for human consumption which meets all applicable Federal, State, and County standards.
 - (h) “Reserved Capacity” – the amount of Potable Water capacity in the CITY’s Potable Water System that the TOWN has reserved through payment of Capacity Fees.
 - (i) Service Areas:

- a. “Hypoluxo Village Service Area” - That area within which TOWN owns and maintains a potable water distribution system including present and future water customers, that will receive bulk water sales from the CITY as shown on Exhibit A.
 - b. “Seminole Manor Service Area” - That area within which TOWN owns and maintains a potable water distribution system, as shown on Exhibit A, which has been provided bulk water from the CITY, and for which the CITY and TOWN have agreed to discontinue from bulk water service from the CITY’s supply.
 - (j) “TOWN’s Potable Water System” – the system owned and/or operated by the TOWN for the distribution of potable water, said system being located on the TOWN’s side of the Point(s) of Connection.
7. Point(s) of Connection: The parties hereto agree that the Points of Connection of the TOWN System to the CITY System and meter locations shall be as set forth below:
- (a) Hypoluxo Village Service Area: Within the Right-of-Way of Windward Lane adjacent to the south west side of 6975 S. Congress Avenue.
 - (b) Seminole Manor Service Area: Within the Right-of-Way of Ute Circle adjacent to the south west side of 3570 Lantana Road.
8. Obligation to Accept Service: Except as otherwise provided herein, TOWN agrees that during the term of this Agreement, the City shall be the exclusive provider of bulk potable water services to the Hypoluxo Village service area set forth in Exhibit “A,” and the Town shall only accept potable water services from the CITY for the Hypoluxo Village service area as set forth in Exhibit “A.”
9. Discontinuation of Service to Seminole Manor Service Area: In non-emergency situations, the TOWN expressly agrees to discontinue bulk water purchases from the CITY to the Seminole Manor Service Area, which is shown in Exhibit “A,” on or before the effective date of this Agreement. The TOWN herein expressly agrees to obtain potable water services for the Seminole Manor Service Area from another water service provider and to discontinue service from the CITY. The TOWN agrees that effective with the signing of this agreement the water commodity rate will become 200-percent of the commodity rate in effect for all water sold through the Seminole Manor Service Area point(s) of connection, except in the case of a declared emergency as defined later in this Agreement. The Town agrees that the increased commodity rate shall remain in effect until such time as service to this area is discontinued.
10. Each party agrees that they are responsible for all improvements, maintenance and repairs related to their respective equipment on their side of the Point of Connection and that the point to determine compliance with the contract terms is the Point of Connection.

11. It is mutually agreed that by entering into this Agreement, the CITY does not incur any responsibility beyond the Points of Connection prior to, or after, the date that delivery of water begins under this Agreement.
12. Existing Reservation of Capacity. While the reservation of capacity under the Interlocal Agreement between the CITY and TOWN that was executed on October 13, 1993, along with said Agreement's associated amendments, ended with the expiration of said agreement, the CITY acknowledges this capacity should not be re-purchased for the existing TOWN system to remain on the CITY's bulk delivery system. Therefore, the following capacity shall remain allocated to the TOWN:
 - (a) Hypoluxo Village Service Area: A survey of this service area showed a needed reserve capacity of 200,000 gallons per day for service within this service area. Therefore this amount of capacity is re-established for the TOWN for the life of this Agreement.
 - (b) Seminole Manor Service Area: The TOWN, as part of this Agreement, has agreed to discontinue bulk water purchases from the CITY to this service area. If service to this area continues past the execution of this Agreement the increased rate identified above shall be imposed.
 - (c) All capacity allocations not addressed above shall be considered vacated with the expiration of the previous 1993 agreement.
13. Operation of Seminole Manor Interconnect Facility in an Emergency: The piping to serve Seminole Manor will be left intact in case of a need for an emergency connection to Seminole Manor in the event of a potable water system failure causing an emergency in the Seminole Manor service area, the valves will be opened so as to permit the flow of potable water to the Seminole Manor service area. No supply of potable water shall be provided except in case of an emergency and upon the following terms and conditions to be determined by the CITY:
 - (a) There must be a sufficient surplus of potable water available after the CITY meets all of its anticipated needs.
 - (b) The CITY may reasonably limit the amount of potable water to be supplied to the TOWN.
 - (c) The CITY shall determine that the provision of potable water to the TOWN will not impose a danger to the health, safety or welfare of its citizens of the CITY. Any resultant expenses incurred by the CITY as a result of the connection to the Seminole Manor system shall be reimbursed by the TOWN.
 - (d) The CITY may reasonably limit the hours or days of supply of the potable water to the TOWN.

- (e) The CITY may require the TOWN to impose use restrictions on its customers as prescribed by the CITY.
 - (f) With prior written notice to the TOWN, the CITY may place a reasonable termination date for the emergency supply period.
 - (g) Water shall be considered the property and responsibility of the TOWN once it has passed through the Point(s) of Connection. The CITY and TOWN each shall have the sole and exclusive right to sell and distribute the water in its respective water system on its respective side of the Point(s) of Connection.
 - (h) Procedure to Activate Interconnect:
 - a. In case of an emergency, a written or verbal communication from the TOWN's Town Administrator, or his/her designated representative, setting forth the emergency and estimated time of need of emergency surplus potable water, shall be made and shall be the only request necessary to open the valves. The request shall be made to the City of Lake Worth's Utilities Director or designated representative. If said communication is made verbally, said notice shall be immediately followed by a written communication. Notwithstanding the provisions above, the request by the TOWN to the CITY to turn off the valves and discontinue providing the emergency surplus potable water supply shall be handled by the same procedure.
 - b. If the TOWN's required surplus potable water supply needs lasts more than 24 hours, then within 36 hours of the valve opening, the Director of the TOWN's utility shall transmit a letter to the CITY's Utility Director, outlining the reasons for the required needs, the probable duration of such requirements, the estimated usage in gallons per day and the maximum peak hour request.
 - c. The TOWN expressly acknowledges the right of the CITY to refuse to provide the emergency potable water service, as set forth in this Agreement, if the CITY determines that the provision of such service would not be in its best interest or would constitute a danger to the health, safety and welfare of its citizens. In the event of such refusal, the TOWN hereby expressly waives any and all claims of loss or damage against the CITY.
14. Additional/Future Capacity Fees: If additional capacity is required to meet the needs of the TOWN, the TOWN shall be required to pay additional capacity charges as calculated in accordance with Section 18-29 of the CITY Code of Ordinances, and at a cost per ERU as established by Section 18-31 of the CITY Code of Ordinances, for all new water connections within the Service Area(s). It is further agreed that these capacity fees are the property of the CITY but that the TOWN may charge their own additional connection charges, surcharges or

equivalent to its new customers. All additional capacity requirements will be calculated in accordance with the schedule provided in Exhibit "B."

15. Monthly Billed Usage. The TOWN shall be billed the Commodity Rate on a monthly basis for actual metered water service delivered by the CITY in accordance with the following conditions:
 - (a) The CITY shall charge the TOWN a bulk service rate of \$0.303 cents per hundred gallons commencing upon the execution of this Agreement. Future rate changes will be allowed only at the time of the CITY's Water System rate increases. The new rate to be charged will be equal to the current rate plus the monetary change in the rate of the lowest tier residential water rate placed into effect at the time of the new rate change.
 - (b) The CITY agrees to notify the TOWN whenever the CITY advertises for a rate Public Hearing.
 - (c) The CITY agrees to provide the TOWN with written notification of all rate increases upon passage of the rate ordinance or 30-days before rates go into effect, whichever greater. In the case of multiple-year rate authorizations, a separate notice will be sent 30-days prior to each incremental change approval.
 - (d) The TOWN agrees to pay for all potable water received from the CITY and to make payments to the CITY within thirty (30) days from the date the bill is rendered by CITY. A one percent (1%) per month interest charge will be assessed on any outstanding balance thereafter. If payment has not been received after sixty (60) days from the date of the original bill, the CITY may discontinue services provided to the TOWN by this Agreement.
 - (e) A 25% surcharge shall be added to the Commodity Fee for all usage exceeding the Reserved Capacity in any month. However, the CITY is under no obligation to provide potable water in any quantity for which capacity has not been reserved.
 - (f) Payments required herein shall be governed by the provisions of Chapter 218, Part VII, Florida Statutes, the "Local Government Prompt Payment Act," or its successor in function, or as otherwise mutually agreed to between the parties hereto.
16. Presumed Consumption and Required Payment In Case of Billing Meter Failure. Both parties agree that, if at any time a billing meter fails, the TOWN will pay to the CITY at a daily consumption rate equal to the average consumption of the ninety (90) day period prior to the date the meter failed. The CITY shall make all efforts to restore the meter to working order as soon as possible.

17. Termination of Agreement

- (a) Termination for Cause. The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default ninety (90) days written notice to cure said default before exercising any of its rights as provided for in this Agreement. Failure to cure said default within ninety (90) days following notice may be grounds for termination of this Agreement. Termination of this Agreement by either party shall require thirty (30) days prior written notice to the other party prior to the termination date. The parties may mutually agree to extend the time for cure and/or termination.
 - (b) Termination by Mutual Agreement. This Agreement may be terminated by law or at any time by the written agreement of the CITY and TOWN. The TOWN will not be entitled to a refund of any Capacity Fees or other reimbursements, and all service will be discontinued upon the termination date if so terminated.
 - (c) Termination Upon Expiration: This Agreement shall be considered terminated on the expiration date of the agreement as adjusted by extensions approved in accordance with Paragraph 3 of this Agreement. The TOWN will not be entitled to a refund of any Capacity Fees or other reimbursements, and all service will be discontinued upon the expiration date.
18. Water Shortages. In the event the South Florida Water Management District or other government unit with authority declares a water shortage, then the CITY shall have the right to restrict service to the TOWN by the same percentage, level and/or manner as the CITY restricts service to customers located within the CITY's service area.
19. Water Conservation Program: The TOWN agrees to comply with the CITY's water conservation efforts and implement a water conservation program. This program shall follow industry best management practices to meet conservation goals as set by the CITY for its service areas, or in accordance with regulatory restrictions in effect on the CITY's system. The TOWN shall report its accomplishments annually at the end of each fiscal year to the CITY. Said report shall discuss current and future conservation goals, existing activities and programs relating to water conservation efforts, as well as recommendations for changes that will further enhance opportunities for effective implementation of water conservation within the TOWN's system(s). The CITY shall submit to the TOWN; its goals for the CITY's water conservation program at least 6-months prior to the end of the fiscal year to allow the TOWN time to assess the CITY's program and develop its own program to match the CITY's water conservation program goals.
20. Water Quality - The physical, chemical and biological quality of all waters delivered to the TOWN by the CITY currently meets or exceeds all Federal, State and local laws, regulations and requirements, and the CITY shall take

reasonable steps to maintain the quality of treated waters to the Point of Connection.

21. **Employee Status:** Persons employed by one party in the performance of services and functions pursuant to this Interlocal Agreement shall have no claim to salary, pension, workers' compensation, civil service, or other employee rights or privileges granted by any other party to its officers and employees.
22. **Laws of Florida:** This Agreement shall be governed by the laws of the State of Florida notwithstanding contrary principles or conflicts of law, if any, and it shall be and become effective immediately upon execution by both parties. Venue shall be Palm Beach County, Florida.
23. **Costs and Attorney's Fees:** In the event the CITY or TOWN is required to enforce this Agreement by court proceedings or by instituting suit, the prevailing party shall be entitled to recover from the other party all costs and reasonable attorney's fees including fees on appeal.
24. **Force Majeure:** In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party including, but not limited to, Acts of God or of the public enemy, war, national emergency, allocation of or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, racial or civil rights disorder or demonstration, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe, said party shall not be liable for such nonperformance. This provision shall not affect the payment terms outlined under paragraphs 2 and 3 of this Agreement.
25. **Successors and Assigns:** The CITY and the TOWN each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the CITY nor the TOWN shall assign, sublet, convey, or transfer its interest in this Agreement without prior written consent of the other party. Such consent will not be unreasonably withheld.
26. **Severability:** If any term or provision of this Agreement, or the application thereof, to any person or circumstance shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the 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.
27. **Notice:** All notices provided for herein shall be in writing and transmitted by mail or by courier, and, if to CITY, shall be mailed or delivered to CITY at:

City of Lake Worth
7 N. Dixie Highway
Lake Worth, Florida 33460
Attn: Susan A. Stanton, City Manager

with copies to:

Rebecca Matthey
Utility Director
City of Lake Worth
1900 2nd Avenue North
Lake Worth, FL 33461

and

Elaine A. Humphreys
City Attorney
7 North Dixie Highway
Lake Worth, FL 33460

and if to Town, shall be mailed or delivered at:

Town of Lake Clarke Shores
1701 Barbados Road
Lake Clarke Shores
West Palm Beach, FL 33406
Attn: Town Administrator

28. Filing: This Agreement shall be filed with the Clerk of the Circuit Court for Palm Beach County.
29. Amendment and Modification: This Agreement may only be amended, modified, changed, supplemented or discharged by an instrument in writing signed by the parties hereto.
30. Liability:
 - (a) The CITY and TOWN acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. The CITY and TOWN agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver

of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

- (b) Should a party be sued for actions that are believed to be the result of the other party, the other party shall be notified of such suit and, thereupon, shall have the duty to defend the suit. The party being sued shall have the right, at its option, to participate in the defense of any third party claim, without relieving the other party of any of its obligations hereunder. If the the other party assumes control of the defense of any third party claim in accordance with this paragraph, that other party shall obtain the prior written consent of the party being sued before entering into any settlement of such claim. Notwithstanding anything to the contrary in this Section, the other party shall not assume or maintain control of the defense of any third party claim, but shall pay the fees of counsel retained by the party being sued and all expenses, including experts' fees, if (i) an adverse determination with respect to the third party claim would, in good faith judgment of the party being sued, be detrimental in any material respect to the reputation of the party being sued; (ii) the third party claim seeks an injunction or equitable relief against the party being sued; or (iii) the other party has failed or is failing to prosecute or defend vigorously the third party claim. Each party shall cooperate, and cause its agents to cooperate, in the defense or prosecution of any third party claim and shall furnish or cause to be furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith.
31. Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. This Agreement is solely an Interlocal Agreement to provide services as authorized by Chapter 163, Florida Statutes. The governing bodies for the CITY and the TOWN shall each maintain all legislative authority with regard to their respective municipality. All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules; and pensions and relief, disability, workers compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territoriality under the provisions of any such Interlocal Agreement.
32. Waiver: No delay by either party in enforcing any covenant or right hereunder shall be deemed a waiver of such covenant or right, and no waiver by either party of any particular provision hereof shall be deemed a waiver of any other provision or a continuing waiver of such particular provision, and except as so expressly waived, all provisions hereof shall continue in full force and effect.
33. Entirety of Agreement: This Agreement constitutes the entire understanding of the parties with respect to the provision of public water supply services. It may not be modified, or any of its provisions waived, unless such modification

and/or waiver is in writing and is agreed to and signed by both parties. The parties expressly agree that any uncertainties or ambiguities contained herein shall not be construed against or in favor of either party.

34. Indemnity: To the extent permitted by law and subject to the limitations of Florida Statutes, Section 768.28, TOWN agrees to indemnify and hold harmless from and against any loss, damage, liability, claim or obligation of any kind or nature whatsoever, which CITY may incur or which may be asserted against CITY as a result of any actions or conditions on the discharge side of the Point of Connection affecting quality, water service or water availability.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, Town and City have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:
TOWN OF LAKE CLARKE
SHORES CLERK

TOWN OF LAKE CLARKE
SHORES, BY ITS TOWN
COUNCIL

By: Mary Pinkerman
Town Clerk

By: [Signature]
Mayor

(SEAL)

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

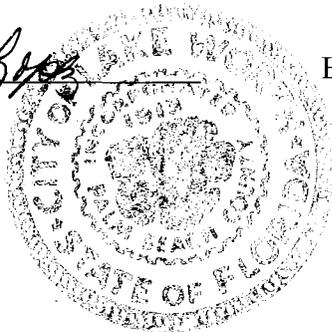
By: [Signature]
Town Attorney

ATTEST:

CITY OF LAKE WORTH,
FLORIDA BY ITS CITY
COMMISSION

By: Pamela J. Lopez
Pamela J. Lopez, Clerk

By: [Signature] 2/15/11
René A. Varela, Mayor



(SEAL)

REVIEWED AND APPROVED FOR
EXECUTION:

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

By: Elaine A. Humphreys
Elaine A. Humphreys, City Attorney

By: [Signature]
Susan A. Stanton, City Manager

EXHIBIT B – GPD CAPACITY CALCULATION SCHEDULE

Type of Structure	Specific Condition or Unit	Water Per Unit (GPD)
Airports, bus terminals, train stations, port & dock facilities:	(a) per passenger	5
	(b) add per employee per 8 hour shift	20
Assembly Halls	(a) per seat	2
Barber and Beauty Shops	(a) per dry service chair	100
	(b) per wet service chair	200
Bar and cocktail lounges (Not including food service)	(a) per seat	20
Bowling alleys (Not including food service)	(a) per lane	100
Camps	(a) day, no food service	25
	(b) luxury resort, per person	100
	(c) labor, per person	100
Camper or RV trailer park	(a) per space	150
Car wash	(a) automatic type	3500
	(b) automatic type (recycled water)	350
	(c) Hand wash	1750
Churches (Not including food service)	(a) per sanctuary seat	3
Dance halls	(a) per person	2
Dentist offices	(a) per dentist	250
	(b) plus per wet service chair	200
Doctor offices	(a) per physician	250
	(b) plus per square foot of office space	0.20
Drive-in theater	(a) per car space	5
Fire station	(a) per bed	100
Health spa (Not including food service)	(a) per square foot	0.35
Hospitals/Nursing Homes (Not including public food service or offices)	a) per bed space	210
Institutions	(a) per person, including resident staff	100
Kennels	(a) per animal space	30
	(b) per veterinarian	250
Laundries	(a) per coin-operated machine	400
	(b) per non-coin operated machine	650
Marinas (Does not include office, repair & leisure facilities)	(a) per boat slip	40
Office Building	(a) per square foot of floor space	0.20
Parks, public with comfort stations	(a) per visitor	10
Pet grooming parlors (Does not include retail sales areas)	(a) per wash basin	200
Recreation/pool buildings	(a) per person	2 (300 gal min)
Residences	(a) Single family, detached (Maximum 3-bedroom 2 1/2 Bath)	350
	(b) Multiple family per dwelling unit	300
	(c) Motel/hotel units, per bedroom	150
	(d) Bedroom additions to SFH	150
	(e) Mobil homes, each	350
Restaurants	(a) open 24 hours, per seat incl bar	50
	(b) open less than 24 hours, per seat incl bar	30
	(c) open less than 24 hours, with drive-thru window, per seat including bar	35
	(d) drive-ins, per space	50
	(e) carry out food service only per 100 square feet	50
Schools: Elementary/Middle	(a) per pupil per day	10
	(b) add for shower/pupil	5
	(c) add for cafeteria/pupil	5
Schools: High School	(a) per pupil per day	15
	(b) add for shower/pupil	5
	(c) add for cafeteria/pupil	5
Schools: Boarding School	(a) per pupil	100
Service stations and auto repair shops	(a) per water closet	250
	(b) plus per service bay	100
Shopping centers and retail shops (Not including food service or laundry)	(a) per square foot of floor space	0.10
Theaters and auditoriums	(a) per seat	5
Warehouse-Mini Storage, with resident manager	(a) per square foot of floor space	0.01
	(b) plus residence	250
Warehouses	(a) per square foot of floor space	0.10

APPENDIX B

City of Lake Worth Beach Historical Water Flows

Annual Water Balance Summary														
line #	Utility Name:	City of Lake Worth												
	Permit Name:	Lake Worth Utilities												
	Reporting Period:	2012												
	Water Use Permit #:	50-00234-W												
	Name of Person Completing Form:	Doug Lovelace												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1.0	Total Raw Water Withdrawn (should match pumpage reports submitted to SFWMD)	139,423,000	120,424,000	154,947,000	138,870,000	140,938,000	124,559,000	144,222,000	149,725,000	120,132,000	114,609,000	120,366,000	126,592,000	1,594,807,000
2.0	Volume of Finished Water Produced	122,078,000	105,174,000	130,094,000	108,686,000	112,531,000	107,714,000	126,753,000	132,491,000	98,380,000	95,311,000	103,648,000	109,998,000	1,352,858,000
3.0	Treatment Losses (subtract line 2 from line 1)	17,345,000	15,250,000	24,853,000	30,184,000	28,407,000	16,845,000	17,469,000	17,234,000	21,752,000	19,298,000	16,718,000	16,594,000	241,949,000
4.0	% Treatment Loss (divide line 3 by line 1)	12.44%	12.66%	16.04%	21.74%	20.16%	13.52%	12.11%	11.51%	18.11%	16.84%	13.89%	13.11%	15.17%
5.0	Total Volume of Water Imported (if applicable)	23,085,000	25,630,000	14,586,000	30,624,000	23,240,000	19,732,000	12,962,000	0	26,716,000	35,218,000	33,656,000	28,794,000	274,243,000
6.0	System Input (Finished Water Produced plus Total Water Imported) (line 2 plus line 5)	145,163,000	130,804,000	144,680,000	139,310,000	135,771,000	127,446,000	139,715,000	132,491,000	125,096,000	130,529,000	137,304,000	138,792,000	1,627,101,000
7.0	Billed Authorized Consumption (total volume of water billed including Exports-if applicable)	133,384,000	126,011,900	122,713,300	121,988,300	124,469,500	117,738,700	115,417,400	117,218,100	112,870,100	113,426,400	116,503,700	132,054,000	1,453,795,400
8.0	Unbilled Authorized Consumption (include estimates of fire protection, line flushing, and other utility-authorized non-billed uses). An estimate of 1.25% of the System Input can be used if no other data is available.	1,814,538	1,635,050	1,808,500	1,741,375	1,697,138	1,593,075	1,746,438	1,656,138	1,563,700	1,631,613	1,716,300	1,734,900	20,338,763
9.0	Total Authorized Consumption (Billed Authorized Consumption plus Unbilled Authorized Consumption) (line 7 plus line 8)	135,198,538	127,646,950	124,521,800	123,729,675	126,166,638	119,331,775	117,163,838	118,874,238	114,433,800	115,058,013	118,220,000	133,788,900	1,474,134,163
10.0	Total Water Losses (Line 6 minus line 9)	9,964,463	3,157,050	20,158,200	15,580,325	9,604,363	8,114,225	22,551,163	13,616,763	10,662,200	15,470,988	19,084,000	5,003,100	152,966,838
11.0	% Water Loss (line 10 divided by line 6)	6.86%	2.41%	13.93%	11.18%	7.07%	6.37%	16.14%	10.28%	8.52%	11.85%	13.90%	3.60%	9.40%

Annual Water Balance Summary														
line #	Utility Name:	City of Lake Worth												
	Permit Name:	Lake Worth Utilities												
	Reporting Period:	2013												
	Water Use Permit #:	50-00234-W												
	Name of Person Completing Form:	Timothy Sloan												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1.0	Total Raw Water Withdrawn (should match pumpage reports submitted to SFWMD) RO Plant operates at 75% recovery	126,679,000	111,386,000	144,448,000	130,652,000	114,419,000	136,581,000	153,861,000	174,894,000	152,358,000	170,008,000	164,180,000	166,300,000	1,745,766,000
2.0	Volume of Finished Water Produced	108,254,000	95,490,000	125,889,000	115,429,000	99,637,000	117,780,000	131,885,000	148,643,000	130,607,000	145,927,000	141,559,000	144,051,000	1,505,151,000
3.0	Treatment Losses (subtract line 2 from line 1)	18,425,000	15,896,000	18,559,000	15,223,000	14,782,000	18,801,000	21,976,000	26,251,000	21,751,000	24,081,000	22,621,000	22,249,000	240,615,000
4.0	% Treatment Loss (divide line 3 by line 1)	14.54%	14.27%	12.85%	11.65%	12.92%	13.77%	14.28%	15.01%	14.28%	14.16%	13.78%	13.38%	13.78%
5.0	Total Volume of Water Imported (if applicable) Bulk PBC purchase	28,963,000	32,592,000	17,300,000	24,769,000	34,977,000	13,243,000	0	0	0	0	0	0	151,844,000
6.0	System Input (Finished Water Produced plus Total Water Imported) (line 2 plus line 5)	137,217,000	128,082,000	143,189,000	140,198,000	134,614,000	131,023,000	131,885,000	148,643,000	130,607,000	145,927,000	141,559,000	144,051,000	1,656,995,000
7.0	Billed Authorized Consumption (total volume of water billed including Exports-if applicable)	125,214,348	122,358,692	127,005,368	120,441,852	116,205,064	110,862,032	116,476,112	116,365,772	123,569,380	130,372,372	139,116,488	132,393,508	1,480,380,988
8.0	Unbilled Authorized Consumption (include estimates of fire protection, line flushing, and other utility-authorized non-billed uses). An estimate of 1.25% of the System Input can be used if no other data is available.	1,715,213	1,601,025	1,789,863	1,752,475	1,682,675	1,637,788	1,648,563	1,858,038	1,632,588	1,824,088	1,769,488	1,800,638	20,712,438
9.0	Total Authorized Consumption (Billed Authorized Consumption plus Unbilled Authorized Consumption) (line 7 plus line 8)	126,929,561	123,959,717	128,795,231	122,194,327	117,887,739	112,499,820	118,124,675	118,223,810	125,201,968	132,196,460	140,885,976	134,194,146	1,501,093,426
10.0	Total Water Losses (Line 6 minus line 9)	10,287,440	4,122,283	14,393,770	18,003,673	16,726,261	18,523,181	13,760,326	30,419,191	5,405,033	13,730,541	673,025	9,856,855	155,901,575
11.0	% Water Loss (line 10 divided by line 6)	7.50%	3.22%	10.05%	12.84%	12.43%	14.14%	10.43%	20.46%	4.14%	9.41%	0.48%	6.84%	9.41%

Annual Water Balance Summary														
line #	Utility Name:	City of Lake Worth												
	Permit Name:	Lake Worth Utilities												
	Reporting Period:	2014												
	Water Use Permit #:	50-00234-W												
	Name of Person Completing Form:	Timothy Sloan												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1.0	Total Raw Water Withdrawn (should match pumpage reports submitted to SFWMD)RO Plant operates at 75% recovery	164,203,000	147,788,000	162,226,000	169,559,505	190,971,760	174,391,768	159,102,752	167,467,136	159,873,872	171,704,240	175,137,704	172,924,440	2,015,350,177
2.0	Volume of Finished Water Produced	142,621,500	127,241,200	142,850,700	146,618,800	160,530,400	145,037,300	137,189,600	143,004,300	137,755,000	141,029,900	147,967,600	149,182,000	1,721,028,300
3.0	Treatment Losses (subtract line 2 from line 1)	21,581,500	20,546,800	19,375,300	22,940,705	30,441,360	29,354,468	21,913,152	24,462,836	22,118,872	30,674,340	27,170,104	23,742,440	294,321,877
4.0	% Treatment Loss (divide line 3 by line 1)	13.14%	13.90%	11.94%	13.53%	15.94%	16.83%	13.77%	14.61%	13.84%	17.86%	15.51%	13.73%	14.60%
5.0	Total Volume of Water Imported (if applicable)Bulk PBC purchase													0
6.0	System Input (Finished Water Produced plus Total Water Imported) (line 2 plus line 5)	142,621,500	127,241,200	142,850,700	146,618,800	160,530,400	145,037,300	137,189,600	143,004,300	137,755,000	141,029,900	147,967,600	149,182,000	1,721,028,300
7.0	Billed Authorized Consumption (total volume of water billed including Exports-if applicable)	134,810,200	119,305,000	129,659,300	118,489,300	127,048,600	164,868,170	119,593,400	126,505,300	126,145,800	120,147,000	129,905,300	130,284,200	1,546,761,570
8.0	Unbilled Authorized Consumption (include estimates of fire protection, line flushing, and other utility-authorized non-billed uses). An estimate of 1.25% of the System Input can be used if no other data is available.	80,000	80,000	80,000	62,052	76,946	590,849	90,849	90,849	605,426	79,544	579,544	75,048	2,491,107
9.0	Total Authorized Consumption (Billed Authorized Consumption plus Unbilled Authorized Consumption) (line 7 plus line 8)	134,890,200	119,385,000	129,739,300	118,551,352	127,125,546	165,459,019	119,684,249	126,596,149	126,751,226	120,226,544	130,484,844	130,359,248	1,549,252,677
10.0	Total Water Losses (Line 6 minus line 9)	7,731,300	7,856,200	13,111,400	28,067,448	33,404,854	-20,421,719	17,505,351	16,408,151	11,003,774	20,803,356	17,482,756	18,822,752	171,775,623
11.0	% Water Loss (line 10 divided by line 6)	5.42%	6.17%	9.18%	19.14%	20.81%	-14.08%	12.76%	11.47%	7.99%	14.75%	11.82%	12.62%	9.98%

Annual Water Balance Summary														
line #	Utility Name:	City of Lake Worth												
	Permit Name:	Lake Worth Utilities												
	Reporting Period:	2015												
	Water Use Permit #:	50-00234-W												
	Name of Person Completing Form:	Timothy Sloan												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1.0	Total Raw Water Withdrawn (should match pumpage reports submitted to SFWMD) RO Plant operates at 75% recovery	169,032,712	155,868,128	190,303,560	185,887,056	184,473,528	175,490,512	184,437,328	185,461,096	161,032,104	170,492,880	175,229,544	177,294,368	2,115,002,816
2.0	Volume of Finished Water Produced	145,163,600	133,349,200	162,145,800	159,569,100	160,470,200	157,009,800	162,224,700	161,911,300	143,718,200	153,706,000	159,967,900	158,055,000	1,857,290,800
3.0	Treatment Losses (subtract line 2 from line 1)	23,869,112	22,518,928	28,157,760	26,317,956	24,003,328	18,480,712	22,212,628	23,549,796	17,313,904	16,786,880	15,261,644	19,239,368	257,712,016
4.0	% Treatment Loss (divide line 3 by line 1)	14.12%	14.45%	14.80%	14.16%	13.01%	10.53%	12.04%	12.70%	10.75%	9.85%	8.71%	10.85%	12.18%
5.0	Total Volume of Water Imported (if applicable) Bulk PBC purchase													0
6.0	System Input (Finished Water Produced plus Total Water Imported) (line 2 plus line 5)	145,163,600	133,349,200	162,145,800	159,569,100	160,470,200	157,009,800	162,224,700	161,911,300	143,718,200	153,706,000	159,967,900	158,055,000	1,857,290,800
7.0	Billed Authorized Consumption (total volume of water billed including Exports-if applicable)	140,595,400	122,882,700	123,452,200	135,090,900	127,790,400	136,301,100	144,708,600	126,404,500	131,426,900	124,439,700	127,982,600	139,924,600	1,580,999,600
8.0	Unbilled Authorized Consumption (include estimates of fire protection, line flushing, and other utility-authorized non-billed uses). An estimate of 1.25% of the System Input can be used if no other data is available.	9,494,500	21,658,500	25,251,950	15,639,950	7,611,900	8,916,150	6,870,500	5,871,600	824,950	131,250	16,035,400	20,421,800	138,728,450
9.0	Total Authorized Consumption (Billed Authorized Consumption plus Unbilled Authorized Consumption) (line 7 plus line 8)	150,089,900	144,541,200	148,704,150	150,730,850	135,402,300	145,217,250	151,579,100	132,276,100	132,251,850	124,570,950	144,018,000	160,346,400	1,719,728,050
10.0	Total Water Losses (Line 6 minus line 9)	-4,926,300	-11,192,000	13,441,650	8,838,250	25,067,900	11,792,550	10,645,600	29,635,200	11,466,350	29,135,050	15,949,900	-2,291,400	137,562,750
11.0	% Water Loss (line 10 divided by line 6)	-3.39%	-8.39%	8.29%	5.54%	15.62%	7.51%	6.56%	18.30%	7.98%	18.96%	9.97%	-1.45%	7.41%

Annual Water Balance Summary														
line #	Utility Name:	City of Lake Worth												
	Permit Name:	Lake Worth Utilities												
	Reporting Period:	2016												
	Water Use Permit #:	50-00234-W												
	Name of Person Completing Form:	Timothy Sloan												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1.0	Total Raw Water Withdrawn (should match pumpage reports submitted to SFWMD) RO Plant operates at 75% recovery	182,157,000	166,601,000	197,010,000	218,620,000	179,657,000	190,285,000	211,294,000	200,460,000	181,135,000	190,140,000	211,240,000	211,370,642	2,339,969,642
2.0	Volume of Finished Water Produced	148,929,464	139,582,696	159,737,512	166,048,488	166,600,352	155,246,328	177,567,735	166,164,425	153,922,328	161,750,264	173,867,601	162,162,616	1,931,579,809
3.0	Treatment Losses (subtract line 2 from line 1)	33,227,536	27,018,304	37,272,488	52,571,512	13,056,648	35,038,672	33,726,265	34,295,575	27,212,672	28,389,736	37,372,399	49,208,026	408,389,833
4.0	% Treatment Loss (divide line 3 by line 1)	18.24%	16.22%	18.92%	24.05%	7.27%	18.41%	15.96%	17.11%	15.02%	14.93%	17.69%	23.28%	17.45%
5.0	Total Volume of Water Imported (if applicable) Bulk PBC purchase													0
6.0	System Input (Finished Water Produced plus Total Water Imported) (line 2 plus line 5)	149,281,800	140,698,600	160,415,100	162,818,700	166,505,300	152,007,400	174,422,800	165,986,400	153,285,300	160,360,900	172,713,600	163,305,200	1,921,801,100
7.0	Billed Authorized Consumption (total volume of water billed including Exports-if applicable)	141,046,700	124,544,700	129,832,600	131,539,435	139,951,397	142,186,650	137,227,582	147,452,479	134,973,976	132,602,888	126,433,589	151,040,827	1,638,832,823
8.0	Unbilled Authorized Consumption (include estimates of fire protection, line flushing, and other utility-authorized non-billed uses). An estimate of 1.25% of the System Input can be used if no other data is available.	11,151,000	8,730,900	11,535,100	11,297,000	15,600,050	7,968,600	5,335,300	5,978,750	19,018,450	24,330,750	28,019,750	3,142,805	152,108,455
9.0	Total Authorized Consumption (Billed Authorized Consumption plus Unbilled Authorized Consumption) (line 7 plus line 8)	152,197,700	133,275,600	141,367,700	142,836,435	155,551,447	150,155,250	142,562,882	153,431,229	153,992,426	156,933,638	154,453,339	154,183,632	1,790,941,278
10.0	Total Water Losses (Line 6 minus line 9)	-2,915,900	7,423,000	19,047,400	19,982,265	10,953,853	1,852,150	31,859,918	12,555,171	-707,126	3,427,262	18,260,261	9,121,568	130,859,822
11.0	% Water Loss (line 10 divided by line 6)	-1.95%	5.28%	11.87%	12.27%	6.58%	1.22%	18.27%	7.56%	-0.46%	2.14%	10.57%	5.59%	6.81%

Annual Water Balance Summary														
line #	Utility Name:	City of Lake Worth												
	Permit Name:	Lake Worth Utilities												
	Reporting Period:	2017												
	Water Use Permit #:	50-00234-W												
	Name of Person Completing Form:	Timothy Sloan												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1.0	Total Raw Water Withdrawn (should match pumpage reports submitted to SFWMD) RO Plant operates at 75% recovery	208,939,974	188,072,156	202,528,062	208,932,464	208,196,707	192,610,917	203,031,952	204,459,728	198,385,336	194,597,031	175,764,869	190,208,236	2,375,727,432
2.0	Volume of Finished Water Produced	167,747,576	147,883,818	159,697,358	163,812,056	165,315,504	151,029,976	161,349,752	160,727,704	156,427,792	153,341,368	138,392,136	150,446,832	1,876,171,872
3.0	Treatment Losses (subtract line 2 from line 1)	41,192,398	40,188,338	42,830,704	45,120,408	42,881,203	41,580,941	41,682,200	43,732,024	41,957,544	41,255,663	37,372,733	39,761,404	499,555,560
4.0	% Treatment Loss (divide line 3 by line 1)	19.71%	21.37%	21.15%	21.60%	20.60%	21.59%	20.53%	21.39%	21.15%	21.20%	21.26%	20.90%	21.03%
5.0	Total Volume of Water Imported (if applicable) Bulk PBC purchase													0
6.0	System Input (Finished Water Produced plus Total Water Imported) (line 2 plus line 5)	170,136,200	152,894,700	165,594,500	169,715,000	168,761,000	153,638,100	165,547,500	167,161,900	161,065,200	158,851,800	142,783,000	151,612,400	1,927,761,300
7.0	Billed Authorized Consumption (total volume of water billed including Exports-if applicable)	146,285,852	132,186,726	133,284,397	137,818,600	147,386,128	143,678,796	144,059,652	143,855,074	133,525,879	150,193,537	137,839,626	116,826,127	1,666,940,394
8.0	Unbilled Authorized Consumption (include estimates of fire protection, line flushing, and other utility-authorized non-billed uses). An estimate of 1.25% of the System Input can be used if no other data is available.	16,815,300	12,708,450	15,756,550	14,697,971	14,011,893	21,942,750	15,143,161	26,473,400	27,760,044	17,766,350	9,374,800	16,215,900	208,666,569
9.0	Total Authorized Consumption (Billed Authorized Consumption plus Unbilled Authorized Consumption) (line 7 plus line 8)	163,101,152	144,895,176	149,040,947	152,516,571	161,398,021	165,621,546	159,202,813	170,328,474	161,285,923	167,959,887	147,214,426	133,042,027	1,875,606,963
10.0	Total Water Losses (Line 6 minus line 9)	7,035,048	7,999,524	16,553,553	17,198,429	7,362,979	-11,983,446	6,344,687	-3,166,574	-220,723	-9,108,087	-4,431,426	18,570,373	52,154,337
11.0	% Water Loss (line 10 divided by line 6)	4.13%	5.23%	10.00%	10.13%	4.36%	-7.80%	3.83%	-1.89%	-0.14%	-5.73%	-3.10%	12.25%	2.71%

Annual Water Balance Summary														
line #	Utility Name:	City of Lake Worth												
	Permit Name:	Lake Worth Utilities												
	Reporting Period:	2018												
	Water Use Permit #:	50-00234-W												
	Name of Person Completing Form:	Timothy Sloan												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1.0	Total Raw Water Withdrawn (should match pumpage reports submitted to SFWMD) RO Plant operates at 75% recovery	183,610,496	185,136,432	209,707,544	206,521,040	181,368,448	169,749,956	185,919,933	205,092,264	196,879,135	204,763,501	187,379,144	179,765,244	2,295,893,137
2.0	Volume of Finished Water Produced	156,633,120	153,826,560	172,924,680	168,896,304	154,426,992	144,419,688	158,434,968	169,469,472	164,369,056	166,033,800	152,003,568	152,522,720	1,913,960,928
3.0	Treatment Losses (subtract line 2 from line 1)	26,977,376	31,309,872	36,782,864	37,624,736	26,941,456	25,330,268	27,484,965	35,622,792	32,510,079	38,729,701	35,375,576	27,242,524	381,932,209
4.0	% Treatment Loss (divide line 3 by line 1)	14.69%	16.91%	17.54%	18.22%	14.85%	14.92%	14.78%	17.37%	16.51%	18.91%	18.88%	15.15%	16.64%
5.0	Total Volume of Water Imported (if applicable) Bulk PBC purchase													0
6.0	System Input (Finished Water Produced plus Total Water Imported) (line 2 plus line 5)	156,633,120	153,826,560	172,924,680	168,896,304	154,426,992	144,419,688	158,434,968	169,469,472	164,369,056	166,033,800	152,003,568	152,522,720	1,913,960,928
7.0	Billed Authorized Consumption (total volume of water billed including Exports-if applicable)	140,188,500	125,833,300	136,456,200	142,412,300	129,916,500	126,253,900	133,941,400	132,649,400	139,855,100	148,954,400	139,422,900	128,782,600	1,624,666,500
8.0	Unbilled Authorized Consumption (include estimates of fire protection, line flushing, and other utility-authorized non-billed uses). An estimate of 1.25% of the System Input can be used if no other data is available.	9,710,900	13,649,350	12,340,400	15,621,044	13,904,200	13,845,500	13,202,450	13,930,674	14,025,895	8,132,527	9,663,712	7,828,400	145,855,052
9.0	Total Authorized Consumption (Billed Authorized Consumption plus Unbilled Authorized Consumption) (line 7 plus line 8)	149,899,400	139,482,650	148,796,600	158,033,344	143,820,700	140,099,400	147,143,850	146,580,074	153,880,995	157,086,927	149,086,612	136,611,000	1,770,521,552
10.0	Total Water Losses (Line 6 minus line 9)	6,733,720	14,343,910	24,128,080	10,862,960	10,606,292	4,320,288	11,291,118	22,889,398	10,488,061	8,946,873	2,916,956	15,911,720	143,439,376
11.0	% Water Loss (line 10 divided by line 6)	4.30%	9.32%	13.95%	6.43%	6.87%	2.99%	7.13%	13.51%	6.38%	5.39%	1.92%	10.43%	7.49%

Annual Water Balance Summary														
line #	Utility Name:	City of Lake Worth												
	Permit Name:	Lake Worth Utilities												
	Reporting Period:	2019												
	Water Use Permit #:	50-00234-W												
	Name of Person Completing Form:	Timothy Sloan												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1.0	Total Raw Water Withdrawn (should match pumpage reports submitted to SFWMD)RO Plant operates at 75% recovery	188,500,437	168,829,219	193,545,136	202,601,416	203,309,688	198,660,840	211,700,044	208,263,596	192,545,528	229,721,388	194,941,548	196,114,272	2,388,733,112
2.0	Volume of Finished Water Produced	149,067,896	131,718,744	149,745,344	159,345,666	162,053,814	158,514,376	164,670,152	159,640,104	174,426,322	188,562,498	167,497,982	160,748,094	1,925,990,992
3.0	Treatment Losses (subtract line 2 from line 1)	39,432,541	37,110,475	43,799,792	43,255,750	41,255,874	40,146,464	47,029,892	48,623,492	18,119,206	41,158,890	27,443,566	35,366,178	462,742,120
4.0	% Treatment Loss (divide line 3 by line 1)	20.92%	21.98%	22.63%	21.35%	20.29%	20.21%	22.22%	23.35%	9.41%	17.92%	14.08%	18.03%	19.37%
5.0	Total Volume of Water Imported (if applicable)Bulk PBC purchase													0
6.0	System Input (Finished Water Produced plus Total Water Imported) (line 2 plus line 5)	154,961,500	137,421,100	156,829,500	165,546,400	162,727,800	156,884,300	167,212,600	163,048,200	176,993,100	191,920,900	167,497,982	160,748,094	1,961,791,476
7.0	Billed Authorized Consumption (total volume of water billed including Exports-if applicable)	143,406,500	126,193,000	128,644,100	134,736,200	145,258,700	150,783,000	144,521,600	139,622,900	130,344,300	144,056,000	132,357,700	137,583,700	1,657,507,700
8.0	Unbilled Authorized Consumption (include estimates of fire protection, line flushing, and other utility-authorized non-billed uses). An estimate of 1.25% of the System Input can be used if no other data is available.	8,307,500	8,082,450	8,944,550	8,159,300	10,999,750	12,074,100	16,055,886	20,727,495	26,681,175	27,242,200	19,555,880	15,098,200	181,928,486
9.0	Total Authorized Consumption (Billed Authorized Consumption plus Unbilled Authorized Consumption) (line 7 plus line 8)	151,714,000	134,275,450	137,588,650	142,895,500	156,258,450	162,857,100	160,577,486	160,350,395	157,025,475	171,298,200	151,913,580	152,681,900	1,839,436,186
10.0	Total Water Losses (Line 6 minus line 9)	3,247,500	3,145,650	19,240,850	22,650,900	6,469,350	-5,972,800	6,635,114	2,697,805	19,967,625	20,622,700	15,584,402	8,066,194	122,355,290
11.0	% Water Loss (line 10 divided by line 6)	2.10%	2.29%	12.27%	13.68%	3.98%	-3.81%	3.97%	1.65%	11.28%	10.75%	9.30%	5.02%	6.24%

1
2

3 ORDINANCE NO. 2020-09 OF THE CITY OF LAKE WORTH BEACH,
4 FLORIDA, AMENDING POLICIES IN THE INFRASTRUCTURE ELEMENT
5 OF THE CITY'S COMPREHENSIVE PLAN AND ADOPTING THE 2020
6 WATER SUPPLY PLAN BY REFERENCE; PROVIDING FOR
7 SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. BY
8 INCORPORATING A WATER SUPPLY PLAN AND AMENDING THE
9 INFRASTRUCTURE ELEMENT; PROVIDING FOR SEVERABILITY,
10 CONFLICTS AND AN EFFECTIVE DATE

11 WHEREAS, the Florida Community Planning Act, Chapter 163, Part II, section
12 163.3161, *et seq.*, Florida Statutes (The Act), requires each municipality to adopt a
13 comprehensive plan and authorizes amendments thereto; and

14 WHEREAS, the City previously adopted an Evaluation and Appraisal Report (EAR)
15 comprehensive plan amendment on October 17, 2017; and

16 WHEREAS, in the 2017 EAR amendment, the City adopted its 2014 10-Year
17 Water Supply Facilities Work Plan (Water Supply Plan) to coordinate with the South
18 Florida Water Management District's (SFWMD) Lower East Coast (LEC) Water Supply
19 Plan; and

20 WHEREAS, in accordance with Section 373.709 and Section 163.3177(6)(c)3,
21 Florida Statutes, the City's Water Supply Plan must be updated when SFWMD updates
22 its LEC Water Supply Plan; and

23 WHEREAS, SFWMD adopted updates to its LEC Water Supply Plan in November
24 2018; and

25 WHEREAS, the City must now adopt updates to its Water Supply Plan; and

26 WHEREAS, on June 17, 2020, the City of Lake Worth Beach Planning and Zoning
27 Board, sitting as the Local Planning Agency, recommended for approval the proposed
28 update to the Water Supply Plan and associated comprehensive plan amendments,
29 attached hereto as Exhibit "A" and incorporated herein; and

30 WHEREAS, on June 10, 2020, the City Historic Resources Preservation Board
31 also recommended for approval the attached update to the Water Supply Plan and
32 associated comprehensive plan amendments; and

33 WHEREAS, the City Commission has considered the attached update to the Water
34 Supply Plan and associated comprehensive plan amendments; the report prepared by
35 Mock Roos & Associates, Inc.; and, the recommendations of staff, the Local Planning
36 Agency and the Historic Resources Preservation Board; and

37 WHEREAS, the City Commission finds amending the comprehensive plan by
38 incorporating the attached update to the Water Supply Plan and adopting the associated
39 comprehensive plan amendments is in the best interests of the city and serves a valid
40 public purpose.

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

43 Section 1. The foregoing recitals are true and accurate and are expressly incorporated
44 herein by reference and made a part hereof.

45 Section 2. The City's comprehensive plan is amended by incorporating the Water
46 Supply Plan, dated May 2020, and adopting the associated comprehensive plan
47 amendments attached hereto as Exhibit "A" and incorporated herein. The associated
48 amendments amend the Infrastructure Element.

49 Section 3. The City Manager or designee shall provide this ordinance and all other
50 necessary documents to the Florida Department of Economic Opportunity and other
51 reviewing agencies in accordance with section 163.3184(3), Florida Statutes.

52 Section 4. All ordinances or parts of ordinances in conflict herewith are hereby
53 repealed.

54 Section 5. If any provision of this ordinance or the application thereof to any person
55 or circumstances is held invalid, such invalidity shall not affect other provisions or
56 applications of this Ordinance which can be given effect without the invalid provision or
57 application, and to this end the provisions of this ordinance are declared to be severable.

58 Section 6. Pursuant to section 163.3184(3)(c)4, Florida Statutes, this ordinance does
59 not become effective until 31 days after the state land planning agency notifies the City
60 that the plan amendment package is complete. If this ordinance as a comprehensive
61 plan amendment is timely challenged, this ordinance does not become effective until the
62 state land planning agency or the Administration Commission enters a final order
63 determining the adopted amendment to be in compliance. No development orders,
64 development permits, or land uses dependent on this ordinance may be issued or
65 commenced before it has become effective.

66 The passage of this ordinance on first reading was moved by Commissioner
67 Maxwell, seconded by Vice Mayor Amoroso, and upon being put to a vote, the vote
68 was as follows:

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

74 The Mayor thereupon declared this ordinance duly passed on first reading on the
75 7th day of July, 2020.

76
77
78 The passage of this ordinance on second reading was moved by Commissioner
79 _____, seconded by Commissioner _____, and upon being
80 put to a vote, the vote was as follows:
81

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

87 The Mayor thereupon declared this ordinance duly passed on the ____ day of _____,
88 2020.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Pam Triolo, Mayor

94 ATTEST:

95
96
97 _____
98 Deborah M. Andrea, CMC, City Clerk

EXHIBIT 2

City of Lake Worth Beach

10 Year Water Supply Facilities Work Plan

Associated Comprehensive Plan Amendment - Goals, Objectives and Policies

As a reference, the following represents Comprehensive Plan associated amendments related to the City's 10-Year Water Supply Facilities Work Plan Update and are in **bold and underline** (proposed new provisions) or ~~strikethrough~~ (proposed deleted provisions) format.

As GOPs are often amended outside of the cycle for Water Supply Plan amendments (i.e. Evaluation and Appraisal Report amendments every seven (7) years), these GOPs are being provided as reference and not made part of the officially adopted Water Supply Facility Work Plan. These amendments will be processed concurrently with, but not made part of, the WSP update.

INFRASTRUCTURE ELEMENT

- Policy 4.1.1.3: The City will continue to provide annual review of system demand and supply, and to update facility demand and capacity information based on issuance of development permits. **The City will also prepare and include considerations of being a regional provider that may sell water in the future.**
- Policy 4.1.7.3: The City will maintain a water supply facilities work plan that is coordinated with SFWMD's ~~2018~~ *Lower East Coast Regional Water Supply Plan* and Palm Beach County by updating its own work plan within 18 months of an update to SFWMD's ~~2018~~ *Lower East Coast Regional Water Supply Plan*.
- Policy 4.1.7.4: By March, 202~~7~~⁵, the City shall coordinate with SFWMD and **update** ~~develop~~ **the City's** a 10-year water supply facilities work plan considering **the** Lower East Coast (LEC) Regional Water Supply Plan. The City hereby adopts by reference the "*City of Lake Worth 20~~20~~¹⁴ 10-Year Water Supply **Facilities Work Plan***", dated ~~December~~ 2014. The City shall send a letter to SFWMD which identifies projects for future water supply needs of the City. Projects must be selected from the LEC Regional Water Supply Plan or must be prior approved by SFWMD.

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Mayor Triolo

TITLE:

Grant Request for the Palm Beach County Food Bank to partially offset the City building permit fees

SUMMARY:

The Grant will assist the Palm Beach County Food Bank with the cost of City Building Permit Fees for the construction of a 28,000 sq. ft. warehouse facility in the Park of Commerce. The Fees including PBC Fire Department review and total \$58,561.88. The Grant of \$22,000 will be taken from this Fiscal Year's unused Commission Travel budget and the Clerk's Special Election Account line.

BACKGROUND AND JUSTIFICATION:

The Palm Beach County Food Bank distributes over 10 million pounds of food annually to the residents of Palm Beach County through nearly 150 partner agencies consisting of food pantries and soup kitchens. Over 35 of these agencies are based in Lake Worth Beach and unincorporated Lake Worth. They are building a new warehouse that will be over 28,000 sq. ft. and will contain over 1,200 pallet positions including freezer, cooler and dry storage with 6 loading docs as well as offices for their organization. Nearly 30 people will work out of the warehouse and offices. The main permit for the build out of the interior has yet to be issued and will require the sum of over \$58,500.00 which cannot be legally waived by the City. During this time of pandemic, it is more important than ever to assure that the Palm Beach County Food Bank will have the facility it needs to continue with providing the residents with the food they need to feed their families.

MOTION:

Move to approve/disapprove a Grant to assist with Building Permit Fees for the Palm Beach County Food Bank in the amount of \$22,000 and to authorize the City Manager to execute the Grant transaction.

ATTACHMENT(S):

Fiscal Impact Analysis
Letter from Jim Greco, EO, PBC Food Bank
List of LWB Participating Entities

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

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

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

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

C. Department Fiscal Review:_____

PREPARED 9/04/20, 8:09:43
CITY OF LAKE WORTH BEACH

PAYMENT DUE
PROGRAM BP820L

APPLICATION NUMBER: 20-00002540 701 BOUTWELL RD A2
FEE DESCRIPTION AMOUNT DUE

SURCHARGE BLDG DCA	528.75
SURCHARGE BLDG DBPR	793.13
FD PLAN REVIEW	4250.00
FD ADMIN FEE LW	25.00
COMMERCIAL BUILDING	52875.00
ZONE REV NEW NON RSU	90.00
TOTAL DUE	58561.88

Please present this receipt to the cashier with full payment.

Jim

James J. Greco
Interim CEO
Palm Beach County Food Bank
203-641-8641

Agency Name	City
Eglise De La Mission Semence Inc.	Lake Worth
The Lord's Place - Burckle's Women Campus	Lake Worth
God's Army Raising Youth (G.A.R.Y. Foundation)	Lake Worth
Shammah Baptist Worship Center	Lake Worth
Salem Haitian Evangelical Lutheran Church	Lake Worth
CROS Lighthouse Food Pantry	Lake Worth
St. Rita's Catholic Church	Lake Worth
Palm Beach Recovery Coalition	Lake Worth
Barton Elementary School	Lake Worth
CROS Lake Worth Food Pantry	Lake Worth
CROS Ministries Mobile Pantry	Lake Worth
Un Nuevo Comienzo	Lake Worth
Palm Beach State College - Panther's Pantry	Lake Worth
Barton Elementary School	Lake Worth
The Lord's Place - Burckle's Women Campus	Lake Worth
Palm Beach Recovery Coalition	Lake Worth
Salem Haitian Evangelical Lutheran Church	Lake Worth
Arms of Hope Community, Inc	Lake Worth
Palm Beach State College - Panther's Pantry	Lake Worth

Un Nuevo Comienzo	Lake Worth
Martha's Kitchen	Lake Worth
St. Rita's Catholic Church	Lake Worth
Eglise De La Mission Semence Inc.	Lake Worth
God's Army Raising Youth (G.A.R.Y. Foundation)	Lake Worth
Bethel Church of God, Inc.	Lake Worth
Farmworker Coordinating Council - Lake Worth	Lake Worth
Extended Arm, Inc.	Lake Worth
Farmworker Coordinating Council - Lake Worth	Lake Worth
Bethel Church of God, Inc.	Lake Worth
God's Army Raising Youth (G.A.R.Y. Foundation)	Lake Worth
Guatemala Maya Center	Lake Worth
Martha's Kitchen	Lake Worth
Eben-Ezer French SDA Church	Lake Worth
Hands Together for Haitians	Lake Worth
Extended Arm, Inc.	Lake Worth
CROS Camp	Lake Worth
Martha's Kitchen	Lake Worth
Indian Pines Elementary School	Lake Worth

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Community Sustainability

TITLE:

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

SUMMARY:

Ordinance No. 2020-13 provides for a series of amendments related to consistency and clarity for development order time extensions and expirations in Chapter 23 “Land Development Regulations,” including building permits, variances, site plan review, historic preservation, and other zoning permits.

BACKGROUND AND JUSTIFICATION:

The subject LDR amendments are intended to provide consistency and clarity for time extensions for all development order types and to provide uniform language related to the development order expiration.

The proposed amendments consolidate language related to the expiration of development orders into a new code section that provides for finality to approvals and construction projects. Currently, time limitations related to development orders are addressed in separate sections by development order type. The proposed ordinance would also amend language, for clarity and consistency, related to building permit application timeframes for development orders and time limitations related to issued building permits. The proposed amendments to the Land Development Regulations have been reviewed by staff for consistency with the City’s Comprehensive Plan.

At the September advisory board meetings, both the Planning & Zoning Board and Historic Resources Preservation Board discussed the amendments and both recommended unanimously for the City Commission to approve the proposed amendments.

MOTION:

Move to approve/disapprove Ordinance 2020-13 on first reading and set the second reading and public hearing for xxxx.

ATTACHMENT(S):

PZB/HRPB Staff Report
Ordinance 2020-13



City Of Lake Worth
Department for Community Sustainability
Planning, Zoning and Historic Preservation Division
1900 Second Avenue North · Lake Worth · Florida 33461 · Phone: 561-586-1687

DATE: August 26, 2020

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

FROM: William Waters, Director Community Sustainability

MEETING: September 2, 2020 and September 9, 2020

SUBJECT: **PZHP 20-03100005**: Consideration of an ordinance (Ordinance # 2020-13) to amend Chapter 23 “Land Development Regulations” to provide consistency and clarity for time limitations related to development orders and building permits.

BACKGROUND/ PROPOSAL:

On March 5, 2020, the City Commission held a workshop on the prioritization of amendments to the City’s Land Development Regulations (LDR) that were previously identified by staff and the Commission. The subject LDR amendments address the third series of prioritized items identified at the March meeting, which include modifications to provide consistency and clarity for time extension for all development order types and to provide uniform language related to the development order expiration.

The proposed amendments consolidate language related to the expiration of development orders into a new code section that provides for finality to approvals and construction projects. Currently, time limitations related to development orders are addressed in separate sections by development order type. The proposed ordinance would also amend language, for clarity and consistency, related to building permit application timeframes for development orders and time limitations related to issued building permits. The proposed amendments to the Land Development Regulations have been reviewed by staff for consistency with the City’s Comprehensive Plan.

The proposed LDR amendments for Chapter 23 will modify the following sections of the City’s Code of Ordinances:

- Sec. 23.2-37. – Expiration of Development Orders (New Section)
- Sec 23.1-11 -Time Limitations of Approvals - building permits
- Sec. 23.2-26. – Variances
- Sec. 23.2-29. – Conditional use permits
- Sec. 23.2-30. – Site plan review
- Sec. 23.5-4. - Historic preservation
- Sec. 23.7-4. - Permits
- Sec. 23.2-20 – Site Plan Review

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2020-13: PZB (HRPB Project Number 20-03100005)

POTENTIAL MOTION:

I move to RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION **TO ADOPT** the proposed LDR text amendments included in PZB / HRPB Project Number 20-03100005 (Ordinance 2020-13).

Attachments

- A. Draft Ordinance 2020-13

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

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"), a municipal corporation, 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 its regulations to provide a final expiration date of no more than three years for approvals without specific expiration dates and for a period of no more than four years when as a condition of approval, an expiration date is included in the development order; and

WHEREAS, the City wishes to amend its regulations to provide time limitations to apply for building permits as it relates to approved projects in the City; and

WHEREAS, this ordinance provides uniformity finality to building permits and approvals throughout the land development regulations; 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

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

52
53 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
54 **CITY OF LAKE WORTH BEACH, FLORIDA, that:**

55
56 **Section 1.** The foregoing “WHEREAS” clauses are ratified and confirmed as
57 being true and correct and are made a specific part of this Ordinance as if set forth herein.

58
59 **Section 2.** Chapter 23 “Land Development Regulations,” Article 2
60 “Administration,” “Division 3 “Permits,” of the City’s Code of Ordinances, is hereby
61 amended by adding a new Section 23.2-37 “Expiration of Development Orders” as
62 indicated in **Exhibit A** (underlined type is added).

63
64 **Section 3.** Chapter 23 “Land Development Regulations,” Article 1, “General
65 Provisions,” Division 1 “Generally,” Section 23.1-11 “Time limitations of approvals,” is
66 hereby amended by adding the words shown in underlined type and deleting the words
67 ~~struck through~~ as indicated in **Exhibit B**.

68
69 **Section 4.** Chapter 23 “Land Development Regulations,” section 23.2-26(c)
70 “Time limit for variances,” section 23.2-29(k) “Expiration of conditional use approval,”
71 section 23.2-30(f) “Expiration of site plan approval,” section 23.5-4(j) “Issuance of
72 certificate of appropriateness; commencement of permitted improvements,” and section
73 23.7(4)(e) “Expiration” as it relates to flood plain permits, are hereby amended to be
74 consistent with and provide uniformity with the regulations set forth in Exhibits A and B.
75 These sections are amended by adding the words shown in underlined type and deleting
76 the words ~~struck through~~ as indicated in **Exhibit C**.

77
78 **Section 5.** Severability. If any section, subsection, sentence, clause, phrase or
79 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of
80 competent jurisdiction, such portion shall be deemed a separate, distinct, and
81 independent provision, and such holding shall not affect the validity of the remaining
82 portions thereof.

83
84 **Section 6.** Repeal of Laws in Conflict. All ordinances or parts of ordinances in
85 conflict herewith are hereby repealed to the extent of such conflict.

86
87 **Section 7.** Codification. The sections of the ordinance may be made a part of
88 the City Code of Laws and ordinances and may be re-numbered or re-lettered to
89 accomplish such, and the word “ordinance” may be changed to “section”, “division”, or
90 any other appropriate word.

91
92 **Section 8.** Effective Date. This ordinance shall become effective 10 days after
93 passage.

94
95

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

- 99
- 100 Mayor Pam Triolo
- 101 Vice Mayor Andy Amoroso
- 102 Commissioner Scott Maxwell
- 103 Commissioner Omari Hardy
- 104 Commissioner Herman Robinson

105
106 The Mayor thereupon declared this ordinance duly passed on first reading on the
107 _____ day of _____, 2020.

108
109
110 The passage of this ordinance on second reading was moved by
111 _____, seconded by _____, and upon being put to a vote,
112 the vote was as follows:

- 113
- 114 Mayor Pam Triolo
- 115 Vice Mayor Andy Amoroso
- 116 Commissioner Scott Maxwell
- 117 Commissioner Omari Hardy
- 118 Commissioner Herman Robinson

119
120
121 The Mayor thereupon declared this ordinance duly passed on the _____ day of
122 _____, 2020.

123
124
125 LAKE WORTH BEACH CITY COMMISSION

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128 By: _____
129 Pam Triolo, Mayor

130
131 ATTEST:

132
133
134 _____
135 Deborah Andrea, CMC, City Clerk
136

EXHIBIT A

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 2 "ADMINISTRATION"

Article 2, "Administration," Division 3 "PERMITS"

Sec. 23.2-37. – Expiration of Development Orders.

- a) Generally. A development order shall automatically expire three (3) years from the date of issuance. If these LDRs provide for a shorter period of expiration, then those time limitations shall apply. If a development order expires, the approval shall terminate and become void. In such event, the applicant or property owner shall be required to make application for a new approval, subject to any changes in the law.
- b) As a Condition of Approval. The planning and zoning board, the historic resources preservation board or the city commission, as applicable, may condition the approval of a development order on a period of time not exceeding four (4) years or on a final expiration date of up to four (4) years. If certificates of use, completion, or occupancy are not issued by the appropriate city official at the end of the period or on the date specified in the development order, then the development order shall automatically expire at the end of the period or on the date specified in the development order. In such event, the applicant or property owner shall be required to make application for a new approval, subject to any changes in the law.
- c) Phased Plans. If a phased site plan expires, the following shall apply as applicable.
 - 1. The allocation of dwelling units granted for any principal structure that has not received a certificate of occupancy or equivalent certification shall expire at the time the site plan expires, or
 - 2. The portion of the property not developed prior to the expiration shall not be developed without the applicant or property owner submitting an application for and receiving an approval of a new site plan.
- d) Finality. This section is intended to add finality to development orders and construction projects. In no event may the expiration of a development order exceed the number of years set forth in this section.

EXHIBIT B

Chapter 23

LAND DEVELOPMENT REGULATIONS

*Article 1, "General Provisions," Division 1 "Generally"***Sec. 23.1-11. -Time limitations -- building permits approvals.****a) Application.**

1. Unless specified otherwise herein, approvals granted pursuant to these regulations shall require the owner to submit an application for a building permit(s) within ~~eighteen (18)~~ twelve (12) months from ~~time~~ the date of the approval. Failure to submit an application for a building permit(s) within that timeframe shall render the approval null and void unless an extension is granted as set forth herein.

2. Building permit application ~~Permitted~~ time frames do not change with successive owners, provided however, ~~one (1);~~ two (2) separate but successive six (6) month extensions of time to apply for a building permit may be granted by the development review official for good cause shown. ~~One (1) additional six (6) month extension of time may be granted by submitting a request for extension to the city authority which granted the approval.~~

b) Building permit. After a building permit application has been approved, a request to extend the building permit may be granted by the building official or designee in the building official's or designee's discretion in six (6) month increments or as otherwise provided by the Florida Building Code. In no event may a building permit exceed the time limitations set forth in section 23.2-37, nor may it be interpreted as extending the time limitations of the underlying order as set forth in section 23.2-37.

EXHIBIT C

Chapter 23

LAND DEVELOPMENT REGULATIONS

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

Sec. 23.2-26. – Variances.

- c) *Time limit for variances.* Any variance granted under this section shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~become null and void and of no effect twelve (12) months from and after the date of its final approval, unless within such period of twelve (12) months a building permit is issued if required, or if no permit is required, unless the action permitted by the variance shall have taken place within the twelve-month period. An extension of six (6) months may be granted by the development review official for good cause.~~

Sec. 23.2-29. – Conditional use permits.

- k) *Expiration of conditional use approval.* Any approval of a conditional use granted by the planning and zoning board, the historic resources preservation board or by the city commission shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~void one (1) year after the date of the approval unless a building permit has been issued for the construction of all facilities provided in the site plan associated with the conditional use or otherwise needed to house the use, and construction is diligently pursued. If a building permit is issued within one (1) year of approval of the conditional use, the building official shall make periodic inspections in order to determine whether or not construction is being diligently pursued. If the building official determines that the construction is not being diligently pursued, then he shall notify in writing the owner of property and any other person who has requested such notice. The conditional use approval shall be void one hundred eighty (180) days after the date of such notice unless construction has been diligently resumed within that one hundred eighty day period. Minor construction related work which does not substantially advance the project to completion will not be deemed sufficient to keep from voiding of a conditional use approval. If new facilities are constructed but are not occupied within one (1) year following completion of construction, then the conditional use approval shall be void. If no new facilities are~~

263 needed to house the use, then the conditional use approval shall be void one hundred
264 eighty (180) days after the date of the approval unless the use has been established.

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Sec. 23.2-30. – Site plan review.

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269

270 f) ~~Expiration of site plan approval unless building permit(s) issued within one (1) year.~~
271 Any site plan approval shall be subject to the time limits set forth in section 23.1-11
272 regarding building permits and section 23.2-37 regarding the expiration of
273 development orders. ~~void one (1) year after the date of the approval unless a building~~
274 ~~permit has been issued for the construction of all facilities provided in the site plan~~
275 ~~and construction is diligently pursued. If a building permit is issued within one (1) year~~
276 ~~of approval of the site plan, the building official shall make periodic inspections in~~
277 ~~order to determine whether or not construction is being diligently pursued. If the~~
278 ~~building official determines that construction is not being diligently pursued, then he~~
279 ~~shall notify in writing the owner of property and any other person who has requested~~
280 ~~such notice. The site plan approval shall be void one hundred eighty (180) days after~~
281 ~~the date of such notice unless construction has been diligently resumed within that~~
282 ~~one hundred eighty-day period. Minor construction related work which does not~~
283 ~~substantially advance the project to completion will not be deemed sufficient to keep~~
284 ~~from voiding of site plan approval~~

285

286 g) ~~Extension of time. An extension of time may be requested by the applicant prior to~~
287 ~~the expiration of the original approval. The development review official may grant one~~
288 ~~(1) time extension for a period not to exceed six (6) months and only within the original~~
289 ~~period of validity.~~

290 h) g) Compliance with LDRs required. In all cases requiring site plan review, no
291 structure, or part thereof, shall be erected or used, or land or water used, or any
292 change of use consummated, nor shall any building permit be issued, unless a site
293 plan has been reviewed and approved, and in no instance shall the decisionmaking
294 body modify the written standards of these LDRs in approving a site plan; except as
295 provided for in this section.

296 i) h) Violations. Failure to complete and continually maintain all approved elements of
297 an approved site plan including landscape, appearance and other site development
298 features, shall be a violation of these LDRs subject to enforcement and penalty
299 procedure of the City Code of Ordinances.

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Article 5, "Substantial Regulations"

Sec. 23.5-4. - Historic preservation.

- j) ~~Issuance of certificate of appropriateness; time limits commencement of permitted improvements. If the department for community sustainability or HRPB approves an application, a certificate of appropriateness shall be issued in a timely manner. Issuance of a certificate of appropriateness shall not relieve the applicant from obtaining all other required development permits, orders and approvals required by law. No building permit or other development order for a designated landmark or a property within a historic district shall be valid unless accompanied by a certificate of appropriateness. A certificate of appropriateness approval shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~Construction approved by a certificate of appropriateness shall commence within twelve (12) months of the date of issuance, and the certificate shall automatically expire if less than fifty (50) percent of the approved improvements are completed within twelve (12) months of the date of commencement. A certificate of occupancy for the required improvements shall be received within twenty-four (24) months of commencement of the work. The department for community sustainability may grant a one-time time extension not exceeding twelve (12) months if the permit holder can demonstrate that delays have been unavoidable and that work will be completed in a timely manner. The HRPB may in its absolute discretion grant additional time extensions as necessary if the permit holder can demonstrate that delays have been unavoidable and that work will be completed in a timely manner. If the department for community sustainability or HRPB denies an application, it shall state its reasons for doing so in writing and present them to the applicant within ten (10) calendar days of the denial.~~~~

Article 7, "Floodplain Management," Division 1 "Administration"

Sec. 23.7-4. - Permits.

- e) Expiration. A floodplain development permit or approval shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~become invalid unless the work authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized is suspended or abandoned for a period of one hundred eighty (180) days after the work commences. Extensions for periods of not more than one hundred eighty (180) days each shall be requested in writing and justifiable cause shall be demonstrated.~~

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Community Sustainability

TITLE:

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

SUMMARY:

Ordinance 2020-14 provides for a series of amendments related to changes to update and clarify the quasi-judicial process for land use and zoning matters including appeals in Chapter 23 “Land Development Regulations.”

BACKGROUND AND JUSTIFICATION:

The subject LDR amendments are intended to update and clarify the quasi-judicial process for land use and zoning matters including appeals. The proposed amendments to the Land Development Regulations have been reviewed by staff for consistency with the City’s Comprehensive Plan.

The proposed LDR amendments for Chapter 23 will modify Sec. 23.2-16. “Quasi-judicial procedures” and Sec. 23.3-17 “Appeals.”

At the September advisory board meetings, both the Planning & Zoning Board and Historic Resources Preservation Board discussed the amendments and both recommended unanimously for the City Commission to approve the proposed amendments.

MOTION:

Move to approve/disapprove Ordinance 2020-14 on first reading and set the second reading and public hearing for October 20, 2020.

ATTACHMENT(S):

PZB/HRPB Staff Report
Ordinance 2020-14



City Of Lake Worth
Department for Community Sustainability
Planning, Zoning and Historic Preservation Division
1900 Second Avenue North · Lake Worth · Florida 33461 · Phone: 561-586-1687

DATE: August 26, 2020

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

FROM: William Waters, Director Community Sustainability

MEETING: September 2, 2020 and September 9, 2020

SUBJECT: **PZHP 20-03100006**: Consideration of an ordinance (Ordinance # 2020-14) to amend Chapter 23 “Land Development Regulations” to update and clarify the quasi-judicial process for land use and zoning matters.

BACKGROUND/ PROPOSAL:

On March 5, 2020, the City Commission held a workshop on the prioritization of amendments to the City’s Land Development Regulations (LDR) that were previously identified by staff and the Commission. The subject LDR amendments address the third series of prioritized items identified at the March meeting. These include changes to update and clarify the quasi-judicial process for land use and zoning matters including appeals. The proposed amendments to the Land Development Regulations have been reviewed by staff for consistency with the City’s Comprehensive Plan.

The proposed LDR amendments for Chapter 23 will modify the following sections of the City’s Code of Ordinances:

- Sec. 23.2-16. - Quasi-judicial procedures
- Sec. 23.2-17. - Appeals

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2020-14 (PZB / HRPB Project Number PZHP 20-03100006).

POTENTIAL MOTION:

I move to RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION **TO ADOPT** the proposed LDR text amendments included in PZB / HRPB Project Number 20-03100006 (Ordinance 2020-14).

Attachments

- A. Draft Ordinance 2020-14

1
2
3 **ORDINANCE 2020-14 - AN ORDINANCE OF THE CITY OF LAKE**
4 **WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND**
5 **DEVELOPMENT REGULATIONS,” ARTICLE 2, “ADMINISTRATION”,**
6 **DIVISION 2 “PROCEDURES,” SECTION 23.2-16 “QUASI-JUDICIAL**
7 **PROCEDURES” AND SECTION 23.2-17 “APPEALS” TO UPDATE AND**
8 **CLARIFY THE QUASI-JUDICIAL PROCESS FOR LAND USE AND**
9 **ZONING MATTERS; PROVIDING FOR SEVERABILITY, THE REPEAL**
10 **OF LAWS IN CONFLICT, CODIFICATION; AND PROVIDING AN**
11 **EFFECTIVE DATE**

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

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

24
25 **WHEREAS**, the City wishes to amend its regulations pertaining to quasi-judicial
26 procedures and appeals to provide clarity to the processes; and

27
28 **WHEREAS**, the Planning and Zoning Board, in its capacity as the local planning
29 agency, considered the proposed amendments at a duly advertised public hearing; and

30
31 **WHEREAS**, the Historic Resources Preservation Board, in its capacity as the local
32 planning agency, considered the proposed amendments at a duly advertised public
33 hearing; and

34
35 **WHEREAS**, the City Commission has reviewed the proposed amendments and
36 has determined that it is in the best interest of the public health, safety, and general
37 welfare of the City to adopt this ordinance.

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

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

44
45 **Section 2.** Chapter 23 “Land Development Regulations,” Article 2,
46 “Administration,” Divisions 2 “Procedures,” Section 23.2-16 “Quasi-Judicial Procedures”
47 of the City’s Code of Ordinances, is hereby amended by adding the words shown in
48 underlined type and deleting the words as ~~struck through~~.

51 **Sec. 23.2-16. - Quasi-judicial procedures.**

52
53 a) *In general.* The provisions of this section apply to all quasi-judicial hearings held
54 pursuant to these LDRs. Quasi-judicial hearings shall be conducted generally in
55 accordance with the following order of presentation:

- 56 1. Disclosure of ex parte communications and personal investigations
57 pursuant to subsection h below.
- 58 2. Presentation by city staff.
- 59 3. Presentation by the applicant.
- 60 4. Presentation by affected party, if applicable.
- 61 ~~45.~~ Public comment.
- 62 ~~56.~~ Cross-examination by city staff.
- 63 ~~67.~~ Cross-examination by the applicant.
- 64 8. Cross-examination by affected party, if applicable.
- 65 ~~79.~~ Cross-examination Questions by the decisionmaking body.
- 66 ~~810.~~ Rebuttal or closing argument by the applicant.
- 67 ~~911.~~ Closing of the public hearing.
- 68 ~~1012.~~ Deliberation by the decisionmaking body. ~~Motion by the decisionmaking~~
69 ~~body with explanation.~~
- 70 ~~11.~~ ~~Discussion among members of the decisionmaking body.~~
- 71 ~~12.13.~~ Action by the decisionmaking body making reference to and entry of
72 specific findings. In the case of denials a citation(s) shall be provided
73 referencing to the legal authority (e.g., code citation) forming the basis
74 of the denial.

75 The chairperson, upon motion or by consensus of the decisionmaking body, may
76 change the order of presentation. Each party shall have the right to call and examine
77 witnesses, to introduce evidence/exhibits into the record, to cross-examine opposing
78 witnesses on any relevant matter, subject to the rules contained herein, and to rebut
79 evidence.

80 b) *Sworn testimony.* The applicant, staff, and all participants requesting to speak shall
81 be collectively sworn by oath or affirmation.

82 c) *Waiver by applicant.* The applicant may waive its right to make a presentation if it
83 agrees with the staff recommendation ~~and no one from the audience wishes to speak~~
84 ~~for or against the application.~~ The decisionmaking body may then take public
85 comment and vote on the item, based upon the staff report and any other materials
86 entered by staff from the official file into the record of the hearing.

87 d) *Decorum.* The chair shall keep order, and without requiring an objection, may direct
88 a party conducting cross-examination to stop a particular line of questioning that
89 merely harasses, intimidates or embarrasses the individual being cross-examined; is
90 unduly repetitious and not relevant; or is beyond the scope of the testimony by the
91 individual being cross-examined. If the party conducting the cross-examination
92 continuously violates directions from the chair to end a line of questioning deemed

93 irrelevant and merely designed to harass, intimidate or embarrass the individual, the
94 chair may terminate the cross-examination.

95 e) *Affected parties.* Affected parties, as defined in section 23.1-12 (Definitions), (1) shall
96 be allowed to present evidence, to produced witnesses, and to cross-examine
97 witnesses produced by others; (2) may appeal final decisions of staff, HRPB, planning
98 and zoning board, or city commission; and (3) may file suit to enforce the provisions
99 of this article should the city fail or decline to do so. Notwithstanding the foregoing;
100 however, in any suit brought by an affected party, the applicable circuit court shall
101 determine whether the affected party has the requisite standing to bring suit. An
102 affected party who wishes to participate as a party in the quasi-judicial hearing must
103 fill out a city form and deliver it to the Department of Community Sustainability at least
104 five (5) days before the hearing. Failure to follow the process shall be deemed a
105 waiver and the affected party will not be allowed to participate in the quasi-judicial
106 hearing.

107 f) *Deliberation.* After the presentations, and at the conclusion of any continuances, the
108 decisionmaking body shall deliberate on the application ~~or appeal, as the case may~~
109 ~~be.~~ Once the decisionmaking body begins its deliberations no further presentations
110 or testimony shall be permitted except at the sole discretion of the decisionmaking
111 body. The decisionmaking body's decisions must be based upon competent
112 substantial evidence in the record.

113 g) *Continuance.* The decisionmaking body may, on its own motion or at the request of
114 an applicant, continue the hearing to a fixed date, time and place. The applicant shall
115 have the right to one (1) continuance; however, all subsequent continuances shall be
116 granted at the sole discretion of the decisionmaking body. Notwithstanding the
117 foregoing, a continuance shall not be granted if to do so would delay a decision on
118 an appeal from the HRPB regarding a certificate of appropriateness beyond the
119 ninety-day requirement specified in section 23.2-17.

120 h) *Ex parte communications.* Members of the decisionmaking body shall disclose on the
121 record any ex parte communications and personal investigations regarding pending
122 quasi-judicial decisions in accordance with applicable Florida law.

123 1. Members of the decision-making body shall disclose on the record any ex parte
124 communications, site visits, expert opinions sought, and personal investigations
125 regarding pending quasi-judicial decisions prior to any final action on the matter.

126 2. The substance of any ex parte communication shall be disclosed including the
127 subject of the communication and the identity of the person, group, or entity with
128 whom the communication took place.

129 3. Any written communication shall be made part of the record.

130 4. Any site visit, personal investigation or expert opinions received shall be
131 disclosed and made part of the record.

132 5. Pursuant to section 286.0115(1), Florida Statutes, the foregoing process
133 removes the presumption of prejudice from ex parte communications.

134 i) *Official file.* All written communication received by a decisionmaking body or staff
135 concerning an application, the staff report on the application, any petitions or other
136 submissions from the public, and all other documents pertaining to the application

137 upon receipt shall be filed in the official file for the application, which shall be
138 maintained by staff. The comprehensive plan and the City Code of Ordinances shall
139 be deemed to be part of the official file. The official file shall be available for inspection
140 during normal business hours.

141 j) *Record of the hearing.* All evidence admitted into the record at the hearing, and the
142 adopted development order of the decisionmaking body shall be maintained by the
143 city in a hearing file available for public review for a period of at least forty-five (45)
144 days from the rendering of the decision.

145 k) *First Reading.* For all quasi-judicial matters which require more than one (1) reading,
146 the first reading shall constitute the quasi-judicial hearing. If a decision is rendered to
147 grant or grant with conditions the relief sought by the applicant, then the second
148 reading shall be procedural in nature with the quasi-judicial body ratifying and
149 affirming its prior decision. If new evidence is introduced which, if brought to the
150 attention of the quasi-judicial body at the first reading, would have had a material
151 impact on its decision, the quasi-judicial body may reopen the quasi-judicial hearing
152 and give all parties the opportunity to address the new evidence.

153
154 **Section 3.** Chapter 23 “Land Development Regulations,” Article 2,
155 “Administration,” Division 2 “Procedures,” Section 23.2-17 “Appeals” of the City’s Code of
156 Ordinances, is hereby amended by adding the words shown in underlined type and
157 ~~deleting~~ the words as struck through.

158
159 Sec. 23.2-17. - Appeals.

160
161 a) *To planning and zoning board and historic resources preservation board.* An
162 applicant may appeal a final decision of the development review official to the
163 planning and zoning board or the historic resources preservation board, as
164 applicable. The procedures set forth below and in subsection d) shall be followed.

165 1. The applicant shall submit to the development review official, a notice of appeal
166 within thirty (30) days of the official's written decision. The appeal shall be in writing
167 on a form provided by city staff, and

168 2. The appeal shall be accompanied by the applicable fee and filed with the
169 development review official.

170 3. The appeal shall be heard at a quasi-judicial hearing and based on the record
171 made in the proceeding below. evidence relied upon by the development review
172 official in making his/her decision, which shall include submissions from the
173 applicant.

174 4. Notwithstanding the above, on appeals of administrative decisions regarding
175 certificates of appropriateness, the process shall be guided by Section 23.5-
176 4(n)(1), which provides that a notice of appeal must be submitted within fourteen
177 (14) days of the administrative decision, and that the administrative decision must
178 be reviewed within sixty (60) days and may be reversed only if it was contrary to
179 law or arbitrary and capricious.

180 b) *To city commission.* Should an applicant for development approval or an affected
181 party with demonstrated standing decide to appeal a decision of the planning and

182 zoning board or the historic resources preservation board the procedures set forth
 183 below and in subsection d) shall be followed.

184 1. The applicant or affected party shall submit to the development review official
 185 a notice of appeal within fourteen (14) days of the issuance of the board's written
 186 decision.

187 2. Thereafter, the applicant or affected party shall submit to the development review
 188 official in writing the basis for the appeal within thirty (30) days of the board's
 189 written decision; except appeals from decisions pertaining to variances shall be
 190 appealed directly to circuit court as described in subsection c). The basis of
 191 appeal must relate to the evidence and testimony presented to the planning and
 192 zoning board or the HRPB. The basis of appeal should include all evidence the
 193 appealing party would like to have the city commission review. New evidence is
 194 not allowed and shall not be considered.

195 3. The appeal shall be submitted with a city application and the applicable fee and
 196 filed with the development review official. An affected party must have
 197 participated in the hearing before the planning and zoning board or HRPB to
 198 participate in an appeal before the city commission.

199 4. The development review official shall forward the appeal, the staff report and
 200 other relevant documents reviewed at the planning and zoning board or HRPB
 201 meeting, and the board's decision to the city commission for review.

202 5. The development review official may also have the right to appeal a decision of
 203 the planning and zoning board or the HRPB.

204 6. After courtesy notice as provided in this article, the city commission shall conduct
 205 a quasi-judicial hearing, and shall consider those applications on appeal from the
 206 planning and zoning board or the HRPB based on the record made in the
 207 proceeding below created at the planning and zoning board or the HRPB
 208 meeting. The considerations substantiating the decision of the city commission
 209 shall be discussed. The city commission shall convey its decision in writing to the
 210 appellant applicant, affected parties, if applicable, and to the development review
 211 official. The considerations substantiating the decision of the city commission
 212 shall be documented.

213 7. For appeals from the decisions of the HRPB regarding certificates of
 214 appropriateness, the city commission shall consider the appeal within ninety (90)
 215 days after the filing of the appeal. The city commission may uphold or reverse
 216 the HRPB's decision in whole or in part or remand with instructions for further
 217 consideration. approve, approve with modifications or disapprove the application
 218 within ninety (90) days after the filing of the appeal. A reversal of an HRPB
 219 decision, whether in whole or in part, of the historic resources preservation board
 220 shall require no less than four (4) votes of the full city commission or by no less
 221 than three (3) votes of those in attendance, and in accordance with Section 23.5-
 222 4(n)(2), a reversal shall be rendered only if the city commission determines that
 223 the HRPB decision was contrary to law or arbitrary and capricious.

224 c) To circuit court. Any person or persons, jointly or severally, or entity, aggrieved by
 225 any the decision of the city commission, after first exhausting all administrative
 226 remedies, may shall present to a circuit court a petition for issuance of a writ of

227 certiorari pursuant to the Florida law. If a planning and zoning board or HRPB
228 variance determination is being appealed and is a part of an overall order being
229 appealed for certificates of appropriateness, site plans, etc., then the entire order shall
230 be appealed to the circuit court and it is not necessary to exhaust administrative
231 remedies by appealing any portion of the order to the city commission.

232 d) *Appeal procedure.* Hearings on appeals shall be conducted generally in accordance
233 with the following order of presentation, which may be adjusted by the chairperson.
234 At these hearings no new evidence may be introduced and presentations will be
235 limited to ten (10) minutes per party unless the time is extended by majority vote of
236 the decisionmaking body.

- 237
- 238 1. Disclosure of ex parte communications and personal investigations.
- 239 2. Presentation by city staff.
- 240 3. Presentation by appealing party.
- 241 4. Presentation by applicant, if not the appealing party.
- 242 5. Questions by the decisionmaking body.
- 243 6. Closing of the public hearing.
- 244 7. Deliberation by the decisionmaking body. The decisionmaking body shall
245 be restricted to the record developed from the hearing before the
246 appropriate board which shall include submissions from the applicant and
247 affected party, if applicable. The standard of review for these
248 deliberations shall be competent, substantial evidence unless indicated
249 otherwise in these LDRs.
- 250 8. Action by the decisionmaking body.
- 251

252 **Section 4.** Severability. If any section, subsection, sentence, clause, phrase or
253 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of
254 competent jurisdiction, such portion shall be deemed a separate, distinct, and
255 independent provision, and such holding shall not affect the validity of the remaining
256 portions thereof.

257

258 **Section 5.** Repeal of Laws in Conflict. All ordinances or parts of ordinances in
259 conflict herewith are hereby repealed to the extent of such conflict.

260

261 **Section 6.** Codification. The sections of the ordinance may be made a part of
262 the City Code of Laws and ordinances and may be re-numbered or re-lettered to
263 accomplish such, and the word "ordinance" may be changed to "section", "division", or
264 any other appropriate word.

265

266 **Section 7.** Effective Date. This ordinance shall become effective 10 days after
267 passage.

268

269

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

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

The Mayor thereupon declared this ordinance duly passed on first reading on the _____ day of _____, 2020.

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

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

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2020.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Pam Triolo, Mayor

ATTEST:

Deborah Andrea, CMC, City Clerk

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Community Sustainability

TITLE:

Consideration of PZB 20-00600001 – Request for an Alcohol Beverage Distance Waiver for the specialty distillery Dr. Spirits

SUMMARY:

This a request to consider an Alcohol Beverage Distance Waiver to allow the packaged sales of alcohol at 604 Lake Avenue for the specialty distillery Dr. Spirits

BACKGROUND AND JUSTIFICATION:

The Applicant, Daniel De Liege of Deli Brands, on behalf of David Kislin of Lucerne Ave Development, LLC, is requesting approval of an Alcohol Beverage Distance Waiver to allow the packaged sales of alcohol at 604 Lake Avenue as part of a new business to be known as Dr. Spirits, a specialty distillery. The subject site is located in the north 600 Block of Lake Avenue, on the northwest corner of Lake Avenue and North L Street. Per LDR Section 23.2-9, Alcohol Beverage Distance Waiver requests that involve packaged sales requires review by the City Commission.

The 8,500 square foot site is comprised of a two-story, +/-9,029 square foot building which will be occupied by Dr. Spirits, a specialty distillery/bar (+/- 2,647 sf), and Doc Holliday's BBQ, a sit-down restaurant (+/- 6,274 sf). The sale of packaged alcohol products is proposed to take place within the specialty distillery component and would be limited to alcohol products produced on premises through condition of approval.

The overall project is split into two phases:

- Phase I – Remodel +/- 2,647 square feet of the first floor of the building into Dr. Spirits, a specialty distillery with a tasting room. The conditional use permit and alcohol waiver for on-site consumption was approved by the Planning and Zoning Board on September 2, 2020 to allow for the specialty distillery use. The minor site plan amendment for exterior improvements is under administrative review as of 9/23/20. The renderings of the proposed exterior improvements are in Attachment B.
- Phase II – Remodel the remaining +/- 6,274 square feet of the first and second floor of the building into Doc Holliday's BBQ, a restaurant with a bar and accessory office. The administrative use permit for the restaurant component is concurrently under review with the minor site plan amendment.

The Applicant is requesting an Alcohol Beverage Distance Waiver to sell packaged alcohol products produced by the specialty distillery, Dr. Spirits, on the premises of the subject site. The land development regulations require all Alcohol Beverage Distance Waivers to be analyzed for consistency with Chapter 5-5(d). Staff has reviewed the application against this section and has determined that the proposed Waiver requested is consistent with the following standards for review:

1. Whether approval of the waiver will result in two or more alcoholic beverage establishments having a license within 500 feet of a protected land use or each other, or within 500 feet of a property zoned for residential use.

Staff Analysis: The approval of the waiver would result in the proposed business being within 500 feet of 19 other businesses that hold an alcohol beverage license. A full list of those businesses is included in Attachment A. The property is greater than 500 feet from a residential zoning district and is similar in nature and function to the other restaurant/bar uses within the downtown core area. The proposed specialty distillery/bar is not anticipated to create adverse impacts to the surrounding area as the downtown area is an entertainment commercial district. Meets Criterion.

2. Whether the license is being added to or is a license upgrade of an existing use or to an establishment which is relocating to the subject location.

Staff Analysis: There appears to have been alcohol beverage licenses at this location for the onsite consumption of alcohol linked to previous operating businesses at this site such as Rosie's Key West Grill, Ray's Key West Grill, and Lake Worth Rum Shack. The requested alcohol beverage distance waiver would allow for packaged sales in addition to on-site consumption. If approved, the proposed specialty distillery/bar will be subject to the limited hours of sale outlined in Chapter 5-4, which states that establishments with an alcohol license for packaged sales shall only sell between the hours of 7am – 10pm. Meets Criterion.

3. If the property contains a structure which is on the National Register of Historic Places or otherwise has been designated by the city as having historic architectural significance, whether the structure will be preserved or developed so as to retain its architectural and historic character

Staff Analysis: The property is not on the National Register of Historic Places nor is it designated as a local contributing historic structure. Meets Criterion.

4. Whether the waiver promotes the health, safety and welfare of the neighborhood and the public.

Staff Analysis: The waiver is crucial to the operations of the proposed specialty distillery/bar. The Applicant states that the proposed use will enhance the City by establishing a unique use within the City that will be well utilized by locals and tourists. Meets Criterion.

Based on the data and analysis in this report, the proposed Alcohol Beverage Distance Waiver request is consistent with the required review criteria.

MOTION:

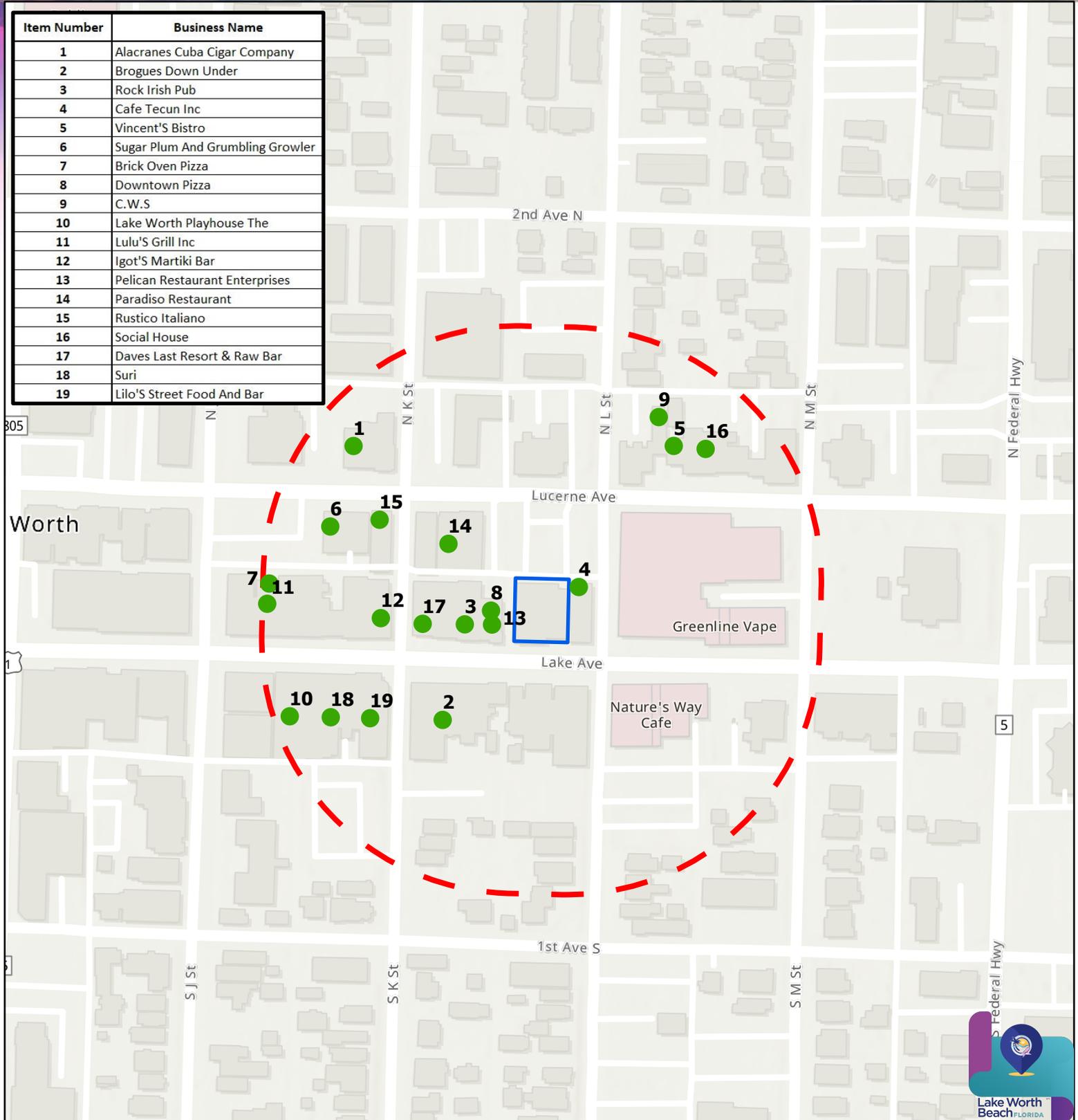
Move to approve/disapprove **PZB 20-00600001 with a condition limiting package sales to products produced on-site** based on the data and analysis in the staff report for an Alcohol Beverage Distance Waiver to allow for packaged sales of alcoholic beverages at 604 Lake Avenue.

ATTACHMENT(S):

List of businesses with alcohol sales within 500 ft.
Renderings of Dr. Spirits distillery and Doc Holidays BBQ restaurant

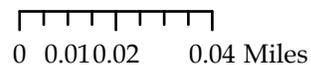
604 Lake Avenue ABT License Proximity Map

Item Number	Business Name
1	Alacranes Cuba Cigar Company
2	Brogues Down Under
3	Rock Irish Pub
4	Cafe Tecun Inc
5	Vincent'S Bistro
6	Sugar Plum And Grumbling Growler
7	Brick Oven Pizza
8	Downtown Pizza
9	C.W.S
10	Lake Worth Playhouse The
11	Lulu'S Grill Inc
12	Igot'S Martiki Bar
13	Pelican Restaurant Enterprises
14	Paradiso Restaurant
15	Rustico Italiano
16	Social House
17	Daves Last Resort & Raw Bar
18	Suri
19	Lilo'S Street Food And Bar



Map Legend

- Licensed Business Location (ABT)
- 604 Lake Avenue
- 400 Ft Buffer



OWNER	SERIES	MODIFER	BA	ADDRESS_LI	CITY_1	STATE_1	ZIP_1	COUNTY_1	LICENSE	PRIMARY_ST	SECONDARY_	ORIGNAL_LI	EFFECTIVE_	EXPIRATION	ItemNo	
ALACRANES CUBA CIGAR COMPANY LLC	RTPD			ALACRANES CUBA CIGAR COMPANY	708 LUCERNE AVE	LAKE WORTH	FL	33460	Palm Beach	TOB6013900	Current	Active	3/14/2014 0:00	3/14/2014 0:00	1/15/2021 0:00	1
AUSSIE BOOMERANG BAR ON THE AVENUE INC	4COP			BROGUES DOWN UNDER	621 LAKE AVE	LAKE WORTH	FL	33460	Palm Beach	BEV6000053	Current	Active	7/15/2011 0:00	9/8/2011 0:00	3/31/2021 0:00	2
BBA GROUP LLC	4COP	SFS		ROCK IRISH PUB	614 LAKE AVENUE	LAKE WORTH	FL	33460	Palm Beach	BEV6017833	Current	Active	7/5/2019 0:00	7/30/2019 0:00	3/31/2021 0:00	3
CAFE TECUN INC	2COP			CAFE TECUN INC	7 NORTH L ST	LAKE WORTH	FL	33460	Palm Beach	BEV6017213	Current	Active	2/2/2017 0:00	4/14/2017 0:00	3/31/2021 0:00	4
CVHC LLC	2COP			VINCENT'S BISTRO	516 LUCERNE AVENUE	LAKE WORTH	FL	33460	Palm Beach	BEV6017467	Current	Active	1/28/2020 0:00	1/31/2020 0:00	3/31/2021 0:00	5
DIVALICIOUS ADVENTURES INCORPORATED	2COP			SUGAR PLUM AND GRUMBLING GROWLER	711 LUCERNE AVE	LAKE WORTH	FL	33460	Palm Beach	BEV6017509	Current	Active	3/16/2018 0:00	4/6/2018 0:00	3/31/2021 0:00	6
CRUST BRICK OVEN PIZZA INC	2COP			BRICK OVEN PIZZA	726 LAKE AVENUE	LAKE WORTH	FL	33460	Palm Beach	BEV6016987	Current	Active	3/21/2016 0:00	5/9/2016 0:00	3/31/2021 0:00	7
DOWNTOWN PIZZA EIRINI CORPORATION	2COP			DOWNTOWN PIZZA	608 LAKE AVE	LAKE WORTH	FL	33460	Palm Beach	BEV6013808	Current	Active	6/1/2018 0:00	6/13/2018 0:00	3/31/2021 0:00	8
LAKE WORTH BOYS, LLC	4COP			C.W.S	522 LUCERNE AVE	LAKE WORTH	FL	33460	Palm Beach	BEV6011591	Current	Active	9/25/2015 0:00	5/25/2016 0:00	3/31/2021 0:00	9
LAKE WORTH PLAYHOUSE INC THE	11PA			LAKE WORTH PLAYHOUSE THE	713 LAKE AVENUE	LAKE WORTH	FL	33460	Palm Beach	BEV6015098	Current	Active	11/18/2009 0:00	1/11/2010 0:00	3/31/2021 0:00	10
LULU'S GRILL INC	2COP			LULU'S GRILL INC	720 LAKE AVE	LAKE WORTH	FL	33460	Palm Beach	BEV6017584	Current	Active	7/3/2018 0:00	7/31/2018 0:00	3/31/2020 0:00	11
PALFARYN INC	4COP			IGOT'S MARTIKI BAR	702 LAKE AVE	LAKE WORTH	FL	33460	Palm Beach	BEV6005587	Current	Active	12/13/2004 0:00	2/3/2005 0:00	3/31/2021 0:00	12
PELICAN RESTAURANT ENTERPRISES INC	2COP			PELICAN RESTAURANT ENTERPRISES	610 LAKE AVENUE	LAKE WORTH	FL	33460	Palm Beach	BEV6013475	Current	Active	4/29/2004 0:00	12/23/2016 0:00	3/31/2021 0:00	13
PARADISO RESTAURANT OF LAKE WORTH, INC.	4COP	SFS		PARADISO RESTAURANT	625 LUCERNE AVE.	LAKE WORTH	FL	33460	Palm Beach	BEV6011306	Current	Active	10/7/1997 0:00	3/1/2002 0:00	3/31/2021 0:00	14
RUSTICO ITALIANO INC	2COP			RUSTICO ITALIANO	701 LUCERNE AVENUE	LAKE WORTH	FL	33460	Palm Beach	BEV6012230	Current	Active	11/3/2000 0:00	3/12/2002 0:00	3/31/2021 0:00	15
SOCIAL HOUSE LUCERNE LLC	2COP			SOCIAL HOUSE	512 LUCERNE AVE	LAKE WORTH	FL	33460	Palm Beach	BEV6017839	Current	Active	7/11/2019 0:00	7/11/2019 0:00	3/31/2021 0:00	16
SZABO INC	4COP	SFS		DAVES LAST RESORT & RAW BAR	632 LAKE AVENUE	LAKE WORTH	FL	33460	Palm Beach	BEV6011926	Current	Active	11/2/1999 0:00	3/20/2002 0:00	3/31/2021 0:00	17
SURI RESTAURANT GROUP LLC	4COP			SURI	707 LAKE AVE	LAKE WORTH	FL	33460	Palm Beach	BEV6015902	Current	Active	5/29/2014 0:00	5/30/2019 0:00	3/31/2021 0:00	18
WINNIFRED INC	4COP	SFS		LILLO'S STREET FOOD AND BAR	701 LAKE AVENUE	LAKE WORTH	FL	33460	Palm Beach	BEV6017148	Current	Active	11/30/2016 0:00	1/9/2017 0:00	3/31/2021 0:00	19



PROPOSED RENDERINGS

DRAWING TITLE:
DATE: 06/16/2020

PROJECT ADDRESS: 604 Lake Ave Lake Worth FL 33460





DRAWING TITLE:
DATE: 06/16/2020

PROJECT ADDRESS: 604 Lake Ave Lake Worth FL 33460





DRAWING TITLE:
DATE: 06/16/2020

PROJECT ADDRESS: 604 Lake Ave Lake Worth FL 33460





DRAWING TITLE:
DATE: 06/16/2020

PROJECT ADDRESS: 604 Lake Ave Lake Worth FL 33460





DISTILLERY



OUTDOOR/ INDOOR BAR



OPEN KITCHEN



DRAWING TITLE:
DATE : 06/16/2020

PROJECT ADDRESS: 604 Lake Ave Lake Worth FL 33460



EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Finance

TITLE:

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

SUMMARY:

Ordinance 2020-16 will authorize the issuance of taxable utility bonds. The City intends to issue some taxable bonds as part of the Series 2020 issue.

BACKGROUND AND JUSTIFICATION:

The City's electric, water and sewer utilities each have capital improvement needs based on the capital improvement plans for each utility. Some projects go back many years as the City was unable to properly fund and execute a consistent and appropriate infrastructure replacement and rebuilding program. While there have been great strides in each utility to do more to invest in infrastructure projects, there is still much left to address in order to assure utility services continue without significant threat of failure now and into the future. By issuing bonds pledged against revenues the City will be able to make the required investments into the utility infrastructure to insure safe, consistent and efficient operations for the customers.

Additionally, current debt will be rolled into the bond amounts along with the borrowing for new projects as market conditions for bonds are favorable. The finance team recommends combing electric, water and sewer revenues into a single consolidated utility pledge, and using this to finance both capital improvements and a refinancing of the existing debt. The ordinance is designed to provide additional legal authority for issuing taxable utility bonds for non-capital purposes. There will be separate resolutions specifically authorizing the financing.

MOTION:

Move to approve/disapprove Ordinance No. 2020-16 on first reading and schedule the second reading and public hearing for October 20, 2020.

ATTACHMENT(S):

Fiscal Impact Analysis
Ordinance No. 2020-16

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Total Funding	120,385,000	0	0	0	0
Annual Debt Service	0	1,650,278	5,421,950	5,418,200	6,592,050
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	0	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

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

1
2
3
4 **ORDINANCE NO. 2020-16 OF THE CITY OF LAKE WORTH BEACH,**
5 **FLORIDA, AUTHORIZING THE INCURRENCE BY THE CITY OF DEBT**
6 **OBLIGATIONS TO FUND RESERVES FOR CASH FLOW PURPOSES**
7 **RELATED TO THE CITY'S CONSOLIDATED UTILITY SYSTEM;**
8 **PROVIDING THAT SUCH OBLIGATIONS OF THE CITY DO NOT**
9 **CREATE A GENERAL DEBT OR OBLIGATION OF THE CITY OR THE**
10 **STATE BUT SHALL BE PAYABLE SOLELY FROM UTILITY**
11 **REVENUES; AND PROVIDING AN EFFECTIVE DATE**
12

13 **WHEREAS**, the City Commission (the "Commission") of the City of Lake Worth
14 Beach, Florida (the "City") desires to consider a financing plan to provide for the funding
15 of utility reserves for cash flow purposes; and
16

17 **WHEREAS**, the Commission hereby deems such financing to be for an essential
18 public purpose and to constitute a "project" within the meaning of Section 166.111, Florida
19 Statutes, as amended;
20

21 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
22 **CITY OF LAKE WORTH BEACH, FLORIDA that:**
23

24 **SECTION 1. DEFINITIONS.** When used in this ordinance, the following terms shall have
25 the following meanings, unless the context clearly otherwise requires:
26

27 "City" shall mean the City of Lake Worth Beach, Florida, a municipal corporation
28 and public body corporate and politic.
29

30 "Obligations" shall mean debt obligations issued by the City, the proceeds from the
31 sale of which shall be used to finance the Project.
32

33 "Project" shall mean the establishment of reserves for and the payment by the City
34 of costs of operation of the City's consolidated Utility System, including salaries and
35 benefits of City employees and other operating costs necessary to provide essential
36 services to citizens of the City, for which City Utility Revenues are otherwise insufficient.
37

38 "Utility Revenues" shall mean revenues derived by the City from the provision of
39 Utility Services to its customers.
40

41 "Utility Services" shall mean the provision of electric, water, and sewer service to
42 the City's customers throughout the Utility System service territories.
43

44 "Utility System" shall mean the City's public electric, water, and sewer utilities as
45 operated within their respective territories.
46

47 The words "herein", "hereunder", "hereby", "hereto", "hereof", and any similar terms
48 shall refer to this ordinance.

Words importing the singular number include the plural number, and vice-versa.

SECTION 2. FINDINGS. The City Commission of the City hereby finds and determines that:

(a) The City is in the process of incurring indebtedness to finance needed improvements to the Utility System, and to refinance certain indebtedness of the Utility System.

(b) It is vital to the citizens of the City and customers of the Utility System that Utility Services are provided in a reliable manner.

(c) The City desires to incur Obligations to provide a reserve to continue to fund essential Utility Services as a Project vital to the needs of customers of the Utility System.

SECTION 3. ISSUANCE OF OBLIGATIONS.

(a) The City Commission shall have the power, and it is hereby authorized to provide by resolution, to incur Obligations to finance the Project. The proceeds from the Obligations shall be used to finance the cost of the Project, to pay interest on the Obligations, if needed, and to pay costs of issuance.

(b) The Obligations shall be payable from Utility Revenues, moneys in certain funds and accounts held by the City and moneys derived from any credit enhancement of the Obligations.

SECTION 4. OBLIGATIONS NOT DEBT OF CITY. Obligations issued under the provisions of any resolution shall not be deemed to constitute a debt of the City or a pledge of the faith and credit or taxing power of the City, but such Obligations shall be payable solely from Utility Revenues as described herein. The obligation of the City to repay such Obligations is a limited and special obligation.

SECTION 5. REMEDIES OF OBLIGATION HOLDERS. Any holder of Obligations, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such Obligations, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under such resolution, and may enforce and compel the performance of all duties required by such resolution to be performed by the City or by any officer thereof.

SECTION 6. ALTERNATIVE METHOD. This ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby, shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This ordinance, being necessary for the welfare of the inhabitants of the City and its Utility System customers, shall be liberally construed to affect the purposes thereof.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect immediately upon its enactment.

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

- Mayor Pam Triolo
- Vice Mayor Andy Amoroso
- Commissioner Scott Maxwell
- Commissioner Omari Hardy
- Commissioner Herman Robinson

The Mayor thereupon declares this ordinance duly passed on first reading on the 6th day of October, 2020.

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

- Mayor Pam Triolo
- Vice Mayor Andy Amoroso
- Commissioner Scott Maxwell
- Commissioner Omari Hardy
- Commissioner Herman Robinson

The Mayor thereupon declared this ordinance duly passed and enacted on the 20th day of October, 2020.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Finance

TITLE:

Resolution No. 45-2020 – authorizing the issuance of Consolidated Utility Revenue Bonds of the City

SUMMARY:

Resolution No. 45-2020 will authorize the issuance from time to time of Consolidated Utility Revenue Bonds of the City, secured by a pledge of net revenues of the City's electric, water and sewer utilities. Finance staff intends to bring forth a supplemental resolution at the City's October 20, 2020 meeting to set specific terms of proposed Series 2020 Bonds.

BACKGROUND AND JUSTIFICATION:

The City has outstanding certain indebtedness with respect to its electric and water systems, and capital improvement needs with respect to said systems and its sewer system. The finance team recommends combining electric, water and sewer revenues into a single consolidated utility pledge, and using this to finance both such improvements and a refinancing of the existing debt. The resolution under consideration is a master resolution designed to facilitate this and future utility financings.

MOTION:

Move to approve/disapprove Resolution No. 45-2020 authorizing the issuance of Consolidated Utility Revenue Bonds of the City.

ATTACHMENT(S):

Fiscal Impact Analysis
Resolution 45-2020

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Total Funding	120,385,000	0	0	0	0
Annual Debt Service	0	1,650,278	5,421,950	5,418,200	6,592,050
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	0	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

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

CITY OF LAKE WORTH BEACH, FLORIDA

Resolution 45-2020

CONSOLIDATED UTILITY REVENUE BONDS RESOLUTION

ADOPTED OCTOBER 6, 2020

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RESOLUTION NO. 45-2020

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA AUTHORIZING THE ISSUANCE OF CONSOLIDATED UTILITY REVENUE BONDS FROM TIME TO TIME FOR THE PRINCIPAL PURPOSES OF FINANCING AND REFINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CAPITAL IMPROVEMENTS TO THE CITY'S CONSOLIDATED UTILITY SYSTEM AND FOR OTHER LAWFUL PURPOSES; PLEDGING THE NET REVENUES OF THE CITY'S CONSOLIDATED UTILITY SYSTEM TO SECURE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED HEREUNDER; PROVIDING FOR PAYMENT OF THE BONDS FROM SUCH REVENUES; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF BONDS ISSUED HEREUNDER; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH BONDS ISSUED HEREUNDER; AND PROVIDING FOR AN EFFECTIVE DATE FOR THIS RESOLUTION.

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

**ARTICLE I
GENERAL**

SECTION 1.01. DEFINITIONS. When used in this Resolution, the following terms shall have the following meanings, unless the context clearly otherwise requires:

"Accreted Value" shall mean, as of any date of computation with respect to any Capital Appreciation Bond, an amount equal to the principal amount of such Capital Appreciation Bond (the principal amount at its initial offering) plus the interest accrued on such Capital Appreciation Bond from the date of delivery to the original purchasers thereof to the Interest Date next preceding the date of computation or the date of computation if an Interest Date, such interest to accrue at a rate not exceeding the legal rate, compounded semiannually, plus, with respect to matters related to the payment upon redemption or acceleration of the Capital Appreciation Bonds, if such date of computation shall not be an Interest Date, a portion of the difference between the Accreted Value as of the immediately preceding Interest Date and the Accreted Value as of the immediately succeeding Interest Date, calculated based on the assumption that Accreted Value accrues during any semi-annual period in equal daily amounts on the basis of a 360-day year.

"Act" shall mean the City Charter, Chapter 166, Part II, Florida Statutes, and other applicable provisions of law.

"Additional Bonds" shall mean the obligations issued at any time under the provisions of Section 6.02 hereof on parity with any Outstanding Bonds.

"Annual Audit" shall mean the annual audit prepared pursuant to the requirements of Section 5.06 hereof.

"Annual Budget" shall mean the annual budget prepared pursuant to the requirements of Section 5.03 hereof.

"Annual Debt Service" shall mean the aggregate amount of Debt Service on the Bonds for each applicable Fiscal Year. Notwithstanding the foregoing, any interest payments or principal payments or Sinking Fund Installments with respect to any Outstanding Bonds or proposed Additional Bonds that are due and payable on October 1, shall be considered to be due and payable on the immediately preceding September 30 for purposes of determining Annual Debt Service for such Bonds hereunder.

"Authorized Investments" shall mean any investments that may be made by the Issuer under applicable law and which are allowed under the Issuer's investment policy.

"Authorized Issuer Officer" shall mean the City Manager (or such person's designee), and when used in reference to any act or document, also means any other person authorized by resolution of the Issuer to perform such act or sign such document.

"Bond Counsel" shall mean Nabors, Giblin & Nickerson, P.A. or any other attorney at law or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

"Bond Insurance Policy" shall mean the municipal bond new issue insurance policy or policies issued by an Insurer guaranteeing the payment of the principal of and interest on any portion of the Bonds.

"Bondholder" or **"Holder"** or **"holder"** or any similar term, when used with reference to a Bond or Bonds, shall mean any person who shall be the registered owner of any Outstanding Bond or Bonds as provided in the registration books of the Issuer.

"Bonds" shall mean any Bonds, notes or other forms of indebtedness issued and designated as Bonds pursuant to this Resolution and any Subordinated Indebtedness which accedes to the status of Bonds pursuant to Section 6.04 hereof.

"Business Day" shall mean a day other than (i) a Saturday, Sunday or day on which banks located in the city in which the designated corporate trust office of the Registrar and Paying Agent is located are required or authorized by law or executive order to close for business, and (ii) a day on which the New York Stock Exchange is closed.

"Capital Appreciation Bonds" shall mean those Bonds of a Series so designated under the authority of the Issuer, whether by Supplemental Resolution, purchase contract, or otherwise, which may be either Serial Bonds or Term Bonds and which shall bear interest payable at maturity or redemption. In the case of Capital Appreciation Bonds that are convertible to Bonds with interest payable prior to maturity or redemption of such Bonds, such Bonds shall be considered Capital Appreciation Bonds only during the period of time prior to such conversion.

"Capital Government Grant," when used with respect to the System, shall mean any sum of money heretofore or hereafter received by the Issuer from the United States of America or

any agency thereof or from the State of Florida or any agency or political subdivision thereof as or on account of a grant or contribution, not repayable by the Issuer, for or with respect to the construction, acquisition or other development of an addition, extension or improvement to any part of the System or any costs of any such construction, acquisition or development.

"Clerk" shall mean the City Clerk of the Issuer, or such other person as may be duly authorized to act on his or her behalf.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the regulations and rules thereunder in effect or proposed.

"Connection Fees" shall mean, collectively, the Sewer Connection Fees, the Water Connection Fees, and any similar charge imposed and related to capacity of any other portion of the System.

"Construction Fund" shall mean the fund established pursuant to Section 4.04 hereof.

"Consulting Engineers" shall mean any engineering firm of reputation for skill and experience with respect to the construction, maintenance and operation of facilities similar to the facilities that make up all or a portion of the System, which is duly licensed under the laws of the State of Florida and designated by the Issuer to perform the duties of the Consulting Engineers under the provisions hereof.

"Cost," when used in connection with a Project, shall mean (1) the Issuer's cost of physical construction; (2) costs of acquisition by or for the Issuer of such Project; (3) costs of land and interests therein and the cost of the Issuer incidental to such acquisition; (4) the cost of any indemnity and surety bonds and premiums for insurance during construction; (5) all interest due to be paid on the Bonds and other obligations relating to the System during the period of acquisition and construction of such Project and for such period subsequent to completion as the Issuer shall determine and shall be allowable under applicable provisions of the Code; (6) engineering, legal and other consultant fees and expenses; (7) costs and expenses of the financing, including audits, fees and expenses of any Paying Agent, Registrar, escrow agent or depository; (8) amounts, if any, required by this Resolution to be paid into the Interest Account upon the issuance of any Series of Bonds; (9) payments, when due (whether at the maturity of principal or the due date of interest or upon redemption) on any indebtedness of the Issuer (other than the Bonds) incurred for a Project for the System; (10) costs of machinery, equipment and supplies and reserves required by the Issuer for the commencement of operation of such Project; and (11) any other costs properly attributable to such construction or acquisition, as determined by generally accepted accounting principles applicable to public utility systems similar to the System, and shall include reimbursement to the Issuer for any such items of Cost heretofore paid by the Issuer and interest on any interfund loan related thereto. Any Supplemental Resolution may provide for additional items to be included in the aforesaid Costs.

"Counterparty" shall mean the entity entering into a Hedge Agreement with the Issuer. Counterparty shall also include any guarantor of such entity's obligations under such Hedge Agreement.

"Credit Bank" shall mean as to any particular Series of Bonds, the Person (other than an Insurer) providing a letter of credit, a line of credit or other credit or liquidity facility, as designated in the Supplemental Resolution providing for the issuance of such Bonds.

"Credit Facility" shall mean as to any particular Series of Bonds, an irrevocable letter of credit, a line of credit or other credit or legal liquidity facility (other than a Bond Insurance Policy), as approved in the Supplemental Resolution providing for the issuance of such Bonds.

"Debt Service" shall mean, at any time, the aggregate amount in the then applicable period of time of (1) interest required to be paid on the Outstanding Bonds during such period of time, except to the extent that such interest is to be paid from deposits in the Interest Account or Construction Fund made from Bond proceeds for such purpose, (2) principal of Outstanding Serial Bonds maturing in such period of time, and (3) the Sinking Fund Installments scheduled to be paid during such period of time. For purposes of this definition, (A) all amounts payable on a Capital Appreciation Bond shall be considered a principal payment in the year it becomes due, (B) with respect to debt service on any Bonds which relate to a Qualified Hedge Agreement, interest on such Bonds during the term of such Qualified Hedge Agreement shall be deemed to be the Hedge Payments coming due during such period of time, (C) if any Series of Bonds has 25% or more of the aggregate principal amount of such Series coming due in any one year, Debt Service shall be determined on such Series during such period of time as if the principal of and interest on such Series were being paid from the date of issuance thereof in substantially equal annual amounts over a period of 25 years, (D) the amount, if any, on deposit in the Reserve Account (or any subaccount thereof), on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Bonds which are secured by such Reserve Account (or subaccount thereof) and in each preceding year until such amount is exhausted, and (E) with respect to debt service on any Federal Subsidy Bonds, when determining the interest on such Bonds for any particular Interest Date the amount of the corresponding Federal Subsidy Payment shall be deducted from the amount of interest which is due and payable to the holders of such Bonds on the Interest Date, but only to the extent that the Issuer reasonably believes that it will be in receipt of such Federal Subsidy Payment on or prior to such Interest Date.

"Debt Service Reserve Fund Policy Agreement" shall mean any agreement securing the obligation of the Issuer to repay Policy Costs associated with a Reserve Account Letter of Credit or Reserve Account Insurance Policy.

"Federal Securities" shall mean non-callable direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of Treasury) or non-callable obligations the principal of and interest on which are unconditionally guaranteed by the United States of America. All such obligations shall not permit redemption prior to maturity at the option of the obligor.

"Federal Subsidy Bonds" shall mean bonds issued under Section 54AA of the Code, Section 1400U-2 of the Code or any other applicable provision of the Code, the interest on which is not exempt from federal income taxation, with respect to which the Issuer elects to receive, or is otherwise entitled to receive, Federal Subsidy Payments from the United States Department of the Treasury.

"Federal Subsidy Payments" shall mean the direct payments made by the United States Department of the Treasury to the Issuer with respect to any Federal Subsidy Bonds pursuant to Sections 54AA(g), 6431 and 1400U-2 of the Code, or any other applicable provision of the Code.

"Fiscal Year" shall mean the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law.

"Fitch" means Fitch Ratings and any assigns and successors thereto.

"Governing Body" shall mean the City Commission of the City of Lake Worth Beach, Florida, or its successor in function.

"Gross Revenues" shall mean all income and moneys received by the Issuer from the rates, fees, rentals, charges and other income to be made and collected by the Issuer for the use of the products, services and facilities to be provided by the System, or otherwise received by the Issuer or accruing to the Issuer in the management and operation of the System, calculated in accordance with generally accepted accounting principles applicable to public utility systems similar to the System, including, without limiting the generality of the foregoing, (1) proceeds from use and occupancy insurance on the System, (2) Investment Earnings, and (3) Operating Government Grants. "Gross Revenues" shall not include (A) Capital Government Grants, (B) proceeds of Bonds or other Issuer debt, (C) moneys deposited to the Rate Stabilization Fund from the Utility Reserve Fund, (D) Connection Fees, (E) proceeds of Special Assessments, and (F) any gain resulting from the valuation of investment securities or Hedge Agreements at market value and any other gain that does not require or result in the receipt of cash.

"Hedge Agreement" shall mean an agreement in writing between the Issuer and the Counterparty pursuant to which (1) the Issuer agrees to pay to the Counterparty an amount, either at one time or periodically, which may, but is not required to, be determined by reference to the amount of interest (which may be at a fixed or variable rate) payable on a notional amount specified in such agreement during the period specified in such agreement and (2) the Counterparty agrees to pay to the Issuer an amount, either at one time or periodically, which may, but is not required to, be determined by reference to the amount of interest (which may be at a fixed or variable rate) payable on all or a portion of a notional amount specified in such agreement during the period specified in such agreement. Hedge Agreement shall also include any financial product or agreement which is used by the Issuer as a hedging device with respect to its obligations to pay interest on Bonds, or any portion thereof, which is designated by the Issuer as a "Hedge Agreement."

"Hedge Payments" shall mean any amounts payable by the Issuer as interest on the related notional amount under a Qualified Hedge Agreement; excluding, however, any payments due as a penalty or a fee or by virtue of termination of a Qualified Hedge Agreement or any obligation to provide collateral.

"Hedge Receipts" shall mean any amounts receivable by the Issuer on the related notional amount under a Qualified Hedge Agreement.

"Insurer" shall mean such Person as shall be in the business of insuring or guaranteeing the payment of principal of and interest on municipal securities and whose credit is such that, at the time of any action or consent required or permitted by the Insurer pursuant to the terms of this Resolution, all municipal securities insured or guaranteed by it are then rated, because of such insurance or guarantee, in one of the three highest categories (without regard to gradations, such as "+" or "-" or "1, 2 or 3" of such categories) by at least one of the Rating Agencies.

"Interest Account" shall mean the separate account in the Sinking Fund established pursuant to Section 4.05(C) hereof.

"Interest Date" or **"interest payment date"** shall be such date or dates for the payment of interest on the Bonds as provided pursuant to Section 2.01 hereof and by Supplemental Resolution.

"Investment Earnings" shall mean all income and earnings derived from the investment of moneys in the funds and accounts established hereunder, other than the Rebate Fund.

"Issuer" shall mean the City of Lake Worth Beach, Florida, a municipal corporation and public body corporate and politic of the State of Florida, or any successor thereto.

"Maximum Annual Debt Service" shall mean the largest aggregate amount of the Annual Debt Service becoming due in any Fiscal Year in which Bonds are Outstanding.

"Maximum Interest Rate" shall mean, with respect to any particular Variable Rate Bonds, a numerical rate of interest, which shall be set forth in, or determined in accordance with, the Supplemental Resolution authorizing the issuance of such Bonds, or in such other documentation relating to such Variable Rate Bonds, that shall be the maximum rate of interest such Bonds may at any particular time bear.

"Mayor" shall mean the Mayor or Vice-Mayor of the City of Lake Worth Beach, Florida, and such other person as shall be duly authorized to act on his or her behalf.

"Moody's" shall mean Moody's Investors Service, and any assigns and successors thereto.

"Net Revenues" shall mean Gross Revenues less Operating Expenses.

"Operating Expenses" shall mean the Issuer's expenses for operation, maintenance and repairs with respect to the System and shall include, without limiting the generality of the foregoing, administration and other indirect expenses of the Issuer related and apportioned to the System, payments for the purchase of materials essential to or used in the operation of the System, including bulk purchases of water, sewage, or electric services, fees for the management of the System or any portion thereof, accounting, legal and engineering expenses, ordinary and current rentals of equipment or other property, refunds of moneys lawfully due to others, payments to others for disposal of sewage or other wastes, payments to pension, retirement, health and hospitalization funds, and any other expenses required to be paid for or with respect to proper operation or maintenance of the System, including appropriate reserves therefor, all to the extent properly attributable to the System in accordance with generally accepted accounting principles applicable to public utility systems similar to the System, and disbursements for the expenses,

liabilities and compensation of any Paying Agent or Registrar under this Resolution, but does not include any costs or expenses in respect of original construction or improvement other than expenditures necessary to prevent an interruption or continuance of an interruption of service or of Gross Revenues or minor capital expenditures necessary for the proper and economical operation or maintenance of the System, or any payments in lieu of taxes or franchise fees made to the Issuer's general fund, or any provision for interest, depreciation, amortization or similar charges, any non-cash charges, or any loss resulting from the valuation of investment securities or Hedge Agreements at market value and any other loss that does not require or result in the expenditure of cash.

"Operating Government Grant," when used with respect to the System, shall mean any sum of money heretofore or hereafter received by the Issuer from the United States of America or any agency thereof or from the State of Florida or any agency or political subdivision thereof as or on account of a grant or contribution, not repayable by the Issuer, for the purpose of funding Operating Expenses or paying Debt Service on Bonds or otherwise allowed by the terms thereof to be used to pay Operating Expenses or Debt Service.

"Operation and Maintenance Fund" shall mean the fund created pursuant to Section 4.05(B) hereof.

"Outstanding," when used with reference to Bonds and as of any particular date, shall describe all Bonds theretofore and thereupon being authenticated and delivered except, (1) any Bond in lieu of which other Bond or Bonds have been issued under agreement to replace lost, mutilated or destroyed Bonds, (2) any Bond surrendered by the Holder thereof in exchange for other Bond or Bonds under Sections 2.05 and 2.06 hereof, (3) Bonds deemed to have been paid pursuant to Section 9.01 hereof and (4) Bonds cancelled after purchase in the open market or because of payment at, or redemption prior to, maturity.

"Paying Agent" shall mean for each Series of Bonds, the paying agent appointed by the Issuer for such Series of Bonds and its successor or assigns, if any.

"Person" shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, governmental entity or other legal entity.

"Pledged Funds" shall mean (1) the Net Revenues, and (2) until applied in accordance with the provisions of this Resolution, all moneys, including investments thereof, in the funds and accounts established hereunder, except (A) the Rebate Fund, (B) to the extent moneys therein shall be required to pay the Operating Expenses of the System in accordance with the terms hereof, and (C) any moneys set aside in a particular subaccount of the Reserve Account if such moneys shall be pledged solely for the payment of a Series of Bonds for which it was established in accordance with the provisions hereof.

"Policy Costs" shall mean, collectively, the repayment of draws, reasonable expenses and interest related to a Reserve Account Insurance Policy and/or Reserve Account Letter of Credit.

"Prerefunded Obligations" shall mean any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (1) which are (A) not callable prior to maturity or (B) as to which irrevocable instructions

have been given to the fiduciary for such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified in such instructions, (2) which are fully secured as to principal, redemption premium, if any, and interest by a fund held by a fiduciary consisting only of cash or Federal Securities, secured in substantially the manner set forth in Section 9.01 hereof, which fund may be applied only to the payment of such principal of, redemption premium, if any, and interest on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as the case may be, (3) as to which the principal of and interest on the Federal Securities, which have been deposited in such fund along with any cash on deposit in such fund are sufficient, as verified by an independent certified public accountant or other expert in such matters, to pay principal of, redemption premium, if any, and interest on the bonds or other obligations on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in clause (1) above and are not available to satisfy any other claims, including those against the fiduciary holding the same, and (4) which are rated in the highest rating category (without regard to gradations, such as "+" or "-" or "1, 2 or 3" of such categories) of one of the Rating Agencies.

"Principal Account" shall mean the separate account in the Sinking Fund established pursuant to Section 4.05(C) hereof.

"Project" shall mean any structure, property or facility for public use which the Issuer from time to time may determine to construct, acquire or equip as part of the System, together with all equipment, structures and other facilities necessary or appropriate in connection therewith which are financed in whole or in part with the indebtedness secured by this Resolution. This term is to be broadly construed as including any lawful undertaking which will accrue to the benefit of the System, including, without limitation, financing improvements to the Issuer's facilities, joint ventures and acquisition of partial interests or contractual rights, and including modification, disposal, replacement or cancellation of a Project previously authorized, should such modification, disposal, replacement or cancellation be permitted under this Resolution.

"Qualified Hedge Agreement" shall mean a Hedge Agreement with a Counterparty that at the time it enters into such Hedge Agreement is rated "A-" or better by Standard & Poor's and "A3" or better by Moody's.

"Rate Consultant" shall mean any accountant, engineer or consultant or firm of accountants, engineers or consultants chosen by the Issuer with reputation for skill and experience in reviewing and recommending rates, fees and charges for utility systems similar to the System.

"Rate Stabilization Fund" shall mean the "Rate Stabilization Fund" established pursuant to Section 4.05(F) hereof.

"Rating Agencies" means Fitch, Moody's and Standard & Poor's.

"Rebate Fund" shall mean the Rebate Fund established pursuant to Section 4.05(E) hereof.

"Redemption Price" shall mean, with respect to any Bond or portion thereof, the principal amount or portion thereof, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or this Resolution.

"Refunding Securities" shall mean Federal Securities and Prerefunded Obligations.

"Registrar" shall mean for each Series of Bonds, the bond registrar appointed by the Issuer for such Series of Bonds and its successor or assigns, if any.

"Renewal and Replacement Fund" shall mean the fund created pursuant to Section 4.05(D) hereof.

"Renewal and Replacement Fund Requirement" shall mean, on the date of calculation, an amount of money equal to (1) five percent of the Gross Revenues received by the Issuer in the immediately preceding Fiscal Year, or (2) such greater or lesser amount as may be certified to the Issuer by the Consulting Engineers as an amount appropriate for the purposes of this Resolution.

"Reserve Account" shall mean the separate account in the Sinking Fund established pursuant to Section 4.05(C) hereof.

"Reserve Account Insurance Policy" shall mean the insurance policy deposited in the Reserve Account in lieu of or in partial substitution for cash on deposit therein pursuant to Section 4.06(B)(4).

"Reserve Account Letter of Credit" shall mean a letter of credit or line of credit or other credit facility (other than a Reserve Account Insurance Policy) deposited in the Reserve Account in lieu of or in partial substitution for cash on deposit therein pursuant to Section 4.06(B)(4) hereof.

"Reserve Account Requirement" shall mean, as of any date of calculation for the Reserve Account or subaccount therein, an amount equal to the lesser of (1) Maximum Annual Debt Service for all Outstanding Bonds secured thereby, (2) 125% of the average Annual Debt Service for all Outstanding Bonds secured thereby, or (3) the maximum amount of Bond proceeds which may be deposited to the Reserve Account without subjecting the same to yield restriction under the Code, or causing interest on any of the Bonds secured thereby (other than Taxable Bonds) to be included in gross income for purposes of federal income taxation or otherwise violating applicable provisions of the Code; provided, however, the Issuer may establish by Supplemental Resolution a different Reserve Account Requirement with respect to any particular Series of Bonds pursuant to Section 4.06(B)(4) hereof, which Reserve Account Requirement may be \$0.00. In computing the Reserve Account Requirement in respect of a Series of Bonds that constitutes Variable Rate Bonds, the interest rate on such Bonds shall be assumed to be (A) if such Variable Rate Bonds have been Outstanding for at least 12 months prior to the date of calculation, the highest of (i) the actual rate of interest on the date of calculation, (ii) the average interest rate borne by such Variable Rate Bonds for the 12-month period immediately preceding each date of calculation, and (iii) the Bond Buyer Revenue Bond Index most recently published prior to the time of calculation, and (B) if such Variable Rate Bonds have not been Outstanding for at least 12 months prior to the date of calculation, the higher of (i) the actual rate of interest on the date of calculation, and (ii) the Bond Buyer Revenue Bond Index most recently published prior to the time

of calculation. The Reserve Account Requirement shall be calculated as of April 1 of each year with respect to the next succeeding Fiscal Year.

"Resolution" shall mean this Resolution, as the same may from time to time be amended, modified or supplemented by Supplemental Resolution.

"Revenue Fund" shall mean the fund created pursuant to Section 4.05(A) hereof.

"Serial Bonds" shall mean all of the Bonds other than the Term Bonds.

"Series" shall mean all the Bonds delivered on original issuance in a simultaneous transaction and identified pursuant to Section 2.01 hereof or a Supplemental Resolution authorizing the issuance by the Issuer of such Bonds as a separate Series, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

"Sewer Connection Fees" shall mean the fees and charges, if any, which relate to acquiring, constructing, equipping or expanding the capacity of the sewer facilities of the System for the purpose of paying or reimbursing the equitable share of the capital cost relating to such acquisition, construction, expansion or equipping of capacity of the sewer facilities or expansion thereof in order to serve new users of the sewer facilities of the System, to the extent the same are lawfully levied, collected and pledged. "Sewer Connection Fees" include those fees and charges currently known under Florida law as "impact fees" but shall not include fees and charges imposed for the cost of physically hooking up or connecting to the System.

"Sinking Fund" shall mean the fund established pursuant to Section 4.05(C) hereof.

"Sinking Fund Installment" shall mean an amount designated as such by Supplemental Resolution and established with respect to the Term Bonds.

"Special Assessments" means any and all assessments against property benefited by the System or any part thereof.

"Standard and Poor's" or "S&P" shall mean S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC, and any assigns and successors thereto.

"State" shall mean the State of Florida.

"Subordinated Indebtedness" shall mean that indebtedness of the Issuer, subordinate and junior to the Bonds, issued in accordance with the provisions of Section 6.01 hereof or deemed subordinate and junior to the Bonds in accordance with the provisions hereof or in accordance with the provisions of such Subordinated Indebtedness.

"Supplemental Resolution" shall mean any resolution of the Issuer amending or supplementing this Resolution enacted and becoming effective in accordance with the terms of Sections 8.01, 8.02 and 8.03 hereof.

"System" shall mean any and all water production, transmission, treatment and distribution facilities, sewage collection, transmission, treatment and disposal facilities, reclaimed

water (reuse) facilities, and electric production, transmission and distribution facilities now owned or hereafter owned by the Issuer, which System shall also include any and all improvements, extensions and additions thereto hereafter constructed or acquired either from the proceeds of Bonds or from any other sources, together with all property, real or personal, tangible or intangible, now or hereafter owned or used in connection therewith, including all contractual rights, rights to capacity and obligations or undertakings associated therewith. "System" shall also include any other utility facilities if and to the extent the Issuer determines by Supplemental Resolution to include such utility or facilities within the System as described herein.

"Taxable Bonds" means any Bond, other than Federal Subsidy Bonds, which states, in the body thereof, that the interest income thereon is includable in the gross income of the Holder thereof for federal income taxation purposes or that such interest is subject to federal income taxation. Except as otherwise provided herein, Taxable Bonds shall not include Federal Subsidy Bonds.

"Term Bonds" shall mean those Bonds which shall be designated as Term Bonds hereby or by Supplemental Resolution.

"Term Bonds Redemption Account" shall mean the separate account in the Sinking Fund established pursuant to Section 4.05(C) hereof.

"Utility Reserve Fund" shall mean the fund created pursuant to Section 4.05(G) hereof.

"Variable Rate Bonds" shall mean Bonds issued with a variable, adjustable, convertible or other similar rate which is not fixed in percentage for the entire term thereof at the date of issue.

"Water Connection Fees" shall mean the fees and charges, if any, which relate to acquiring, constructing, equipping or expanding the capacity of the water facilities of the System for the purpose of paying or reimbursing the equitable share of the capital cost relating to such acquisition, construction, expansion or equipping of capacity of the water facilities or expansion thereof in order to serve new users of the water facilities of the System, to the extent the same are lawfully levied, collected and pledged. "Water Connection Fees" include those fees and charges currently known under Florida law as "impact fees" but shall not include fees and charges imposed for the cost of physically hooking up or connecting to the System.

The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Resolution; the term "heretofore" shall mean before the date of adoption of this Resolution; and the term "hereafter" shall mean after the date of adoption of this Resolution.

Words importing the masculine gender include every other gender.

Words importing the singular number include the plural number, and vice versa.

SECTION 1.02. AUTHORITY FOR RESOLUTION. This Resolution is adopted pursuant to the provisions of the Act. The Issuer has ascertained and hereby determined that adoption of this Resolution is necessary to carry out the powers, purposes and duties expressly provided in the Act, that each and every matter and thing as to which provision is made herein is necessary in order to carry out and effectuate the purposes of the Issuer in accordance with the Act

and to carry out and effectuate the plan and purpose of the Act, and that the powers of the Issuer herein exercised are in each case exercised in accordance with the provisions of the Act and in furtherance of the purposes of the Issuer.

SECTION 1.03. RESOLUTION TO CONSTITUTE CONTRACT. In consideration of the purchase and acceptance of any or all of the Bonds by those who shall hold the same from time to time, the provisions of this Resolution shall be a part of the contract of the Issuer with the Holders of the Bonds, and shall be deemed to be and shall constitute a contract between the Issuer, the Holders from time to time of the Bonds and any Insurer or Credit Bank. The pledge made in the Resolution and the provisions, covenants and agreements herein set forth to be performed by or on behalf of the Issuer shall be for the equal benefit, protection and security of the Holders of any and all of said Bonds and any Insurer or Credit Bank, but only to the extent and in accordance with the terms hereof. All of the Bonds, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided in or pursuant to this Resolution.

SECTION 1.04. FINDINGS. It is hereby ascertained, determined and declared that:

(A) The Issuer has heretofore determined that it is necessary and in the best interests of the health, safety and welfare of the Issuer and its inhabitants that the Issuer own, operate, maintain, improve, manage and expand the System.

(B) It is necessary and desirable and in the best interests of the Issuer to borrow moneys from time to time to improve and expand the System and to refinance certain indebtedness related to the System.

(C) The Bonds issued hereunder shall be secured by the Pledged Funds as provided herein and such Pledged Funds have not been pledged or encumbered except with respect to certain previously issued indebtedness which shall be refunded simultaneously with or prior to the first issuance of Bonds hereunder.

(D) The estimated Gross Revenues to be derived in each year hereafter from the operation of the System will be sufficient to pay all the Operating Expenses, the principal of and interest on the Bonds and Subordinated Indebtedness, as the same become due, and all other payments provided for in this Resolution.

(E) The principal of and interest on the Bonds and Subordinated Indebtedness and all other payments provided for in this Resolution will be paid solely from the Pledged Funds in accordance with the terms hereof; and the ad valorem taxing power of the Issuer will never be necessary or authorized to pay the principal of and interest on the Bonds and Subordinated Indebtedness, or to make any other payments provided for in this Resolution, and neither the Bonds nor any Subordinated Indebtedness shall constitute a lien upon the System or upon any other property whatsoever of or in the Issuer.

[Remainder of page intentionally left blank]

ARTICLE II
AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

SECTION 2.01. AUTHORIZATION OF BONDS. This Resolution creates an issue of Bonds of the Issuer to be designated as "City of Lake Worth Beach, Florida Consolidated Utility Revenue Bonds" which may be issued in one or more Series as hereinafter provided. The aggregate principal amount of the Bonds which may be executed and delivered under this Resolution is not limited except as is or may hereafter be provided in this Resolution or as limited by the Act.

The Bonds may, if and when authorized by the Issuer pursuant to this Resolution, be issued in one or more Series, with such further appropriate particular designations added to or incorporated in such title for the Bonds of any particular Series as the Issuer may determine and as may be necessary to distinguish such Bonds from the Bonds of any other Series. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

The Bonds shall be issued for such purpose or purposes; shall bear interest at such rate or rates not exceeding the maximum rate permitted by law; and shall be payable in lawful money of the United States of America on such dates; all as determined by Supplemental Resolution.

The Bonds shall be issued in such denominations and such form, whether coupon or registered; shall be dated such date; shall bear such numbers; shall be payable in such manner and at such place or places; shall contain such redemption provisions; shall have such Paying Agents and Registrars; shall mature in such years and amounts; shall have such Interest Dates and the proceeds shall be used in such manner; all as determined or provided for by Supplemental Resolution. The Issuer may issue Bonds which may be secured by a Credit Facility or by a Bond Insurance Policy all as shall be determined by Supplemental Resolution. All other terms and provisions with respect to any Series of Bonds shall be determined in accordance with a Supplemental Resolution. The Governing Body may delegate approval of the terms, details and sale of a Series of Bonds to an Authorized Issuer Officer pursuant to a Supplemental Resolution.

SECTION 2.02. EXECUTION OF BONDS. The Bonds shall be executed in the name of the Issuer with the manual or facsimile signature of the Mayor, and the official seal of the Issuer shall be imprinted thereon, attested and countersigned with the manual or facsimile signature of the Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds or whose facsimile signature shall appear thereon shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of such Bond shall hold the proper office of the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized. The Issuer may adopt and use for such purposes the facsimile signatures of any such persons who shall have held such offices at any time after the date of the adoption of this Resolution, notwithstanding that either or both shall have ceased to hold such office at the time the Bonds shall be actually sold and delivered.

SECTION 2.03. AUTHENTICATION. No Bond of any Series shall be secured hereunder or entitled to the benefit hereof or shall be valid or obligatory for any purpose unless there shall be manually endorsed on such Bond a certificate of authentication by the Registrar or such other entity as may be approved by the Issuer for such purpose. Such certificate on any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Resolution. The form of such certificate shall be substantially in the form provided in Section 2.07 hereof.

SECTION 2.04. TEMPORARY BONDS. Until the definitive Bonds of any Series are prepared, the Issuer may execute, in the same manner as is provided in Section 2.02 hereof, and deliver, upon authentication by the Registrar pursuant to Section 2.03 hereof, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, except as to the denominations thereof, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in denominations authorized by the Issuer by subsequent resolution and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Issuer, at its own expense, shall prepare and execute definitive Bonds, which shall be authenticated by the Registrar. Upon the surrender of such temporary Bonds for exchange, the Registrar, without charge to the Holder thereof, shall deliver in exchange therefor definitive Bonds, of the same aggregate principal amount and Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds issued pursuant to this Resolution. All temporary Bonds surrendered in exchange for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith cancelled by the Registrar.

SECTION 2.05. BONDS MUTILATED, DESTROYED, STOLEN OR LOST. In case any Bond shall become mutilated, or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver, and the Registrar shall authenticate, a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder furnishing the Issuer and the Registrar proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer or the Registrar may prescribe and paying such expenses as the Issuer and the Registrar may incur. All Bonds so surrendered shall be cancelled by the Registrar. If any of the Bonds shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same or cause the Bond to be paid, upon being indemnified as aforesaid, and if such Bonds be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this Section 2.05 shall constitute original, additional contractual obligations on the part of the Issuer whether or not the lost, stolen or destroyed Bond be at any time found by anyone, and such duplicate Bond shall be entitled to equal and proportionate benefits and rights as to lien on the Pledged Funds to the same extent as all other Bonds issued hereunder.

SECTION 2.06. INTERCHANGEABILITY, NEGOTIABILITY AND TRANSFER. Bonds, upon surrender thereof at the designated corporate trust office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the

Holder thereof or his attorney duly authorized in writing, may, at the option of the Holder thereof, be exchanged for an equal aggregate principal amount of registered Bonds of the same Series and maturity of any other authorized denominations.

The Bonds issued under this Resolution shall be and have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code of the State of Florida, subject to the provisions for registration and transfer contained in this Resolution and in the Bonds. So long as any of the Bonds shall remain Outstanding, the Issuer shall maintain and keep, at the designated corporate trust office of the Registrar, books for the registration and transfer of the Bonds.

Each Bond shall be transferable only upon the books of the Issuer, at the designated corporate trust office of the Registrar, under such reasonable regulations as the Issuer may prescribe, by the Holder thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed and guaranteed by the Holder or his duly authorized attorney. Upon the transfer of any such Bond, the Issuer shall issue, and cause to be authenticated, in the name of the transferee a new Bond or Bonds of the same aggregate principal amount and Series and maturity as the surrendered Bond. The Issuer, the Registrar and any Paying Agent or fiduciary of the Issuer may deem and treat the Person in whose name any Outstanding Bond shall be registered upon the books of the Issuer as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if applicable, and interest on such Bond and for all other purposes, and all such payments so made to any such Holder or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid and neither the Issuer nor the Registrar nor any Paying Agent or other fiduciary of the Issuer shall be affected by any notice to the contrary.

The Registrar, in any case where it is not also the Paying Agent in respect to any Series of Bonds, forthwith (A) following the fifteenth day prior to an Interest Date for such Series; (B) following the fifteenth day next preceding the date of first mailing of notice of redemption of any Bonds of such Series; and (C) at any other time as reasonably requested by the Paying Agent of such Series, shall certify and furnish to such Paying Agent the names, addresses and holdings of Bondholders and any other relevant information reflected in the registration books. Any Paying Agent of any fully registered Bond shall affect payment of interest on such Bonds by mailing a check to the Holder entitled thereto or may, in lieu thereof, upon the request of such Holder, transmit such payment by bank wire transfer for the account of such Holder.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Issuer shall execute and deliver Bonds and the Registrar shall authenticate such Bonds in accordance with the provisions of this Resolution. Execution of Bonds by the Mayor and Clerk for purposes of exchanging, replacing or transferring Bonds may occur at the time of the original delivery of the Series of which such Bonds are a part. All Bonds surrendered in any such exchanges or transfers shall be held by the Registrar in safekeeping until directed by the Issuer to be cancelled by the Registrar. For every such exchange or transfer of Bonds, the Issuer or the Registrar may make a charge sufficient to reimburse it for any tax, fee, expense or other governmental charge required to be paid with respect to such exchange or transfer, but no other charge shall be made to

any owner of Bonds for the privilege of exchanging or registering the transfer of Bonds under the provisions of this Resolution.

The Issuer and the Registrar shall not be obligated to make any such exchange or transfer of Bonds of any Series during the 15 days next preceding an Interest Date on the Bonds of such Series (other than Capital Appreciation Bonds and Variable Rate Bonds), or, in the case of any proposed redemption of Bonds of such Series, then, for the Bonds subject to redemption, during the 15 days next preceding the date of the first mailing of notice of such redemption and continuing until such redemption date.

The Issuer may elect to issue any Bonds as uncertificated registered public obligations (not represented by instruments), commonly known as book-entry obligations, provided it shall establish a system of registration therefor by Supplemental Resolution.

SECTION 2.07. FORM OF BONDS. The text of the Bonds, except for Capital Appreciation Bonds and Variable Rate Bonds, the form of which shall be provided by Supplemental Resolution, shall be in substantially the following form with such omissions, insertions and variations as may be necessary and/or desirable and approved by the Mayor prior to the issuance thereof (which necessity and/or desirability and approval shall be presumed by such officer's execution of the Bonds and the Issuer's delivery of the Bonds to the purchaser or purchasers thereof):

[Remainder of page intentionally left blank]

**UNITED STATES OF AMERICA
STATE OF FLORIDA
CITY OF LAKE WORTH BEACH, FLORIDA
CONSOLIDATED UTILITY REVENUE BONDS,
SERIES _____**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
--------------------------	--------------------------	-----------------------------------	--------------

Registered Holder:

Principal Amount:

KNOW ALL MEN BY THESE PRESENTS, that the City of Lake Worth Beach, Florida, a municipal corporation and public body corporate and politic of the State of Florida (the "Issuer"), for value received, hereby promises to pay, solely from the Pledged Funds hereinafter described, to the Registered Holder identified above, or registered assigns as hereinafter provided, on the Maturity Date identified above, the Principal Amount identified above and to pay interest on such Principal Amount from the Date of Original Issue identified above or from the most recent interest payment date to which interest has been paid at the Interest Rate per annum identified above on _____ and _____ of each year commencing _____, until such Principal Amount shall have been paid, except as the provisions hereinafter set forth with respect to redemption prior to maturity may be or become applicable hereto.

Such Principal Amount and interest and the premium, if any, on this Bond are payable in any coin or currency of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts. Such Principal Amount and the premium, if any, on this Bond, are payable at the designated corporate trust office of _____, _____, _____, as Paying Agent. Payment of each installment of interest shall be made to the person in whose name this Bond shall be registered on the registration books of the Issuer maintained by _____, _____, _____, as Registrar, at the close of business on the date which shall be the fifteenth day (whether or not a business day) of the calendar month next preceding each interest payment date and shall be paid by a check of such Paying Agent mailed to such Registered Holder at the address appearing on such registration books or, at the request of such Registered Holder, by bank wire transfer for the account of such Holder. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of \$_____ (the "Bonds") of like date, tenor and effect, except as to maturity date, interest rate, denomination and number, issued to finance _____, in and for the Issuer, under the authority of and in full compliance with the Constitution and laws of the State of Florida, particularly the City Charter, Chapter 166, Part II, Florida Statutes, and other applicable provisions of law (the "Act"), and Resolution No. _____, adopted by the City Commission of the Issuer on October 6, 2020, as the same may be amended and supplemented (collectively, the "Resolution"), and is subject to all the terms and conditions of the Resolution.

This Bond and the interest hereon are payable solely from and secured by a lien upon and a pledge of (1) the Net Revenues (as defined in the Resolution) to be derived from the operation of the Issuer's consolidated utility system (the "System"), and (2) until applied in accordance with the provisions of the Resolution, all moneys, including investments thereof, in the funds and accounts established by the Resolution, except (A) the Rebate Fund, (B) to the extent moneys therein shall be required to pay the Operating Expenses (as defined in the Resolution) and (C) any moneys set aside in a particular subaccount of the Reserve Account, if such moneys shall be pledged solely for the payment of a different Series of Bonds for which it was established in accordance with the provisions of the Resolution, subject in each case to the application thereof for the purposes and on the conditions permitted by the Resolution (collectively, the "Pledged Funds"). It is expressly agreed by the Registered Holder of this Bond that the full faith and credit of the Issuer are not pledged to the payment of the principal of, premium, if any, and interest on this Bond and that such Holder shall never have the right to require or compel the exercise of any taxing power of the Issuer to the payment of such principal, premium, if any, and interest. This Bond and the obligation evidenced hereby shall not constitute a lien upon the System or any other property of the Issuer, but shall constitute a lien only on, and shall be payable solely from, the Pledged Funds in accordance with the terms of the Resolution.

IT IS EXPRESSLY AGREED BY THE REGISTERED HOLDER OF THIS BOND THAT THE FULL FAITH AND CREDIT OF THE ISSUER, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THIS BOND AND THAT SUCH HOLDER SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF ANY TAXING POWER OF THE ISSUER, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, TO THE PAYMENT OF SUCH PRINCIPAL, PREMIUM, IF ANY, AND INTEREST. THIS BOND AND THE OBLIGATION EVIDENCED HEREBY SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OF THE ISSUER, BUT SHALL CONSTITUTE A LIEN ONLY ON, AND SHALL BE PAYABLE SOLELY FROM, THE PLEDGED FUNDS. THE ISSUER MAY ISSUE ADDITIONAL OBLIGATIONS ON PARITY WITH THE BONDS IN ACCORDANCE WITH THE TERMS OF THE RESOLUTION.

[The Issuer has established a book-entry system of registration for the Bonds. Except as specifically provided otherwise in the Resolution, an agent will hold this Bond on behalf of the beneficial owner thereof. By acceptance of a confirmation of purchase, delivery or transfer, the beneficial owner of this Bond shall be deemed to have agreed to such arrangement.]

This Bond is transferable in accordance with the terms of the Resolution only upon the books of the Issuer kept for that purpose at the designated corporate trust office of the Registrar by the Registered Holder hereof in person or by his attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Holder or his attorney duly authorized in writing, and thereupon a new Bond or Bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor, and upon the payment of the charges, if any, therein prescribed. The Bonds are issuable in the form of fully registered Bonds in the denomination of [\$5,000 and any integral multiple thereof,] not exceeding the aggregate principal amount of the Bonds. The Issuer, the Registrar and any Paying Agent may treat the Registered Holder of this Bond as the absolute owner hereof for all purposes, whether or not this Bond shall be overdue, and shall not be affected by any notice to the contrary. The Issuer shall not be obligated to make any exchange or transfer of the Bonds during the 15 days next preceding an interest payment date or, in the case of any proposed redemption of the Bonds, then, for the Bonds subject to such redemption, during the 15 days next preceding the date of the first mailing of notice of such redemption.

(INSERT REDEMPTION PROVISIONS)

Redemption of this Bond under the preceding paragraphs shall be made as provided in the Resolution upon notice given by first class mail sent at least 30 days prior to the redemption date to the Registered Holder hereof at the address shown on the registration books maintained by the Registrar; provided, however, that failure to mail notice to the Registered Holder hereof, or any defect therein, shall not affect the validity of the proceedings for redemption of other Bonds as to which no such failure or defect has occurred. In the event that less than the full principal amount hereof shall have been called for redemption, the Registered Holder hereof shall surrender this Bond in exchange for one or more Bonds in an aggregate principal amount equal to the unredeemed portion of principal, as provided in the Resolution.

[As long as the book-entry only system is used for determining beneficial ownership of the Bonds, notice of redemption will only be sent to Cede & Co. Cede & Co. will be responsible for notifying the DTC Participants, who will in turn be responsible for notifying the beneficial owners of the Bonds. Any failure of Cede & Co. to notify any DTC Participant, or of any DTC Participant to notify the beneficial owner of any such notice, will not affect the validity of the redemption of the Bonds.]

Reference to the Resolution and any and all resolutions supplemental thereto and modifications and amendments thereof and to the Act is made for a description of the pledge and covenants securing this Bond, the nature, manner and extent of enforcement of such pledge and covenants, and the rights, duties, immunities and obligations of the Issuer.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond, exist, have happened and have been performed, in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, and that the issuance of the Bonds does not violate any constitutional or statutory limitations or provisions.

Neither the members of the City Commission of the Issuer nor any person executing this Bond shall be liable personally hereon or be subject to any personal liability or accountability by reason of the issuance hereof.

[This Bond is one of a series of Bonds which were validated by judgment of the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County, Florida, rendered on _____, _____.]

This Bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

IN WITNESS WHEREOF, the City of Lake Worth Beach, Florida has issued this Bond and has caused the same to be executed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk, and its official seal or a facsimile thereof to be affixed or reproduced hereon, all as of Date of Original Issue.

CITY OF LAKE WORTH BEACH, FLORIDA

(SEAL)

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the Issue described in the within-mentioned Resolution.

DATE OF AUTHENTICATION:

Registrar

By: _____
Authorized Officer

[Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by the authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

Insert Social Security or Other Identifying Number of Assignee

(Name and Address of Assignee)

the within Bond and does hereby irrevocably constitute and appoint _____, as attorneys to register the transfer of the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Signature guaranteed:

NOTICE: Signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

NOTICE: The signature to this assignment must correspond with the name of the Registered Holder as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever and the Social Security or other identifying number of such assignee must be supplied.

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common

TEN ENT -- as tenants by the entireties

JT TEN -- as joint tenants with right of survivorship and not as tenants in common

UNIF TRANS MIN ACT -- _____
(Cust.)

Custodian for _____

under Uniform Transfers to Minors Act of _____
(State)

Additional abbreviations may also be used though not in list above.

ARTICLE III REDEMPTION OF BONDS

SECTION 3.01. PRIVILEGE OF REDEMPTION. The terms of this Article III shall apply to the redemption of Bonds other than Capital Appreciation Bonds or Variable Rate Bonds. The terms and provisions relating to redemption of Capital Appreciation Bonds and Variable Rate Bonds shall be provided by Supplemental Resolution. The provisions of this Article III may also be modified pursuant to Supplemental Resolution to accommodate any redemption provisions with respect to Federal Subsidy Bonds.

SECTION 3.02. SELECTION OF BONDS TO BE REDEEMED. The Bonds shall be redeemed only in the principal amount of \$5,000 each and integral multiples thereof. The Issuer shall, at least 35 days prior to the redemption date (unless a shorter time period shall be satisfactory to the Registrar) notify the Registrar of such redemption date and of the principal amount of Bonds to be redeemed and, if less than all of the Outstanding Bonds are to be redeemed, the particular maturities and portions thereof to be redeemed. For purposes of any redemption of less than all of the Outstanding Bonds of a single maturity, the particular Bonds or portions of Bonds to be redeemed shall be selected not more than 45 days and not less than 35 days prior to the redemption date by the Registrar from the Outstanding Bonds of the maturity or maturities designated by the Issuer by such method as the Registrar shall deem fair and appropriate (which may include a pro-rata or pass-through distribution) and which may provide for the selection for redemption of Bonds or portions of Bonds in principal amounts of \$5,000 and integral multiples thereof. If less than all of a Term Bond is to be redeemed the aggregate principal amount to be redeemed shall be allocated to the Sinking Fund Installments on a pro-rata basis unless the Issuer, in its discretion, designates a different allocation.

If less than all of the Outstanding Bonds of a single maturity are to be redeemed, the Registrar shall promptly notify the Issuer and Paying Agent (if the Registrar is not the Paying Agent for such Bonds) in writing of the Bonds or portions of Bonds selected for redemption and, in the case of any Bond selected for partial redemption, the principal amount thereof to be redeemed.

SECTION 3.03. NOTICE OF REDEMPTION. Notice of such redemption, which shall specify the Bond or Bonds (or portions thereof) to be redeemed and the date and place for redemption, shall be given by the Registrar on behalf of the Issuer, and (A) shall be filed with the Paying Agents of such Bonds, (B) shall be mailed first class, postage prepaid, not less than 30 days nor more than 45 days prior to the redemption date to all Holders of Bonds to be redeemed at their addresses as they appear on the registration books kept by the Registrar as of the date of mailing of such notice, and (C) shall be mailed, certified mail, postage prepaid, at least 35 days prior to the redemption date to the registered securities depositories and one or more nationally recognized municipal bond information services as hereinafter provided in this Section 3.03. Failure to mail such notice to such depositories or services or the Holders of the Bonds to be redeemed, or any defect therein, shall not affect the proceedings for redemption of Bonds as to which no such failure or defect has occurred. Such notice shall also be mailed to the Insurer or Credit Bank, if any, of such Bonds to be redeemed. Failure of any Holder to receive any notice mailed as herein provided shall not affect the proceedings for redemption of such Holder's Bonds. Notwithstanding the

foregoing, the Issuer may establish separate redemption provisions by a Supplemental Resolution in connection with any Series of Bonds.

Each notice of redemption shall state: (1) the CUSIP numbers and any other distinguishing number or letter of all Bonds being redeemed, (2) the original issue date of such Bonds, (3) the maturity date and rate of interest borne by each Bond being redeemed, (4) the redemption date, (5) the Redemption Price, (6) the date on which such notice is mailed, (7) if less than all Outstanding Bonds are to be redeemed, the certificate number (and, in the case of a partial redemption of any Bond, the principal amount) of each Bond to be redeemed, (8) that on such redemption date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued thereon to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable, (9) that the Bonds to be redeemed, whether as a whole or in part, are to be surrendered for payment of the Redemption Price at the designated office of the Registrar at an address specified, (10) the name and telephone number of a person designated by the Registrar to be responsible for such redemption, (11) unless sufficient funds have been set aside by the Issuer for such purpose prior to the mailing of the notice of redemption, that such redemption is conditioned upon the deposit of sufficient funds for such purpose on or prior to the date set for redemption, and (12) any other conditions that must be satisfied prior to such redemption.

The Issuer may provide that a redemption may be contingent upon the occurrence of certain condition(s) and that if such condition(s) do not occur the notice of redemption will be rescinded, provided notice of rescission shall be mailed in the manner described above to all affected Bondholders as soon as practicable.

SECTION 3.04. REDEMPTION OF PORTIONS OF BONDS. Any Bond which is to be redeemed only in part shall be surrendered at any place of payment specified in the notice of redemption (with due endorsement by, or written instrument of transfer in form satisfactory to the Registrar duly executed by, the Holder thereof or his attorney duly authorized in writing) and the Issuer shall execute and the Registrar shall authenticate and deliver to the Holder of such Bond, without service charge, a new Bond or Bonds, of any authorized denomination, as requested by such Holder in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bonds so surrendered.

SECTION 3.05. PAYMENT OF REDEEMED BONDS. Notice of redemption having been given substantially as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar and/or Paying Agent at the appropriate Redemption Price, plus accrued interest. All Bonds which have been redeemed shall be cancelled and destroyed by the Registrar and shall not be reissued.

ARTICLE IV
SECURITY; FUNDS AND ACCOUNTS; APPLICATION OF GROSS REVENUES

SECTION 4.01. BONDS NOT TO BE INDEBTEDNESS OF ISSUER. The Bonds shall not be or constitute general obligations or indebtedness of the Issuer as "bonds" within the meaning of any constitutional or statutory provision, but shall be special obligations of the Issuer, payable solely from and secured by a lien upon and pledge of the Pledged Funds, in the manner and to the extent provided in this Resolution. No Holder of any Bond shall ever have the right to compel the exercise of any ad valorem taxing power to pay such Bond, or be entitled to payment of such Bond from any moneys of the Issuer except from the Pledged Funds in the manner and to the extent provided herein. The Bonds and the obligations evidenced thereby shall not constitute a lien upon the System or any other property of the Issuer, but shall constitute a lien only on, and shall be payable solely from, the Pledged Funds.

SECTION 4.02. SECURITY FOR BONDS. The payment of the principal of or Redemption Price, if applicable, and interest on the Bonds shall be secured forthwith equally and ratably by a pledge of and lien upon the Pledged Funds; provided, however, a Series of Bonds may be further secured by a Credit Facility or Bond Insurance Policy in addition to the security provided herein; and provided further that a Series of Bonds may be secured independently of any other Series of Bonds by the establishment of a separate subaccount in the Reserve Account for such Series of Bonds or by not being secured in any manner by the Reserve Account as provided in a Supplemental Resolution. Issuers of a Reserve Account Insurance Policy or Reserve Account Letter of Credit shall be secured in accordance with the provisions hereof. In addition, the Issuer does hereby irrevocably pledge and grant a lien upon the Pledged Funds to the payment of the Policy Costs in accordance with the provisions hereof; provided, however, such pledge and lien shall be junior and subordinate in all respects to the pledge of and lien upon such Pledged Funds granted hereby to the Bondholders. The Issuer does hereby irrevocably pledge the Pledged Funds to the payment of the principal of or Redemption Price, if applicable, and interest on the Bonds in accordance with the provisions hereof. Except as otherwise provided by Supplemental Resolution, the obligation of the Issuer to make Hedge Payments to a Counterparty pursuant to a Qualified Hedge Agreement shall be on parity with the Bonds as to lien on and pledge of the Pledged Funds in accordance with the terms hereof (any other payments related to a Qualified Hedge Agreement, including fees, penalties, termination payments and the obligation to collateralize, shall be Subordinated Indebtedness of the Issuer).

The Pledged Funds shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Issuer.

SECTION 4.03. SEPARATE ACCOUNTS. The moneys required to be accounted for in each of the funds, accounts and subaccounts established in this Resolution, particularly those described in this Article IV, may be deposited in a single bank account, and funds allocated to the various funds, accounts and subaccounts established herein may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the moneys on deposit therein and such investments for the various purposes of such funds, accounts and subaccounts as herein provided.

The designation and establishment of the various funds, accounts and subaccounts in and by this Resolution shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues as herein provided.

SECTION 4.04. CONSTRUCTION FUND. The Issuer covenants and agrees to establish a special fund to be known as the "City of Lake Worth Beach, Florida Consolidated Utility System Construction Fund," which shall be used only for payment of the Cost of a Project. Moneys in the Construction Fund, until applied in payment of any item of the Cost of a Project in the manner hereinafter provided, shall be subject to a lien and charge in favor of the Holders of the Bonds and for the further security of such Holders.

There shall be paid into the Construction Fund the amounts required to be so paid by the provisions of this Resolution, and there may be paid into the Construction Fund, at the option of the Issuer, any moneys received for or in connection with a Project by the Issuer from any other source. The Issuer shall establish within the Construction Fund a separate account for each Project the Cost of which is to be paid in whole or in part out of the Construction Fund.

The proceeds of insurance maintained pursuant to this Resolution against physical loss of or damage to a Project, or of contractors' performance bonds with respect thereto pertaining to the period of construction thereof, shall be deposited into the appropriate account of the Construction Fund.

Any moneys received by the Issuer from the State or from the United States of America or any agencies thereof for the purpose of financing part of the Cost of a Project shall be deposited into the appropriate account of the Construction Fund and used in the same manner as other Bond proceeds are used therein; provided that separate accounts or subaccounts may be established in the Construction Fund for moneys received pursuant to the provisions of this paragraph whenever required by federal or State law.

The Issuer covenants that the acquisition, construction and installation of each Project will be completed without delay and in accordance with sound engineering practices. The Issuer shall make disbursements or payments from the applicable account of the Construction Fund to pay Costs of the Project for which it was established, except as otherwise provided below. The Issuer shall keep records of such disbursements and payments and shall retain all such records for such period of time as required by applicable law. The Issuer shall make available the records at all reasonable times for inspection by any Holder of any of the Bonds or the agent or representative of any Holder of any of the Bonds.

Notwithstanding any of the other provisions of this Section 4.04, to the extent that other moneys are not available therefor, amounts in an account of the Construction Fund shall be applied to the payment of principal and interest on Bonds.

The date of completion of the acquisition, construction and equipping of a Project shall be documented by an Authorized Issuer Officer or the Clerk in the appropriate records of the Issuer. Promptly after the date of the completion of a Project, and after paying or making provision for

the payment of all unpaid items of the Cost of such Project, the Issuer shall deposit in the following order of priority any balance of moneys remaining in an account in the Construction Fund in (A) another account of the Construction Fund for which an Authorized Issuer Officer has determined that there are insufficient moneys present to pay the Cost of the related Project, (B) the Reserve Account, to the extent of a deficiency therein, and (C) such other fund or account established hereunder as shall be determined by the Issuer or for any other lawful purpose, provided the Issuer has received the prior approval of Bond Counsel to the effect that such transfer shall not adversely affect the exclusion, if any, of interest on the Bonds (other than Taxable Bonds) from gross income for purposes of federal income taxation or shall not otherwise affect the status of any Outstanding Bonds issued as Federal Subsidy Bonds or the Issuer's receipt of Federal Subsidy Payments with respect to any Outstanding Federal Subsidy Bonds.

SECTION 4.05. CREATION OF FUNDS AND ACCOUNTS. The Issuer covenants and agrees to establish the following funds and accounts:

- (A) The "City of Lake Worth Beach, Florida Consolidated Utility Revenue Fund."
- (B) The "City of Lake Worth Beach, Florida Consolidated Utility Operation and Maintenance Fund."
- (C) The "City of Lake Worth Beach, Florida Consolidated Utility Sinking Fund." The Issuer shall maintain four separate accounts in the Sinking Fund: the "Interest Account," the "Principal Account," the "Term Bonds Redemption Account" and the "Reserve Account."
- (D) The "City of Lake Worth Beach, Florida Consolidated Utility Renewal and Replacement Fund."
- (E) The "City of Lake Worth Beach, Florida Consolidated Utility Rebate Fund."
- (F) The "City of Lake Worth Beach, Florida Consolidated Utility Rate Stabilization Fund."
- (G) The "City of Lake Worth Beach, Florida Consolidated Utility Reserve Fund".

Moneys in the aforementioned funds and accounts (except for moneys in the Rebate Fund), until applied in accordance with the provisions hereof, shall be subject to a lien and charge in favor of the Holders of the Bonds and for the further security of such Holders, to the extent provided herein.

The Issuer may at any time and from time to time appoint one or more depositories to hold, for the benefit of the Bondholders, any one or more of the funds and accounts established hereby. Such depository or depositories shall perform at the direction of the Issuer the duties of the Issuer in depositing, transferring and disbursing moneys to and from each of such funds or accounts as herein set forth, and all records of such depository in performing such duties shall be open at all reasonable times to inspection by the Issuer and its agents and employees. Any such depository shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and be qualified under applicable State law.

Notwithstanding the foregoing, none of the aforementioned funds and accounts are required to be established prior to the time any such fund or account is required to be funded or otherwise utilized hereunder.

SECTION 4.06. DISPOSITION OF GOVERNMENT GRANTS AND GROSS REVENUES. (A) (1) In the event the Issuer receives a Government Grant, the use and withdrawal of moneys from such Government Grant shall be governed by the terms of the Government Grant and applicable law.

(2) The Issuer shall deposit promptly, as received, all Gross Revenues into the Revenue Fund.

Moneys in the Revenue Fund shall first be used each month to deposit in the Operation and Maintenance Fund such sums as are necessary to pay Operating Expenses for the ensuing month; provided the Issuer may transfer moneys from the Revenue Fund to the Operation and Maintenance Fund at any time to pay Operating Expenses to the extent there is a deficiency in the Operation and Maintenance Fund for such purpose. Amounts in the Operation and Maintenance Fund shall be paid out from time to time by the Issuer for Operating Expenses, including any expenses relating to the purchase or redemption of Term Bonds as provided in Section 4.06(B)(3) hereof.

The remaining moneys in the Revenue Fund shall be applied in accordance with Section 4.06(B) hereof.

(B) Any deposits remaining in the Revenue Fund after the aforementioned transfers to the Operation and Maintenance Fund shall be disposed of by the Issuer on or before the 25th day of each month, commencing in the month immediately following the delivery of any of the Bonds to the purchasers thereof, or such later date as hereinafter provided, in the following manner and in the following order of priority:

(1) Interest Account. The Issuer shall deposit or credit to the Interest Account the sum which, together with the balance in said Account, shall equal the interest on all Bonds Outstanding (except as to Capital Appreciation Bonds) accrued and unpaid and to accrue to the end of the then current calendar month. All Hedge Receipts and Federal Subsidy Payments shall be deposited directly to the Interest Account upon receipt. With respect to interest on Bonds which have corresponding Hedge Payments, interest on such Bonds during the term of the Qualified Hedge Agreement shall also be deemed to include the corresponding Hedge Payments. Moneys in the Interest Account shall be applied by the Issuer (a) for deposit with the Paying Agents to pay the interest on the Bonds on or prior to the date the same shall become due and (b) for Hedge Payments. Any Federal Subsidy Payments deposited to the Interest Account shall be deemed to have been applied to the payment of interest on the Federal Subsidy Bonds to which such Payments relate. The Issuer shall adjust the amount of the deposit to the Interest Account not later than a month immediately preceding any Interest Date so as to provide sufficient moneys in the Interest Account to pay the interest on the Bonds coming due on such Interest Date. No further deposit need be made to the Interest Account when the moneys therein are equal to the interest coming due on the Outstanding Bonds on the next succeeding Interest Date. With respect to debt service on any Bonds which are subject to a Qualified Hedge Agreement, any Hedge Payments due to the

Counterparty to the Qualified Hedge Agreement relating to such Bonds shall be paid to such Counterparty on a parity basis with the aforesaid required payments into the Sinking Fund. In computing the interest on Variable Rate Bonds which shall accrue during a calendar month, the interest rate on such Variable Rate Bonds shall be assumed to be (A) if such Variable Rate Bonds have been Outstanding for at least 24 months prior to the commencement of such calendar month, the highest average interest rate borne by such Variable Rate Bonds for any 30-day period, and (B) if such Variable Rate Bonds have not been Outstanding for at least 24 months prior to the date of calculation, the Bond Buyer Revenue Bond Index most recently published prior to the commencement of such calendar month.

(2) Principal Account. Commencing in the month which is one year prior to the first principal payment date, the Issuer shall next deposit into the Principal Account the sum which, together with the balance in said Account, shall equal the principal amounts on all Bonds Outstanding accrued and unpaid and that portion of the principal next due which would have accrued on such Bonds during the then current calendar month if such principal amounts were deemed to accrue monthly (assuming that a year consists of 12 equivalent calendar months having 30 days each) except for the Sinking Fund Installments to be deposited pursuant to Section 4.06(B)(3) hereof, in equal amounts from the next preceding principal payment due date, or, if there be no such preceding payment due date, from a date no later than one year preceding the due date of such principal amount. Moneys in the Principal Account shall be applied by the Issuer for deposit with the Paying Agents to pay the principal of the Bonds on or prior to the date the same shall mature, and for no other purpose. Serial Capital Appreciation Bonds shall be payable from the Principal Account in the years in which such Bonds mature and monthly payments into the Principal Account on account of such Bonds shall commence in the twelfth month immediately preceding the maturity date of such Bonds. The Issuer shall adjust the amount of the deposit to the Principal Account not later than the month immediately preceding any principal payment date so as to provide sufficient moneys in the Principal Account to pay the principal on Bonds becoming due on such principal payment date. No further deposit need be made to the Principal Account when the moneys therein are equal to the principal coming due on the Outstanding Bonds on the next succeeding principal payment date.

(3) Term Bonds Redemption Account. Commencing in the month which is one year prior to the first Sinking Fund Installment due date, there shall be deposited to the Term Bonds Redemption Account the sum which, together with the balance in such Account, shall equal the Sinking Fund Installments on all Bonds Outstanding accrued and unpaid and that portion of the Sinking Fund Installments of all Bonds Outstanding next due which would have accrued on such Bonds during the then current calendar month if such Sinking Fund Installments were deemed to accrue monthly (assuming that a year consists of 12 equivalent calendar months having 30 days each) in equal amounts from the next preceding Sinking Fund Installment due date, or, if there is no such preceding Sinking Fund Installment due date, from a date not later than one year preceding the due date of such Sinking Fund Installment. Moneys in the Term Bonds Redemption Account shall be used to purchase or redeem Term Bonds in the manner herein provided, and for no other purpose. Term Capital Appreciation Bonds shall be payable from the Term Bonds Redemption Account in the years in which such Bonds mature and monthly payments into the Term Bonds Redemption Account on account of such Bonds shall commence in the twelfth month immediately preceding the due date of the related Sinking Fund Installments. The Issuer shall adjust the amount of the deposit to the Term Bonds Redemption Account in the month immediately preceding any

Sinking Fund Installment Date so as to provide sufficient moneys in the Term Bonds Redemption Account to pay the Sinking Fund Installments becoming due on such date. Payments to the Term Bonds Redemption Account shall be on parity with payments to the Principal Account.

Amounts accumulated in the Term Bonds Redemption Account with respect to any Sinking Fund Installment (together with amounts accumulated in the Interest Account with respect to interest, if any, on the Term Bonds for which such Sinking Fund Installment was established) may be applied by the Issuer, on or prior to the 60th day preceding the due date of such Sinking Fund Installment, (a) to the purchase of Term Bonds of the Series and maturity for which such Sinking Fund Installment was established, or (b) to the redemption at the applicable Redemption Prices of such Term Bonds, if then redeemable by their terms. Amounts in the Term Bonds Redemption Account which are used to redeem Term Bonds shall be credited against the next succeeding Sinking Fund Installment which shall become due on such Term Bonds. The applicable Redemption Price (or principal amount of maturing Term Bonds) of any Term Bonds so purchased or redeemed shall be deemed to constitute part of the Term Bonds Redemption Account until such Sinking Fund Installment date, for the purposes of calculating the amount of such Account. As soon as practicable after the 60th day preceding the due date of any such Sinking Fund Installment, the Issuer shall proceed to call for redemption on such due date, by causing notice to be given as provided in Section 3.03 hereof, Term Bonds of the Series and maturity for which such Sinking Fund Installment was established (except in the case of Term Bonds maturing on a Sinking Fund Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment. The Issuer shall pay out of the Term Bonds Redemption Account and the Interest Account to the appropriate Paying Agents, on or before the day preceding such redemption date (or maturity date), the amount required for the redemption (or for the payment of such Term Bonds then maturing), and such amount shall be applied by such Paying Agents to such redemption (or payment). All expenses in connection with the purchase or redemption of Term Bonds shall be paid by the Issuer from the Operation and Maintenance Fund.

(4) Reserve Account. There shall be deposited to the Reserve Account an amount which would enable the Issuer to restore the funds on deposit in the Reserve Account to an amount equal to the Reserve Account Requirement applicable thereto. All deficiencies in the Reserve Account must be made up no later than 12 months from the date such deficiency first occurred, whether such shortfall was caused by an increase in the applicable Reserve Account Requirement, a decrease in the aggregate market value of the investments therein of more than 5% or withdrawal (whether from cash or a Reserve Account Insurance Policy or Reserve Account Letter of Credit). On or prior to each principal payment date and Interest Date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), moneys in the Reserve Account shall be applied by the Issuer to the payment of the principal of or Redemption Price, if applicable, and interest on the Bonds to the extent moneys in the Interest Account, the Principal Account and the Term Bonds Redemption Account shall be insufficient for such purpose, but only to the extent the moneys transferred from the Utility Reserve Fund for such purposes pursuant to Section 4.06(B)(8) hereof shall be inadequate to fully provide for such insufficiency. Whenever there shall be surplus moneys in the Reserve Account by reason of a decrease in the Reserve Account Requirement or as a result of a deposit in the Reserve Account of a Reserve Account Letter of Credit or a Reserve Account Insurance Policy, such surplus moneys, to the extent practicable, shall be deposited by the Issuer into the Utility Reserve Fund. The Issuer shall promptly inform each

Insurer and Credit Bank of any draw upon the Reserve Account for purposes of paying the principal of and interest on the Bonds.

Upon the issuance of any Series of Bonds under the terms, limitations and conditions as herein provided, the Issuer shall fund the Reserve Account in an amount at least equal to the applicable Reserve Account Requirement to the extent such Series of Bonds are to be secured by the Reserve Account or any subaccount therein; provided, however, nothing herein shall be construed to require the Issuer to fund the Reserve Account or any subaccount for any Series of Bonds. Upon the adoption of the Supplemental Resolution authorizing the issuance of a Series of Bonds, the Issuer shall determine whether such Series of Bonds shall be secured by the Reserve Account or any subaccount therein and, if the Issuer determines that the Series of Bonds will be secured by the Reserve Account or any subaccount therein, the Issuer shall also establish the Reserve Account Requirement applicable thereto. Such required amount, if any, shall be paid in full or in part from the proceeds of such Series of Bonds or may be accumulated in equal monthly payments to the Reserve Account over a period of months from the date of issuance of such Series of Bonds, which shall not exceed 36 months.

Notwithstanding the foregoing provisions, in lieu of or in substitution of any required deposits into the Reserve Account, the Issuer may cause to be deposited into the Reserve Account a Reserve Account Insurance Policy and/or Reserve Account Letter of Credit for the benefit of the Bondholders in an amount equal to the difference between the Reserve Account Requirement applicable thereto and the sums then on deposit in the Reserve Account, if any. The Issuer may also substitute a Reserve Account Insurance Policy and/or Reserve Account Letter of Credit for cash on deposit in the Reserve Account upon compliance with the terms of this Section 4.06(B)(4). Such Reserve Account Insurance Policy and/or Reserve Account Letter of Credit shall be payable to the Paying Agent (upon the giving of notice as required thereunder) on any Interest Date or redemption date on which a deficiency exists which cannot be cured by moneys in any other fund or account held pursuant to this Resolution and available for such purpose. Upon the initial deposit of any such Reserve Account Insurance Policy and/or Reserve Account Letter of Credit, the provider thereof shall be either (a) an insurer whose municipal bond insurance policies insuring the payment, when due, or the principal of and interest on municipal bond issues results in such issues being rated in one of the three highest rating categories by a Rating Agency (without regard to gradations, such as "plus" or "minus" or "1," "2" or "3"), or (b) a commercial bank, insurance company or other financial institution which has been assigned a rating in one of the two highest rating categories by a Rating Agency (without regard to gradations, such as "plus" or "minus" or "1," "2" or "3"). Any Reserve Account Insurance Policy and/or Reserve Account Letter of Credit shall equally secure all Bonds secured by the Reserve Account or subaccount into which such Policy or Letter of Credit is deposited.

Each Reserve Account Insurance Policy and Reserve Account Letter of Credit shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of the provider of the Reserve Account Insurance Policy or Reserve Account Letter of Credit to reimbursement will be further subordinated to cash replenishment of the Reserve Account to an amount equal to the difference between the full original amount available under the Reserve Account Insurance Policy or Reserve Account Letter of Credit and the amount then available for further draws or claims. If the provider of a Reserve

Account Insurance Policy or Reserve Account Letter of Credit becomes insolvent, the obligation to reimburse the provider of the Reserve Account Insurance Policy or Reserve Account Letter of Credit shall be subordinate to the cash replenishment of the Reserve Account. Where applicable, the amount available for draws or claims under a Reserve Account Insurance Policy or Reserve Account Letter of Credit may be reduced by the amount of cash or investments deposited in the Reserve Account pursuant to the provisions hereof.

If three days prior to an interest or principal payment date, or such other period of time as shall be required by the terms of the Reserve Account Insurance Policy or Reserve Account Letter of Credit, the Issuer shall determine that a deficiency exists in the amount of moneys available to pay in accordance with the terms hereof interest and/or principal due on the Bonds on such date, the Issuer shall immediately notify (a) the issuer of the applicable Reserve Account Insurance Policy and/or the issuer of the Reserve Account Letter of Credit and submit a demand for payment pursuant to the provisions of such Reserve Account Insurance Policy and/or the Reserve Account Letter of Credit, (b) the Paying Agent, and (c) the Insurer or Credit Bank, if any, of the amount of such deficiency and the date on which such payment is due.

In the event the Reserve Account or any subaccount therein contains both a Reserve Account Insurance Policy or Reserve Account Letter of Credit and cash, the cash shall be drawn down completely prior to any draw on the Reserve Account Insurance Policy or Reserve Account Letter of Credit. In the event more than one Reserve Account Insurance Policy or Reserve Account Letter of Credit meeting the criteria set forth herein is on deposit in the Reserve Account, amounts required to be drawn thereon shall be done on a pro-rata basis. The Issuer agrees to pay all Policy Costs owing in regard to any Reserve Account Insurance Policy or Reserve Account Letter of Credit from the Pledged Funds. Pledged Funds shall be applied in accordance with this Section 4.06(B)(4), first, to reimburse the issuer of the Reserve Account Insurance Policy or Reserve Account Letter of Credit for amounts advanced under such instruments, second, to replenish any cash deficiencies in the Reserve Account, and, third, to pay the issuer of the Reserve Account Insurance Policy or Reserve Account Letter of Credit applicable expenses and interest on amounts advanced under such instruments. This Resolution shall not be discharged or defeased while any obligations are owing in regard to a Reserve Account Insurance Policy or Reserve Account Letter of Credit on deposit in the Reserve Account. The Issuer agrees not to optionally redeem Bonds unless all amounts owing in regard to a Reserve Account Insurance Policy or Reserve Account Letter of Credit on deposit in the Reserve Account have been paid in full.

The Issuer may evidence its obligation to reimburse the issuer of any Reserve Account Letter of Credit or Reserve Account Insurance Policy by executing and delivering to such issuer a promissory note or other evidence therefor; provided, however, any such note or evidence (a) shall not be a general obligation of the Issuer the payment of which is secured by the full faith and credit or taxing power of the Issuer, and (b) shall be payable solely from the Pledged Funds in the manner provided herein. The obligation to reimburse the provider of a Reserve Account Insurance Policy or Reserve Account Letter of Credit for any Policy Costs shall be subordinate to the payment of debt service on the Bonds.

Any consent or approval of any Insurer described in this Section 4.06(B)(4) shall be required only so long as there are Outstanding Bonds secured by a Bond Insurance Policy issued by such Insurer which is in full force and effect and the commitments of which have been honored

by such Insurer. The term "Paying Agent" as used in this Section 4.06(B)(4) may include one or more Paying Agents for the Outstanding Bonds.

Whenever the amount of cash in the Reserve Account, together with the other amounts in the Debt Service Fund, are sufficient to fully pay all Outstanding Bonds in accordance with their terms (including principal or applicable Redemption Price and interest thereon), the funds on deposit in the Reserve Account may be transferred to the other Accounts of the Sinking Fund for the payment of the Bonds.

The Issuer may also establish a separate subaccount in the Reserve Account for any Series of Bonds and provide a pledge of such subaccount to the payment of such Series of Bonds apart from the pledge provided herein. To the extent a Series of Bonds is secured separately by a subaccount of the Reserve Account, the Holders of such Bonds shall not be secured by any other moneys in the Reserve Account. Moneys in a separate subaccount of the Reserve Account shall be maintained at the Reserve Account Requirement applicable to such Series of Bonds secured by the subaccount; provided the Supplemental Resolution authorizing such Series of Bonds may establish the Reserve Account Requirement relating to such separate subaccount of the Reserve Account at such level as the Issuer deems appropriate. In the event the Issuer by Supplemental Resolution establishes the Reserve Account Requirement for a particular Series of Bonds to be zero (0.00) or it shall determine that such Series are not to be secured in any manner by the Reserve Account or a subaccount, then it shall not be required to establish a separate subaccount; provided, however, such Series of Bonds shall have no lien on or pledge of any moneys on deposit in the Reserve Account. Moneys used to replenish the Reserve Account shall be deposited in the separate subaccounts in the Reserve Account and in the Reserve Account on a pro-rata basis. In the event the Issuer shall maintain a Reserve Account Insurance Policy or Reserve Account Letter of Credit and moneys in any subaccount, the moneys shall be used prior to making any disbursements under such Reserve Account Insurance Policy or Reserve Account Letter of Credit.

(5) Renewal and Replacement Fund. There shall be deposited to the Renewal and Replacement Fund monthly such sums as shall be sufficient to pay 1/12 of the Renewal and Replacement Fund Requirement until the amount accumulated in such Fund is equal to the Renewal and Replacement Fund Requirement, taking into account the market value of investments in such Fund; provided, however, that (a) such Renewal and Replacement Fund Requirement may be increased or decreased as the Consulting Engineers shall certify to the Issuer is necessary for the purposes of the Renewal and Replacement Fund, and (b) in the event that the Consulting Engineers shall certify that the Renewal and Replacement Fund Requirement is excessive for the purposes of the Renewal and Replacement Fund, such excess amount as may be on deposit therein may be transferred by the Issuer from the Renewal and Replacement Fund for deposit into the Utility Reserve Fund. The moneys in the Renewal and Replacement Fund shall be applied by the Issuer for the purpose of paying the cost of major extensions, improvements or additions to, or the replacement or renewal of capital assets of, the System, or extraordinary repairs of the System; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), moneys in the Renewal and Replacement Fund shall be applied for the payment into the Interest Account, the Principal Account, and the Term Bonds Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent moneys transferred from the Utility Reserve Fund for such purpose pursuant to Section 4.06(B)(8)

hereof, together with moneys available in the Reserve Account for such purpose pursuant to Section 4.06(B)(4) hereof, shall be inadequate to fully provide for such insufficiency. Moneys in the Renewal and Replacement Fund may also be transferred to the Operation and Maintenance Fund to fund Operating Expenses to the extent Gross Revenues shall be insufficient for such purpose; provided, however, such transfer shall be treated as an interfund loan and shall be repaid from Gross Revenues as described in this Section 4.06(B)(5) within one year from the date of such transfer.

(6) Subordinated Indebtedness. Gross Revenues in the Revenue Fund shall next be applied by the Issuer for the payment of any accrued debt service on Subordinated Indebtedness incurred by the Issuer in connection with the System and in accordance with the proceedings authorizing such Subordinated Indebtedness.

(7) Sinking Fund. There shall be deposited to the Interest Account, the Principal Account and the Term Bonds Redemption Account, in that order, sufficient moneys such that the amounts on deposit therein shall equal, respectively, the interest, principal and Sinking Fund Installment next coming due on the Bonds Outstanding; provided, however, no deposit need be made to the Principal Account or Term Bonds Redemption Account until a date one year preceding the due date of such principal amount or Sinking Fund Installment.

(8) Utility Reserve Fund. The balance of any Gross Revenues remaining in said Revenue Fund shall be deposited in the Utility Reserve Fund and applied to the payment, on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), into the Interest Account, the Principal Account and the Term Bonds Redemption Account when the moneys therein shall be insufficient to pay the principal of and interest on the Bonds coming due. Moneys not required to meet such a deficiency shall be deposited to the Reserve Account to make up any deficiency therein, and thereafter to the Rebate Fund to the extent moneys are required to be deposited therein. Thereafter, moneys in the Utility Reserve Fund may be applied for (A) the purchase or redemption of Bonds, (b) payment of Subordinated Indebtedness, (c) payment of other obligations incurred with respect to the System, (d) deposit to the Rate Stabilization Fund, (e) improvements, renewals and replacements to the System or for (f) any lawful purpose of the Issuer up to a maximum amount with respect to clause (f) of 10% of the Gross Revenues of the System for such Fiscal Year; provided, however, that none of such revenues shall ever be used for the purposes provided in this Section 4.06(B)(8) unless all payments required in Sections 4.06(B)(1) through 4.06(B)(6) hereof, including any deficiencies for prior payments, have been made in full to the date of such use.

(C) Whenever moneys on deposit in the Sinking Fund are sufficient to fully pay all Outstanding Bonds in accordance with their terms (including principal or applicable Redemption Price and interest thereon), no further deposits to the Sinking Fund need be made. If on any payment date the Gross Revenues are insufficient to deposit the required amount in any of the funds or accounts or for any of the purposes provided above, the deficiency shall be made up on the subsequent payment dates.

The Issuer, in its discretion, may use moneys in the Principal Account and the Interest Account to purchase or redeem Bonds coming due on the next principal payment date, provided

such purchase or redemption does not adversely affect the Issuer's ability to pay the principal or interest coming due on such principal payment date on the Bonds not so purchased or redeemed.

(D) In the event the Issuer shall issue a Series of Bonds secured by a Credit Facility, the Issuer may establish separate subaccounts in the Interest Account, the Principal Account and the Term Bonds Redemption Account to provide for payment of the principal of and interest on such Series; provided payment from the Pledged Funds of one Series of Bonds shall not have preference over payment of any other Series of Bonds. The Issuer may also deposit moneys in such subaccounts at such other times and in such other amounts from those provided in Section 4.06(B) as shall be necessary to pay the principal of and interest on such Bonds as the same shall become due, all as provided by the Supplemental Resolution authorizing such Bonds.

In the case of Bonds secured by a Credit Facility, amounts on deposit in the Sinking Fund may be applied as provided in the applicable Supplemental Resolution to reimburse the Credit Bank for amounts drawn under such Credit Facility to pay the principal of, premium, if any, and interest on such Bonds or to pay the purchase price of any such Bonds which are tendered by the holders thereof for payment; provided such Credit Facility shall have no priority over Bondholders or an Insurer to amounts on deposit in the Sinking Fund. Other payments due to a Credit Bank in relation to obligations arising under its Credit Facility may be on parity with the Bonds as to source of and security for payment to the extent provided in the Supplemental Resolution relating thereto.

SECTION 4.07. REBATE FUND. Amounts on deposit in the Rebate Fund shall be held in trust by the Issuer and used solely to make required rebates to the United States (except to the extent the same may be transferred to the Revenue Fund) and the Bondholders shall have no right to have the same applied for debt service on the Bonds. For any Series of Bonds for which the rebate requirements of Section 148(f) of the Code are applicable, the Issuer agrees to undertake all actions required of it in its arbitrage certificate relating to such Series of Bonds, including, but not limited to:

(A) making a determination in accordance with the Code of the amount required to be deposited in the Rebate Fund;

(B) depositing the amount determined in clause (A) above into the Rebate Fund;

(C) paying on the dates and in the manner required by the Code to the United States Treasury from the Rebate Fund and any other legally available moneys of the Issuer such amounts as shall be required by the Code to be rebated to the United States Treasury; and

(D) keeping such records of the determinations made pursuant to this Section 4.07 as shall be required by the Code, as well as evidence of the fair market value of any investments purchased with proceeds of the Bonds.

The provisions of the above-described arbitrage certificates may be amended without the consent of any Holder, Credit Bank or Insurer from time to time as shall be necessary, in the opinion of Bond Counsel, to comply with the provisions of the Code.

SECTION 4.08. RATE STABILIZATION FUND. The Issuer may transfer into the Rate Stabilization Fund such moneys which are on deposit in the Utility Reserve Fund as it

deems appropriate. The Issuer may transfer such amount of moneys from the Rate Stabilization Fund to the Revenue Fund as it deems appropriate; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), moneys in the Rate Stabilization Fund shall be applied for the payment into the Interest Account, the Principal Account and the Term Bonds Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent moneys transferred from the Utility Reserve Fund and Renewal and Replacement Fund for such purposes pursuant to Sections 4.06(B)(8) and 4.06(B)(5) hereof, together with moneys available in the Reserve Account for such purpose pursuant to Section 4.06(B)(4) hereof, shall be inadequate to fully provide for such insufficiency.

SECTION 4.09. INVESTMENTS. Moneys on deposit in the Revenue Fund, the Construction Fund, the Sinking Fund, the Operation and Maintenance Fund, the Utility Reserve Fund, the Rate Stabilization Fund and the Renewal and Replacement Fund shall be continuously secured in the manner by which the deposit of public funds are authorized to be secured by the laws of the State. Moneys on deposit in the Construction Fund, the Revenue Fund, the Operation and Maintenance Fund, the Principal Account, the Interest Account, the Term Bonds Redemption Account, the Renewal and Replacement Fund, the Rate Stabilization Fund and the Utility Reserve Fund shall be invested and reinvested by the Issuer in Authorized Investments, maturing not later than the dates on which such moneys will be needed for the purposes of such fund or account. Moneys on deposit in the Reserve Account shall be invested in Authorized Investments, maturing no later than ten years from the date of investment. All investments shall be valued at cost; provided, however, that the amounts on deposit in the Reserve Account shall be valued at the market price thereof. Investments in the Reserve Account shall be valued by the Issuer on an annual basis as of April 1 of each year.

Any and all income received from the investment of moneys in each separate account of the Revenue Fund, the Construction Fund, the Interest Account, the Principal Account, the Term Bonds Redemption Account, the Utility Reserve Fund, the Renewal and Replacement Fund (to the extent such income and other amounts in such Fund do not exceed the Renewal and Replacement Fund Requirement), the Rate Stabilization Fund and the Reserve Account (to the extent such income and the other amounts in the Reserve Account does not exceed the Reserve Account Requirement), shall be retained in such respective Fund or Account.

Any and all income received from the investment of moneys in the Renewal and Replacement Fund (only to the extent such income and the other amounts in such Fund exceed the Renewal and Replacement Fund Requirement) and the Reserve Account (only to the extent such income and the other amounts in the Reserve Account exceeds the Reserve Account Requirement), shall be deposited upon receipt thereof in the Revenue Fund.

Nothing in this Resolution shall prevent any Authorized Investments acquired as investments of or security for funds held under this Resolution from being issued or held in book-entry form on the books of the Department of the Treasury of the United States.

ARTICLE V COVENANTS

SECTION 5.01. GENERAL. The Issuer hereby makes the following covenants, in addition to all other covenants in this Resolution, with each and every successive Holder of any of the Bonds so long as any of said Bonds remain Outstanding.

SECTION 5.02. OPERATION AND MAINTENANCE. The Issuer will maintain or cause to be maintained the System and all portions thereof in good condition and will operate or cause to be operated the same in an efficient and economical manner, making or causing to be made such expenditures for equipment and for renewals, repairs and replacements as may be proper for the sound and economical operation and maintenance thereof. The Issuer may contract with a responsible Person which has experience in the operation of utility systems similar to the System for the operation and maintenance of the System.

SECTION 5.03. ANNUAL BUDGET. The Issuer shall annually prepare and adopt, prior to the beginning of each Fiscal Year, an Annual Budget in accordance with applicable law. No expenditure for Operating Expenses shall be made in any Fiscal Year in excess of the aggregate amount provided for Operating Expenses in the Annual Budget until the Governing Body shall have approved the increased expenditures by resolution or ordinance. The amount expended for Operating Expenses in any Fiscal Year will not exceed the reasonable and necessary amount therefor, and the Issuer will not expend any amount for maintenance, repair and operation of the System from Gross Revenues in excess of the total amount provided for Operating Expenses in the Annual Budget, as the same may be amended. Nothing in this Section shall limit the amount which the Issuer may expend for Operating Expenses in any Fiscal Year, provided any amounts expended therefor in excess of the total amount provided in the Annual Budget shall be received by the Issuer from some source other than the Gross Revenues.

If for any reason the Issuer shall not have adopted the Annual Budget before the first day of any Fiscal Year, other than the first Fiscal Year, the preliminary budget for such year, if it be approved by the Consulting Engineers or Rate Consultant, or otherwise the Annual Budget for the preceding Fiscal Year, shall be deemed to be in effect for such Fiscal Year until the Annual Budget for such Fiscal Year is adopted.

The Issuer shall mail copies of such Annual Budgets and amended Annual Budgets and all resolutions and ordinances authorizing increased expenditures for operation and maintenance to any Credit Bank or Insurer of Bonds who shall file its address with an Authorized Issuer Officer or the Clerk and request in writing that copies of all such Annual Budgets and resolutions and ordinances be furnished to it and shall make available all such Annual Budgets and resolutions and ordinances authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder or Holders of Bonds or to anyone acting for and on behalf of such Holder or Holders.

SECTION 5.04 RATES. The Issuer shall fix, establish, maintain and collect such rates, fees and charges for the product, services and facilities of the System, and revise the same from time to time, whenever necessary, so as always to provide (A) Net Revenues in each Fiscal Year (excluding from the computation of Operating Expenses for any Fiscal Year any amount

received from any source other than Gross Revenues and applied to the payment of Operating Expenses in such Fiscal Year) equal to at least 120% of the Annual Debt Service becoming due in such Fiscal Year, plus 105% of (i) any amounts required by the terms hereof to be deposited in the Reserve Account or with any issuer of a Reserve Account Letter of Credit or Reserve Account Insurance Policy in such Fiscal Year to pay Policy Costs, (ii) all required deposits during such Fiscal Year to the Renewal and Replacement Fund and (iii) debt service in such Fiscal Year on all Subordinated Indebtedness.

Such rates, fees or other charges shall not be so reduced so as to be insufficient to provide adequate Net Revenues for the purposes provided therefor by this Resolution.

If, in any Fiscal Year, the Issuer shall fail to comply with the requirements contained in this Section 5.04, it shall promptly cause the Rate Consultant to review its rates, fees, charges, income, Gross Revenues, Operating Expenses and methods of operation and to make written recommendations in a timely manner as to the methods by which the Issuer may seek to comply with the requirements set forth in this Section 5.04. The Issuer shall forthwith commence to implement such recommendations to the extent required so as to cause it to thereafter comply with said requirements. So long as the Issuer implements such recommendations within 120 days of the receipt thereof, the Issuer's failure to comply with this Section 5.04 shall not be considered an Event of Default under Section 7.01 hereof, so long as the Gross Revenues, together with moneys in the Funds and Accounts created in Article IV of this Resolution and available for the purposes described therein, are sufficient to pay in cash the Operating Expenses and Annual Debt Service for such Fiscal Year.

Anything in this Resolution to the contrary notwithstanding, if the Issuer shall fail to comply with the recommendations of the Rate Consultant described above, the registered owners of not less than ten percent (10%) in principal amount of all Bonds then Outstanding may institute and prosecute an action or proceeding in any court or before any board or commission having jurisdiction to compel the Issuer to comply with the recommendations and the requirements of the preceding paragraph of this Section 5.04. So long as the issuer of a Bond Insurance Policy or Credit Facility issued for the benefit of any Outstanding Bonds shall not be in default in its payment obligations under such Bond Insurance Policy or Credit Facility, the Insurer or Credit Bank, as applicable, shall be deemed to be the registered owner of all Bonds covered by the applicable Bond Insurance Policy or Credit Facility for purposes of this paragraph.

SECTION 5.05. BOOKS AND RECORDS. The Issuer shall keep books, records and accounts of the revenues and operations of the System, which shall be kept separate and apart from all other books, records and accounts of the Issuer, and the Holders of any Bonds Outstanding or the duly authorized representatives thereof shall have the right at all reasonable times to inspect all books, records and accounts of the Issuer relating thereto.

SECTION 5.06. ANNUAL AUDIT. The Issuer shall, immediately after the close of each Fiscal Year, cause the books, records and accounts relating to the System to be properly audited by a recognized independent firm of certified public accountants, and shall require such accountants to complete their report of such Annual Audit in accordance with applicable law. Each Annual Audit shall be in conformity with generally accepted accounting principles as applied to

governmental entities, and shall, either as part of said Annual Audit or in a separate report, demonstrate compliance by the Issuer with the rate covenant set forth in Section 5.04 hereof. A copy of each Annual Audit shall regularly be furnished to any Credit Bank or Insurer who shall have furnished its address to the Clerk and requested in writing that the same be furnished to it.

SECTION 5.07. NO MORTGAGE OR SALE OF THE SYSTEM. The Issuer irrevocably covenants, binds and obligates itself not to sell, lease, encumber or in any manner dispose of the System as a whole or any substantial part thereof (except as provided below) until all of the Bonds and all interest thereon shall have been paid in full or provision for payment has been made in accordance with Section 9.01 hereof.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System in the following manner, if any one of the following conditions exist: (A) such property is not necessary for the operation of the System, (B) such property is not useful in the operation of the System, (C) such property is not profitable in the operation of the System, or (D) in the case of a lease of such property, such lease will be advantageous to the System and will not materially adversely affect the security for the Bondholders.

Prior to any such sale, lease or other disposition of said property: (1) if the amount to be received therefor is not in excess of five percent (5%) of the market value of the gross plant of the System, an Authorized Issuer Officer shall make a finding in writing determining that one or more of the conditions for sale, lease or disposition of property provided for in the second paragraph of this Section 5.07 have been met; or (2) if the amount to be received from such sale, lease or other disposition of said property shall be in excess of five percent (5%) of the market value of the gross plant of the System, (a) an Authorized Issuer Officer and the Consulting Engineers shall each first make a finding in writing determining that one or more of the conditions for sale, lease or other disposition of property provided for in the second paragraph of this Section 5.07 have been met, (b) the Governing Body shall, by resolution, duly adopt, approve and concur in the finding of the Authorized Issuer Officer and the Consulting Engineers, and (c) the Issuer shall obtain an opinion of Bond Counsel to the effect that such sale, lease or other disposition is not in violation of the Act and will not adversely affect the exclusion from gross income of interest on the Bonds (other than Taxable Bonds) for federal tax purposes or shall not otherwise affect the status of any Outstanding Bonds issued as Federal Subsidy Bonds or the Issuer's receipt of Federal Subsidy Payments with respect to any Outstanding Federal Subsidy Bonds.

Except as otherwise required under applicable provisions of the Code, the proceeds from any such sale or other disposition shall be deposited, first, into the Renewal and Replacement Fund to the extent necessary to make the amount therein equal to the Renewal and Replacement Fund Requirement, and, second, into the Utility Reserve Fund. Proceeds from any lease of assets of the System shall constitute Gross Revenues and shall be deposited in the Revenue Fund.

The transfer of the System as a whole from the control of the Governing Body to some other board or authority which may hereafter be created for the purpose of owning, operating or controlling the System and which constitutes a governmental entity, interest on obligations issued by which are excluded from gross income for purposes of federal income taxation (other than obligations similar to Taxable Bonds or Federal Subsidy Bonds), shall not be deemed prohibited

by this Section 5.07 and such successor board or authority shall fall within the definition of "Issuer" in Section 1.01 hereof.

Notwithstanding the foregoing provisions of this Section 5.07, the Issuer shall have the authority to sell for fair and reasonable consideration any land comprising a part of the System which is no longer necessary or useful in the operation of the System and the proceeds derived from the sale of such land shall be disposed of in accordance with the provisions of the fourth paragraph of this Section 5.07.

The Issuer may make contracts or grant licenses for the operation of, or grant easements or other rights with respect to, any part of the System if such contract, license, easement or right does not, in the opinion of the Consulting Engineers, as evidenced by a certificate to that effect filed with the Issuer, impede or restrict the operation by the Issuer of the System, but any payments to the Issuer under or in connection with any such contract, license, easement or right in respect of the System or any part thereof shall constitute Gross Revenues and shall be deposited in the Revenue Fund.

SECTION 5.08. INSURANCE. The Issuer will carry such insurance as is ordinarily carried by private or public entities owning and operating utilities similar to the System with a reputable insurance carrier or carriers, in such amounts as the Issuer shall determine to be sufficient, and such other insurance against loss or damage by fire, explosion, hurricane, tornado or other hazards and risks, and said property loss or damage insurance shall at all times be in an amount or amounts equal to the fair appraisal value of the buildings, properties, furniture, fixtures and equipment of the System, or such other amount or amounts as the Consulting Engineers or an insurance consultant who has a favorable reputation and experience and is qualified to survey risks and to recommend insurance coverage for Persons engaged in operations similar to the System, shall recommend or approve as sufficient.

The Issuer may establish certain levels of insurance for which the Issuer may self-insure. Such levels of insurance shall be in amounts as recommended in writing by an insurance consultant who has a favorable reputation and experience and is qualified to survey risks and to recommend insurance coverage for Persons engaged in operations similar to the System.

The proceeds from property loss and casualty insurance shall be deposited in the Renewal and Replacement Fund and, together with other available funds of the Issuer, shall be used to repair or replace the damaged portion of the System; provided, however, if the Issuer makes a determination in accordance with Section 5.07 hereof that such portion of the System is no longer necessary or useful in the operation of the System, such proceeds shall (1) if such proceeds equal or exceed \$500,000, (a) be applied to the redemption or purchase of Bonds or (b) be deposited in irrevocable trust for the payment of Bonds in the manner set forth in Section 9.01, provided the Issuer has received an opinion of Bond Counsel to the effect that such deposit shall not adversely affect the exclusion, if any, from gross income of interest on the Outstanding Bonds for purposes of federal income taxation (other than Taxable Bonds) and will not otherwise affect the status of any Outstanding Bonds issued as Federal Subsidy Bonds or the Issuer's receipt of Federal Subsidy Payments with respect to any Outstanding Federal Subsidy Bonds, or (2) if such proceeds are less than \$500,000, be deposited in the Revenue Fund.

SECTION 5.09. NO FREE SERVICE. The Issuer will not render or cause to be rendered any free services of any nature by its System, nor will any preferential rates be established for users of the same class; provided, however, the foregoing clause shall not be construed to prevent the Issuer from establishing various classes of users based on any factors deemed necessary or desirable by the Issuer. Different rates may be established for different classes. Whenever the Issuer, including its departments, agencies and instrumentalities, shall avail itself of the product, facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged to the Issuer and any such department, agency or instrumentality. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds to the Revenue Fund sufficient sums to pay such charges. The revenues so received shall be deemed to be Gross Revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other Gross Revenues derived from such operation of the System.

SECTION 5.10. NO IMPAIRMENT OF RIGHTS; NO COMPETING SYSTEM. (A) The Issuer will not enter into any contract or contracts, nor take any action, the results of which might impair the rights of the Holders of the Bonds.

(B) To the extent permitted by law, the Issuer will not hereafter grant, or cause, consent to or allow the granting of any franchise or permit to any Person for the operation of any competing electric, water or sewer service facilities or the furnishing of services similar to those provided by the System within the jurisdiction of the Issuer if such operations or services will have a material adverse effect on the Issuer's ability to meet its obligations hereunder. Notwithstanding the foregoing, the Issuer reserves the right to permit the ownership and operation of water or sewer service facilities or both by itself or by others in any territory which is not in any service area now or hereafter served by the System.

SECTION 5.11. COMPULSORY CONNECTIONS. In order better to secure the prompt payment of principal and interest on the Bonds, as well as for the purpose of protecting the health and welfare of the inhabitants of the Issuer, and acting under authority of the general laws of Florida, the Issuer, to the extent permitted by law, will require, where service by the System is available, the owner of every lot or parcel of land within the jurisdiction of the Issuer to connect to the water and sewer facilities of the System. The Issuer may establish reasonable rules and regulations regarding such connections and may provide for reasonable exemptions from such connection policy.

SECTION 5.12. ENFORCEMENT OF CHARGES. The Issuer shall compel the prompt payment of rates, fees and charges imposed in connection with the System, and to that end will vigorously enforce all of the provisions of any ordinance or resolution of the Issuer having to do with System connections and charges, and all of the rights and remedies permitted the Issuer under law, including the requirement for the making of a reasonable deposit by each user, the requirement for lawful disconnection of services for all premises delinquent in the payment of any duly invoiced bill, and the securing of injunction against the disposition of sewage or industrial waste into the sewer facilities of the System by any premises delinquent in the payment of such charges.

SECTION 5.13. UNIT BILLS. In every instance in which a building or structure on a lot is connected to any portion of the facilities of the System, which building or structure is also connected to other facilities of the System and receives services therefrom, the Issuer shall submit to the owner or occupant of such lot a single bill for all applicable electric, water and sewer service and shall refuse to accept payment for any of the charge relating to a particular service of the System without payment of the charges for all other services of the System.

SECTION 5.14. COVENANTS WITH CREDIT BANKS AND INSURERS. The Issuer may make such covenants as it may in its sole discretion determine to be appropriate with any Insurer, Credit Bank or other financial institution that shall agree to insure or to provide for Bonds of any one or more Series credit or liquidity support that shall enhance the security or the value of such Bonds. Such covenants may be set forth in the applicable Supplemental Resolution or in an agreement approved by Supplemental Resolution and shall be binding on the Issuer, the Registrar, the Paying Agent and all the Holders of Bonds the same as if such covenants were set forth in full in this Resolution and shall not diminish the security for any of the Bonds Outstanding.

SECTION 5.15. CONSULTING ENGINEERS. The Issuer shall employ Consulting Engineers, whose duties shall be to make any certificates and perform any other acts required or permitted of the Consulting Engineers under this Resolution. The Consulting Engineers shall, from time to time, recommend the amount of the Renewal and Replacement Fund Requirement. Copies of any reports, recommendations and estimates of the Consulting Engineers shall be filed with the Issuer for inspection by Bondholders, Credit Banks and Insurers, if such inspection is requested. In addition, at least once every three years, the Consulting Engineers shall prepare an assessment of the condition of the System, a review of the capital improvement budget and operating budget and financial projections, which shall be compiled in a report and submitted to the Governing Body.

SECTION 5.16. FEDERAL INCOME TAXATION COVENANTS; TAXABLE BONDS. The Issuer covenants with the Holders of each Series of Bonds (other than Taxable Bonds and Federal Subsidy Bonds) that it shall not use the proceeds of such Series of Bonds in any manner which would cause the interest on such Series of Bonds to be or become included in gross income for purposes of federal income taxation.

The Issuer covenants with the Holders of each Series of Bonds (other than Taxable Bonds) that neither the Issuer nor any Person under its control or direction will make any use of the proceeds of such Series of Bonds (or amounts deemed to be proceeds under the Code) in any manner which would cause such Series of Bonds to be "arbitrage bonds" within the meaning of the Code and neither the Issuer nor any other Person shall do any act or fail to do any act which would cause the interest on any Series of Bonds (other than Taxable Bonds and Federal Subsidy Bonds) to become subject to inclusion within gross income for purposes of federal income taxation.

The Issuer hereby covenants with the Holders of each Series of Bonds (other than Taxable Bonds and Federal Subsidy Bonds) that it will comply with all provisions of the Code necessary to maintain the exclusion from gross income of interest on the Bonds for purposes of federal income taxation, including, in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code.

The Issuer may, if it so elects, issue one or more Series of Taxable Bonds the interest on which is (or may be) includable in the gross income of the Holder thereof for federal income taxation purposes, so long as each Bond of such Series states in the body thereof that interest payable thereon is (or may be) subject to federal income taxation and provided that the issuance thereof will not cause interest on any other Bonds theretofore issued hereunder to be or become subject to federal income taxation. The other covenants set forth in this Section 5.19 shall not apply to any Taxable Bonds.

SECTION 5.17. COVENANTS RELATING TO FEDERAL SUBSIDY BONDS.

The Issuer covenants with respect to any Bonds issued as Federal Subsidy Bonds that it will:

(A) File, on a timely basis, Internal Revenue Service Form 8038-CP or such other form or forms required by the United States Department of Treasury to receive Federal Subsidy Payments in connection with any Bonds issued as Federal Subsidy Bonds.

(B) Deposit promptly the Federal Subsidy Payments received from the United States Department of Treasury, if any, to the Interest Account of the Sinking Fund to pay interest on the Federal Subsidy Bonds.

(C) Comply with all provisions of the Code, all Treasury Regulations promulgated thereunder, and any applicable notice, ruling or other formal interpretation issued by the United States Department of Treasury or the Internal Revenue Service, in order for the Bonds issued as Federal Subsidy Bonds to be and to remain Federal Subsidy Bonds.

(D) Not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the Issuer's receipt of Federal Subsidy Payments or the status of the Bonds issued as Federal Subsidy Bonds, or any portion thereof, as Federal Subsidy Bonds. The Issuer covenants that it will not directly or indirectly use or permit the use of any proceeds of Bonds issued as Federal Subsidy Bonds or any other of its funds or take or omit to take any action that would cause the Bonds issued as Federal Subsidy Bonds to be or become "arbitrage bonds" within the meaning of Section 148(a) or to fail to meet any other applicable requirements of the Code.

SECTION 5.18 INSPECTION. The System shall be inspected and its operations reviewed every two Fiscal Years by the Issuer or, at the option of the Issuer, by the Consulting Engineer, and immediately following such inspection a written report on the condition of the System and manner of operations shall be filed with the Clerk. A copy of the report shall be available for inspection at the offices of the Issuer and mailed to any Bondholder or to an Insurer or Credit Bank upon written request.

If the report shows that the System is not in good operating condition, then the Issuer shall notify each Insurer and Credit Bank and, to the extent funds in the Operation and Maintenance Fund or the Renewal and Replacement Fund are available, shall immediately make or cause to be made such repairs as shall be necessary to place the System in good operating condition. If the report shows that the operation or maintenance of the System are not in conformity with the provisions of this Resolution, the Issuer shall immediately take such reasonable steps as are necessary to comply with such provisions.

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ARTICLE VI
SUBORDINATED INDEBTEDNESS AND ADDITIONAL BONDS

SECTION 6.01. SUBORDINATED INDEBTEDNESS. The Issuer will not issue any other obligations, except under the conditions and in the manner provided herein, payable from the Pledged Funds or the Gross Revenues or voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien thereon in favor of the Bonds and the interest thereon. The Issuer may at any time or from time to time issue evidences of indebtedness payable in whole or in part out of Pledged Funds and which may be secured by a pledge of Pledged Funds; provided, however, that such pledge shall be, and shall be expressed to be, subordinated in all respects to the pledge of the Pledged Funds created by this Resolution and provided further that the issuance of such Subordinated Indebtedness shall be subject to any provisions contained in financing documents securing outstanding Subordinated Indebtedness to the extent such provisions impact on the ability of the Issuer to issue other Subordinated Indebtedness. The Issuer shall have the right to covenant with the holders from time to time of any Subordinated Indebtedness to add to the conditions, limitations and restrictions under which any Additional Bonds may be issued under the provisions of Section 6.02 hereof. The Issuer agrees to pay promptly any Subordinated Indebtedness as the same shall become due.

SECTION 6.02. ISSUANCE OF ADDITIONAL BONDS. No Additional Bonds, payable on a parity with the Bonds then Outstanding pursuant to this Resolution, shall be issued except upon the conditions and in the manner herein provided. The Issuer may issue one or more Series of Additional Bonds for any one or more of the following purposes: (i) financing or refinancing the Cost of a Project, or the completion thereof, or (ii) refunding any or all Outstanding Bonds, any Subordinated Indebtedness of the Issuer, or any other indebtedness of the Issuer that it may lawfully refund with proceeds of Bonds.

No such Additional Bonds shall be issued unless the following conditions are complied with:

(A) Except in the case of Additional Bonds issued for the purpose of refunding Outstanding Bonds, the Issuer shall certify that it is current in all deposits into the various funds and accounts established hereby and all payments theretofore required to have been deposited or made by it under the provisions of this Resolution, including a certification that all due and payable Policy Costs have been deposited or made, and the Issuer is in compliance with the covenants and agreements of this Resolution, or if not in compliance, that the issuance of such Additional Bonds will create such compliance.

(B) An independent certified public accountant or the Rate Consultant shall certify to the Issuer that the amount of the Net Revenues (excluding Investment Earnings with respect to the Construction Fund) received by the Issuer during the immediately preceding Fiscal Year or any 12 consecutive months selected by the Issuer of the 24 months immediately preceding the issuance of said Additional Bonds, adjusted as hereinafter provided, were equal to (1) at least 120% of the Maximum Annual Debt Service of the Outstanding Bonds and the Additional Bonds then proposed to be issued, and (2) 105% of (a) any amounts required by the terms hereof to be deposited in the Reserve Account or with any issuer of a Reserve Account Letter of Credit or Reserve Account

Insurance Policy to pay any Policy Costs, (b) all required deposits to the Renewal and Replacement Fund during such 12-month period and (c) any debt service during such 12-month period on Subordinated Indebtedness.

(C) For the purpose of determining the Debt Service under this Section 6.02, the interest rate on Additional Bonds that are proposed to be issued as Variable Rate Bonds shall be deemed to be the Bond Buyer Revenue Bond Index most recently published prior to the sale of such Additional Bonds.

(D) For the purpose of determining the Debt Service under this Section 6.02, the interest rate on Outstanding Variable Rate Bonds (not subject to a Qualified Hedge Agreement) shall be deemed to be (1) if such Variable Rate Bonds have been Outstanding for at least 12 months prior to the date of sale of such Additional Bonds, the highest of (a) the actual rate of interest borne by such Variable Rate Bonds on the date of sale, and (b) the average interest rate borne by such Variable Rate Bonds during the 12-month period preceding the date of sale, or (2) if such Variable Rate Bonds have not been Outstanding for at least 12 months prior to the date of sale of such Additional Bonds, the higher of (a) the actual rate of interest borne by the Variable Rate Bonds on the date of sale, and (b) the Bond Buyer Revenue Bond Index most recently published prior to the sale of such Additional Bonds.

(E) For the purpose of this Section 6.02, the phrase "immediately preceding Fiscal Year or any 12 consecutive months selected by the Issuer of the 24 months immediately preceding the issuance of said Additional Bonds" shall be sometimes referred to as "12 consecutive months" or the "12-month period."

(F) The Net Revenues calculated pursuant to the foregoing Section 6.02(B) may be adjusted upon the written advice of the Rate Consultant, at the option of the Issuer, as follows:

(1) If the Issuer, prior to the issuance of the proposed Additional Bonds, shall have increased the rates, fees or other charges for the product, services or facilities of the System, the Net Revenues for the 12 consecutive months shall be adjusted to show the Net Revenues which would have been derived from the System in such 12 consecutive months as if such increased rates, fees or other charges for the product, services or facilities of the System had been in effect during all of such 12 consecutive months.

(2) If the Issuer shall have acquired or has contracted to acquire any privately or publicly owned existing utility system that will become part of the System, the cost of which shall be paid from all or part of the proceeds of the issuance of the proposed Additional Bonds, then the Net Revenues derived from the System during the 12 consecutive months shall be increased by adding to the Net Revenues for said 12 consecutive months the Net Revenues which would have been derived from said existing utility system as if such existing utility system had been a part of the System during such 12 consecutive months. For the purposes of this paragraph, the Net Revenues derived from said existing utility system during such 12 consecutive months shall be adjusted to determine such Net Revenues by deducting the cost of operation and maintenance of said existing utility system from the gross revenues of said system. Such Net Revenues shall take into account any increase in rates imposed on customers of such utility system on or prior to the acquisition thereof by the Issuer.

(3) If the Issuer, in connection with the issuance of Additional Bonds, shall enter into a contract (with a duration not less than the final maturity of such Additional Bonds) with any public or private entity whereby the Issuer agrees to furnish services in connection with any utility system, then the Net Revenues of the System during the 12 consecutive months shall be increased by the least amount which said public or private entity shall guarantee to pay in any one year for the furnishing of said services by the Issuer, after deducting therefrom the proportion of operating expenses and repair, renewal and replacement cost attributable in such year to such services.

(4) In the event the Issuer shall be constructing or acquiring additions, extensions or improvements to the System from the proceeds of such Additional Bonds and shall have established fees, rates or charges to be charged and collected from users of such facilities when service is rendered, such Net Revenues for the 12 consecutive months may be adjusted by adding thereto 100% of the Net Revenues estimated by the Rate Consultant to be derived during the first 12 months of operation after completion of the construction or acquisition of said additions, extensions and improvements from the customers of the facilities to be financed by Additional Bonds together with other funds on hand or lawfully obtained for such purpose; provided such customers must represent existing occupied structures that will be added to the System upon completion of the proposed additions, extensions or improvements.

(5) If the Issuer shall add new customers subsequent to the commencement of the 12 consecutive months, the Rate Consultant may adjust the Net Revenues to reflect the Net Revenues that would have been received by the Issuer if such customers had been in place for the entire 12 consecutive months.

(7) The Net Revenues shall be adjusted for any period the System or any portion thereof was not owned by the Issuer to reflect government ownership of the System or such portion.

(G) Additional Bonds shall be deemed to have been issued pursuant to this Resolution the same as the Outstanding Bonds, and all of the other covenants and other provisions of this Resolution (except as to details of such Additional Bonds inconsistent therewith) shall be for the equal benefit, protection and security of the Holders of all Bonds issued pursuant to this Resolution. Except as provided in Sections 4.02 and 4.06 hereof, all Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Pledged Funds and their sources and security for payment therefrom without preference of any Bonds over any other.

(H) In the event any Additional Bonds are issued for the purpose of refunding any Bonds then Outstanding, the conditions of Section 6.02(B) shall not apply, provided that the issuance of such Additional Bonds shall result in a reduction of Debt Service. The conditions of Section 6.02(B) shall apply to Additional Bonds issued to refund Subordinated Indebtedness and to Additional Bonds issued for refunding purposes which cannot meet the conditions of this paragraph.

(I) In connection with the issuance of any Series of Additional Bonds, the Issuer shall receive an opinion of the City Attorney of the Issuer or Bond Counsel that the issuance of such Additional Bonds has been duly authorized and that all legal requirements constituting a condition precedent to the delivery of such Additional Bonds have been fulfilled.

SECTION 6.03. BOND ANTICIPATION NOTES. The Issuer may issue notes in anticipation of the issuance of Bonds which shall have such terms and details and be secured in such manner, not inconsistent with this Resolution, as shall be provided by Supplemental Resolution.

SECTION 6.04. ACCESSION OF SUBORDINATED INDEBTEDNESS TO PARITY STATUS WITH BONDS. The Issuer may provide for the accession of Subordinated Indebtedness to the status of complete parity with the Bonds, if (A) the Issuer shall meet all the requirements imposed upon the issuance of Additional Bonds by Sections 6.02(A) and (B) hereof, assuming for purposes of said requirements, that such Subordinated Indebtedness shall be Additional Bonds, (B) and the facilities financed or refinanced by such Subordinated Indebtedness shall be, or become part of, the System. If the aforementioned conditions are satisfied, the Subordinated Indebtedness shall be deemed to have been issued pursuant to this Resolution the same as the Outstanding Bonds, and such Subordinated Indebtedness shall be considered Bonds for all purposes provided in this Resolution.

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ARTICLE VII

DEFAULTS AND REMEDIES

SECTION 7.01. EVENTS OF DEFAULT. The following events shall each constitute an "Event of Default":

(A) Default shall be made in the payment of the principal of, Sinking Fund Installment, redemption premium or interest on any Bond when due. In determining whether a payment default has occurred, no effect shall be given to payment made under a Bond Insurance Policy.

(B) There shall occur the dissolution or liquidation of the Issuer, or the filing by the Issuer of a voluntary petition in bankruptcy, or the commission by the Issuer of any act of bankruptcy, or adjudication of the Issuer as a bankrupt, or assignment by the Issuer for the benefit of its creditors, or appointment of a receiver for the Issuer, or the entry by the Issuer into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Issuer in any proceeding for its reorganization instituted under the provisions of the Federal Bankruptcy Act, as amended, or under any similar act in any jurisdiction which may now be in effect or hereafter enacted.

(C) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Resolution on the part of the Issuer to be performed, and such default shall continue for a period of 90 days after written notice of such default shall have been received from the Holders of not less than 25% of the aggregate principal amount of Bonds Outstanding. Notwithstanding the foregoing, the Issuer shall not be deemed to be in default hereunder if such default can be cured within a reasonable period of time and if the Issuer in good faith institutes appropriate curative action and diligently pursues such action until default has been corrected.

SECTION 7.02. REMEDIES. Any Holder of Bonds issued under the provisions of this Resolution or any trustee or receiver acting for such Bondholders may either at law or in equity, by suit, action, mandamus or other proceedings in any court of competent jurisdiction, protect and enforce any and all rights under the Laws of the State of Florida, or granted and contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution or by any applicable statutes to be performed by the Issuer or by any officer thereof; provided, however, that no Holder, trustee or receiver shall have the right to declare the Bonds immediately due and payable.

The Holder or Holders of Bonds in an aggregate principal amount of not less than 25% of the Bonds then Outstanding may by a duly executed certificate in writing appoint a trustee for Holders of Bonds issued pursuant to this Resolution with authority to represent such Bondholders in any legal proceedings for the enforcement and protection of the rights of such Bondholders and such certificate shall be executed by such Bondholders or their duly authorized attorneys or representatives, and shall be filed in the office of the Clerk. Notice of such appointment, together with evidence of the requisite signatures of the Holders of not less than 25% in aggregate principal amount of Bonds Outstanding and the trust instrument under which the trustee shall have agreed to serve shall be filed with the Issuer and the trustee and notice of such appointment shall be given

to all Holders of Bonds in the same manner as notices of redemption are given hereunder. After the appointment of the first trustee hereunder, no further trustees may be appointed; however, the Holders of a majority in aggregate principal amount of all the Bonds then Outstanding may remove the trustee initially appointed and appoint a successor and subsequent successors at any time.

SECTION 7.03. DIRECTIONS TO TRUSTEE AS TO REMEDIAL PROCEEDINGS. The Holders of a majority in principal amount of the Bonds then Outstanding (or any Insurer insuring any then Outstanding Bonds) have the right, by an instrument or concurrent instruments in writing executed and delivered to the trustee, to direct the method and place of conducting all remedial proceedings to be taken by the trustee hereunder with respect to the Series of Bonds owned by such Holders or insured by such Insurer, provided that such direction shall not be otherwise than in accordance with law or the provisions hereof, and that the trustee shall have the right to decline to follow any direction which in the opinion of the trustee would be unjustly prejudicial to Holders of Bonds not parties to such direction.

SECTION 7.04. REMEDIES CUMULATIVE. No remedy herein conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

SECTION 7.05. WAIVER OF DEFAULT. No delay or omission of any Bondholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by Section 7.02 to the Bondholders may be exercised from time to time, and as often as may be deemed expedient.

SECTION 7.06. APPLICATION OF MONEYS AFTER DEFAULT. If an Event of Default shall happen and shall not have been remedied, the Issuer or a trustee or receiver appointed for the purpose shall apply all Pledged Funds (except as for amounts in the subaccounts of the Reserve Account which shall be applied to the payment of the Series of Bonds for which they were established) as follows and in the following order:

A. To the payment of the reasonable and proper charges, expenses and liabilities of the trustee or receiver and Registrar hereunder;

B. To the payment of the amounts required for reasonable and necessary Operating Expenses, and for the reasonable renewals, repairs and replacements of the System necessary to prevent loss of Gross Revenues, as certified by the Consulting Engineer;

C. To the payment of the interest (including Hedge Payments) and principal or Redemption Price, if applicable, then due on the Bonds, as follows:

(1) Unless the principal of all the Bonds shall have become due and payable, all such moneys shall be applied:

FIRST: to the payment to the Persons entitled thereto of all installments of interest (including Hedge Payments) then due, in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any

particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or preference;

SECOND: to the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due at maturity or upon mandatory redemption prior to maturity (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of Section 9.01 of this Resolution), in the order of their due dates, with any accrued and unpaid interest upon such Bonds from the respective dates upon which they became due, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with any accrued and unpaid interest, then to the payment first of such interest, ratably according to the amount of such interest due on such date, and then to the payment of such principal, ratably according to the amount of such principal due on such date, to the Persons entitled thereto without any discrimination or preference; and

THIRD: to the payment of the Redemption Price of any Bonds called for optional redemption pursuant to the provisions of this Resolution plus any accrued and unpaid interest.

(2) If the principal of all the Bonds shall have become due and payable, all such moneys shall be applied to the payment of the principal and interest (including Hedge Payments) then due and unpaid upon the Bonds, with interest thereon as aforesaid, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto without any discrimination or preference.

D. To the payment of all amounts owed to the Insurers and Credit Banks not covered by A, B or C above and all amounts owed to Counterparties not covered by A, B or C above on a pro rata basis.

SECTION 7.07. CONTROL BY INSURER. To the extent an Insurer makes any payment of principal of or interest on Bonds in accordance with its Bond Insurance Policy, such Insurer shall become subrogated to the rights of the recipients of such payments in accordance with the terms of its Bond Insurance Policy. Upon the occurrence and continuance of an Event of Default, an Insurer of a Series of Bonds, if such Insurer shall not be in payment default under its Bond Insurance Policy, shall be deemed to be the sole owner of such Bonds for purposes of (A) directing and controlling the enforcement of all rights and remedies with respect to such Series of Bonds, including any waiver of an Event of Default and removal of any trustee, and (B) exercising any voting right or privilege or giving any consent or direction or taking any other action that the Holders of such Bonds are entitled to take pursuant to this Article VII hereof. No provision expressly recognizing or granting rights in or to an Insurer shall be modified without the consent of such Insurer. An Insurer's rights under this Section 7.07 shall be suspended during any period in which such Insurer is in default in its payment obligations under its Bond Insurance Policy (except to the extent of amounts previously paid by such Insurer and due and owing to such

Insurer) and shall be of no force or effect if its Bond Insurance Policy is no longer in effect or if the Insurer asserts that its Bond Insurance Policy is not in effect or if the Insurer waives such rights in writing. The rights granted to an Insurer under this Section 7.07 are granted in consideration of such Insurer issuing its Bond Insurance Policy. The Issuer shall provide each Insurer immediate notice of any Event of Default described in Section 7.01(A) hereof and notice of any other Event of Default occurring hereunder within 30 days of the occurrence thereof. Each Insurer of any Bonds hereunder shall be considered a third-party beneficiary to the Resolution with respect to such Bonds.

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**ARTICLE VIII
SUPPLEMENTAL RESOLUTIONS**

SECTION 8.01. SUPPLEMENTAL RESOLUTION WITHOUT BONDHOLDERS' CONSENT. The Issuer, from time to time and at any time, may adopt such Supplemental Resolutions without the consent of the Bondholders or the Insurers or the Credit Banks (which Supplemental Resolution shall thereafter form a part hereof) for any of the following purposes:

(A) To cure any ambiguity or formal defect or omission or to correct any inconsistent provisions in this Resolution or to clarify any matters or questions arising hereunder.

(B) To grant to or confer upon the Bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Bondholders.

(C) To add to the conditions, limitations and restrictions on the issuance of Bonds under the provisions of this Resolution other conditions, limitations and restrictions thereafter to be observed.

(D) To add to the covenants and agreements of the Issuer in this Resolution other covenants and agreements thereafter to be observed by the Issuer or to surrender any right or power herein reserved to or conferred upon the Issuer.

(E) To specify and determine the matters and things referred to in Section 2.01 hereof, including the issuance of Additional Bonds, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with this Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first delivery of such Bonds.

(F) To authorize Projects or to change or modify the description of any Project.

(G) To specify and determine matters necessary or desirable for the issuance of Variable Rate Bonds, Federal Subsidy Bonds or Capital Appreciation Bonds.

(H) To provide for the establishment of a separate subaccount or subaccounts in the Reserve Account which shall independently secure one or more Series of Bonds.

(I) To make any other change that, in the opinion of the Issuer, would not materially adversely affect the interests of the Holders of the Bonds. In making such determination, the Issuer shall not take into consideration any Bond Insurance Policy.

SECTION 8.02. SUPPLEMENTAL RESOLUTION WITH BONDHOLDERS' AND INSURER'S CONSENT. Subject to the terms and provisions contained in this Section 8.02 and Sections 8.01 and 8.03 hereof, the Holder or Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Resolution to the contrary notwithstanding, to consent to and approve the adoption of such Supplemental Resolutions hereto as shall be deemed necessary or desirable by the Issuer for the purpose of supplementing, modifying, altering, amending, adding to or

rescinding, in any particular, any of the terms or provisions contained in this Resolution; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified Series or maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section 8.02. Any Supplemental Resolution which is adopted in accordance with the provisions of this Section 8.02 shall also require the written consent of the Insurer of any Bonds which are Outstanding at the time such Supplemental Resolution shall take effect if such Insurer is not in payment default under its Bond Insurance Policy. No Supplemental Resolution may be approved or adopted which shall permit or require, without the consent of all affected Bondholders, (A) an extension of the maturity of the principal of or the payment of the interest on any Bond issued hereunder, (B) reduction in the principal amount of any Bond or the Redemption Price or the rate of interest thereon, (C) the creation of a lien upon or a pledge of the Pledged Funds other than the lien and pledge created by this Resolution or except as otherwise permitted or provided hereby which materially adversely affects any Bondholders, (D) a preference or priority of any Bond or Bonds over any other Bond or Bonds (except as to the establishment of separate subaccounts in the Reserve Account provided in Section 4.06(B)(4) hereof), or (E) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Resolution. Nothing herein contained, however, shall be construed as making necessary the approval by Bondholders or the Insurers or the Credit Banks of the adoption of any Supplemental Resolution as authorized in Section 8.01 hereof.

If at any time the Issuer shall determine that it is necessary or desirable to adopt any Supplemental Resolution pursuant to this Section 8.02, the Clerk shall cause the Registrar to give notice of the proposed adoption of such Supplemental Resolution and the form of consent to such adoption to be mailed, postage prepaid, to all Bondholders at their addresses as they appear on the registration books. Such notice shall briefly set forth the nature of the proposed Supplemental Resolution and shall state that copies thereof are on file at the offices of the Clerk and the Registrar for inspection by all Bondholders. The Issuer shall not, however, be subject to any liability to any Bondholder by reason of its failure to cause the notice required by this Section 8.02 to be mailed and any such failure shall not affect the validity of such Supplemental Resolution when consented to and approved as provided in this Section 8.02.

Whenever the Issuer shall deliver to the Clerk an instrument or instruments in writing purporting to be executed by the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding, which instrument or instruments shall refer to the proposed Supplemental Resolution described in such notice and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the Issuer may adopt such Supplemental Resolution in substantially such form, without liability or responsibility to any Holder of any Bond, whether or not such Holder shall have consented thereto.

If the Holders of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the adoption of such Supplemental Resolution shall have consented to and approved the adoption thereof as herein provided, no Holder of any Bond shall have any right to object to the adoption of such Supplemental Resolution, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety

of the adoption thereof, or to enjoin or restrain the Issuer from adopting the same or from taking any action pursuant to the provisions thereof.

Notwithstanding the foregoing, the initial purchasers of Additional Bonds shall be deemed to have consented in writing to any amendments to the Resolution that are to become effective on or after the issuance of such Additional Bonds in accordance with this Section 8.02 if the proposed amendments are reasonably disclosed in the offering documentation prepared and distributed in connection with the issuance of such Additional Bonds and the related Supplemental Resolution provides that such initial purchasers have so consented through their purchase.

Upon the adoption of any Supplemental Resolution pursuant to the provisions of this Section 8.02, this Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Resolution of the Issuer and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced in all respects under the provisions of this Resolution as so modified and amended.

SECTION 8.03. AMENDMENT WITH CONSENT OF INSURER ONLY. For purposes of amending this Resolution pursuant to Section 8.02 hereof, an Insurer of Bonds shall be considered the Holder of such Bonds which it has insured. The consent of the Holders of such Bonds shall not be required if the Insurer of such Bonds shall consent to the amendment as provided by this Section 8.03. Prior to adoption of any amendment made pursuant to this Section 8.03, notice of such amendment shall be delivered to the rating agencies rating the Bonds. Upon filing with the Clerk of evidence of such consent the Insurer or Insurers as aforesaid, the Issuer may adopt such Supplemental Resolution. After the adoption by the Issuer of such Supplemental Resolution, notice thereof shall be mailed in the same manner as notices of an amendment under Section 8.02 hereof.

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ARTICLE IX DEFEASANCE

SECTION 9.01. DEFEASANCE. If (A) the Issuer shall pay or cause to be paid or there shall otherwise be paid to the Holders of any Series of Bonds the principal and interest or Redemption Price, plus accrued interest, due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, and (B) the Issuer shall pay all Policy Costs owing to any provider of a Reserve Account Letter of Credit or Reserve Account Insurance Policy and all amounts owing to any Insurer or Credit Bank relating to such Series of Bonds, then all covenants, agreements and other obligations of the Issuer to the holders of such Series of Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Paying Agents shall pay over or deliver to the Issuer all money or securities held by them pursuant to this Resolution which are not required for payment or redemption of any Series of Bonds not theretofore surrendered for such payment or redemption.

Any Bonds or interest installments appertaining thereto shall be deemed to have been paid within the meaning of this Section 9.01 if (i) in case any such Bonds are to be redeemed prior to the maturity thereof, there shall have been taken all action necessary to call such Bonds for redemption and notice of such redemption shall have been duly given or provision shall have been made for the giving of such notice, and (ii) there shall have been deposited in irrevocable trust with a banking institution or trust company by or on behalf of the Issuer either moneys in an amount which shall be sufficient, or Refunding Securities verified by an independent certified public accountant or nationally recognized company that provides verification services for municipal bonds to be in such amount that the principal of and the interest on or redemption price which when due will provide moneys which, together with the moneys, if any, deposited with such banking institution or trust company at the same time shall be sufficient, to pay the principal or redemption price of and interest due and to become due on said Bonds on and prior to the maturity date thereof. Except as hereafter provided, neither the Refunding Securities nor any moneys so deposited with such banking institution or trust company nor any moneys received by such bank or trust company on account of principal of or redemption price, if applicable, or interest on said Refunding Securities shall be withdrawn or used for any purpose other than, and all such moneys shall be held in trust for and be applied to, the payment, when due, of the principal of or redemption price of the Bonds for the payment of which they were deposited and the interest accruing thereon to the date of maturity or redemption; provided, however, the Issuer may substitute new Refunding Securities and moneys for the deposited Refunding Securities and moneys if the new Refunding Securities and moneys are sufficient to pay the principal of and interest on or redemption price of the refunded Bonds.

For purposes of determining whether Variable Rate Bonds shall be deemed to have been paid prior to the maturity or the redemption date thereof, as the case may be, by the deposit of moneys, or specified Refunding Securities and moneys, if any, in accordance with this Section 9.01, the interest to come due on such Variable Rate Bonds on or prior to the maturity or redemption date thereof, as the case may be, shall be calculated at the Maximum Interest Rate; provided, however, that if on any date, as a result of such Variable Rate Bonds having borne interest at less than the Maximum Interest Rate for any period, the total amount of moneys and specified Refunding Securities on deposit for the payment of interest on such Variable Rate Bonds is in excess of the total amount which would have been required to be deposited on such date in

respect of such Variable Rate Bonds in order to satisfy this Section 9.01, such excess shall be paid to the Issuer free and clear of any trust, lien, pledge or assignment securing the Bonds or otherwise existing under this Resolution.

If Bonds are not to be redeemed or paid within 30 days after any such defeasance described in this Section 9.01, the Issuer shall cause the Registrar to mail a notice to the Holders of such Bonds that the deposit required by this Section 9.01 of moneys or Refunding Securities has been made and said Bonds are deemed to be paid in accordance with the provisions of this Section 9.01 and stating such maturity date upon which moneys are to be available for the payment of the principal of and interest on or redemption price of said Bonds. Failure to provide said notice shall not affect the Bonds being deemed to have been paid in accordance with the provisions of this Section 9.01.

Nothing herein shall be deemed to require the Issuer to call any of the Outstanding Bonds for redemption prior to maturity pursuant to any applicable optional redemption provisions, or to impair the discretion of the Issuer in determining whether to exercise any such option for early redemption.

Notwithstanding anything herein to the contrary, in the event that the principal of or interest due on the Bonds shall be paid by an Insurer or Insurers, such Bonds shall remain Outstanding, shall not be defeased or otherwise satisfied and shall not be considered paid by the Issuer, and the pledge of the Pledged Funds and all covenants, agreements and other obligations of the Issuer to the Bondholders shall continue to exist and such Insurer or Insurers shall be subrogated to the rights of such Bondholders.

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**ARTICLE X
MISCELLANEOUS**

SECTION 10.01. CAPITAL APPRECIATION BONDS. For the purposes of (A) receiving payment of the Redemption Price if a Capital Appreciation Bond is redeemed prior to maturity, or (B) receiving payment of a Capital Appreciation Bond if the principal of all Bonds becomes due and payable under the provisions of this Resolution, or (C) computing the amount of Bonds held by the Holder of a Capital Appreciation Bond in giving to the Issuer or any trustee or receiver appointed to represent the Bondholders any notice, consent, request or demand pursuant to this Resolution for any purpose whatsoever, the principal amount of a Capital Appreciation Bond shall be deemed to be its Accreted Value.

SECTION 10.02. SALE OF BONDS. The Bonds shall be issued and sold at public or private sale at one time or in installments from time to time and at such price or prices as shall be consistent with the provisions of the Act, the requirements of this Resolution and other applicable provisions of law, all as provided in a Supplemental Resolution.

SECTION 10.03. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions of this Resolution shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements and provisions of this Resolution and shall in no way affect the validity of any of the other covenants, agreements or provisions hereof or of the Bonds issued hereunder.

SECTION 10.04. VALIDATION AUTHORIZED. To the extent deemed necessary by Bond Counsel or desirable by the City Attorney, Bond Counsel is authorized to institute appropriate proceedings for validation of a Series of Bonds herein authorized pursuant to Chapter 75, Florida Statutes.

SECTION 10.05. EFFECT OF COVENANTS. All covenants, agreements, stipulations or obligations of the Issuer contained in this Resolution shall be deemed to be covenants, agreements, stipulations or obligations of the Issuer, the Governing Body and of each department, board or agency of the Issuer, to the full extent authorized or permitted by law, and all such covenants, agreements, stipulations and obligations shall bind or inure to the benefit of the successor or successors thereof from time to time.

Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or upon the Governing Body by the provisions of this Resolution shall be exercised or performed by the Governing Body, or by such other officers, board, body or commission as may be required by law to exercise such powers or to perform such duties. No covenant, agreement, stipulation or obligation contained in this Resolution shall be deemed to be a covenant, agreement, stipulation or obligation of any member, agent or employee of the Governing Body in his or her individual capacity.

SECTION 10.06. FURTHER ACTS. The officers and agents of the Issuer are hereby authorized and directed to do all the acts and things required of them by the Bonds and this

Resolution, for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements contained in the Bonds and this Resolution.

SECTION 10.07. HEADINGS NOT PART OF RESOLUTION. Any headings preceding the texts of the several Articles and Sections hereof and any table of contents, marginal notes or footnotes appended to copies hereof shall be solely for convenience of reference, and shall not constitute a part of this Resolution, nor shall they affect its meaning, construction or effect.

SECTION 10.08. BENEFICIARIES UNDER RESOLUTION. Except as otherwise expressly provided herein, nothing in this Resolution, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the Issuer, the Bondholders, the Insurers and the Credit Banks, any right, remedy or claim, legal or equitable, under or by reason of this Resolution or any provisions hereof, this Resolution and all its provisions being intended to be and being for the sole and exclusive benefit of the Issuer, the Bondholders, the Insurers and the Credit Banks, in the manner and to the extent expressly provided herein.

SECTION 10.09. ACTION REQUIRED ON NON-BUSINESS DAY. In the event that any payment, action or notice required by this Resolution is required or scheduled for a day that is not a Business Day, except as otherwise provided in this Resolution, such payment, action or notice shall take place on the next succeeding Business Day with the same effect as if made on the required or scheduled date, and no Event of Default shall exist solely because of the failure to make such payment, take such action or give such notice on such required or scheduled date.

SECTION 10.10. GOVERNING LAW; VENUE. This Resolution, each Series of Bonds to be issued hereunder and any other instruments necessary for the issuance of any Series of Bonds, shall be executed and delivered with the intent that, except to the extent specifically provided otherwise in such documents, the laws of the State of Florida shall govern their construction. Venue shall lie in Palm Beach County, Florida.

SECTION 10.11. REPEAL OF INCONSISTENT RESOLUTIONS. All ordinances, resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

SECTION 10.12. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

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

Mayor Pam Triolo	_____
Vice Mayor Andy Amoroso	_____
Commissioner Scott Maxwell	_____
Commissioner Omari Hardy	_____
Commissioner Herman Robinson	_____

The Mayor thereupon declared this resolution duly passed and adopted on the 6th day of October, 2020.

LAKE WORTH BEACH CITY COMMISSION

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Electric Utility

TITLE:

Agreement with Wilco Electrical LLC., for electric utility storm restoration services for disaster recovery

SUMMARY:

Agreement authorizes Wilco Electrical LLC., to provide electric utility storm restoration services for disaster recovery on an as-needed basis for fiscal years 2020 through 2023.

BACKGROUND AND JUSTIFICATION:

The Financial Services Department, Procurement Division, on behalf of the City's Electric Utility Department, requested proposals from qualified and experienced electric utility contractors to provide repairs to the City's electrical transmission and distribution systems as a result of a hurricane, natural disaster or other emergency related crisis.

The objective of the RFP and subsequent contracting activity is to secure the services of experienced contractors who are capable of efficiently repairing electrical transmission and distribution systems for a large City area in a timely and cost-effective manner. The Contractors must be capable of assembling, directing, and managing the electric utility repair services and provide a work force that can start operations and mobilization within 24 hours after the notification of an emergency. The planning standards used for this project are based on the anticipated impacts of a named storm event or major flood impacting Palm Beach County, Florida. If activation is required, the City intends to activate contracts on an as-needed basis by the Work Orders or Purchase Orders issued in accordance with the City's Procurement Code and Policies.

The City received a total of 3 responses on May 5, 2020. The Evaluation Committee comprised of management representatives from the Electric Utility department evaluated three proposals. Proposals submitted by The LE Myers Co., Wilco Electrical LLC. and Michels Corp. were found to be responsive and responsible respondents and are being recommended for an award. It is the intention of the City to enter into the long term agreements for the services for three (3) consecutive years with the possibility of two (2) one (1) year extensions dependent on the City's requirements. Agreements with The LE Myers Co. and Michaels Corp. were awarded on June 16th, 2020.

MOTION:

Move to approve/disapprove the Agreement with Wilco Electrical LLC., for electric utility storm restoration services for disaster recovery on an as needed basis.

ATTACHMENT(S):

Fiscal Impact Analysis – N/A
Wilco Electrical Agreement

**CONTRACTOR AGREEMENT
(ELECTRIC UTILITY STORM RESTORATION SERVICES)**

THIS AGREEMENT is made this _____, between the **City of Lake Worth Beach**, Florida, a municipal corporation, hereinafter the "CITY", with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, and **Wilco Electrical LLC.**, a company authorized to do business in the State of Florida, hereinafter the "CONTRACTOR", with its office located at 430 Business Park Way, Royal Palm Beach, Florida 33411.

RECITALS

WHEREAS, the CITY is a municipal corporation organized and existing pursuant to the Charter and the Constitution of the State of Florida;

WHEREAS, the CITY issued Request for Proposals # 20-205 (hereinafter "RFP") for the Electric Utility Storm Restoration Services; and

WHEREAS, CONTRACTOR submitted a proposal to perform the services described and set out in the RFP which is incorporated herein by reference with the Scope of Services specifically attached as **Exhibit "A"**; and

WHEREAS, the CITY desires to accept the CONTRACTOR's proposal in order for CONTRACTOR to render the services to the CITY as provided herein; and

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

WHEREAS, this Agreement has been identified as providing essential services which is anticipated to be needed by the CITY in the event of a hurricane or other disaster in order to provide the services for the benefit of the public health, safety and welfare; and

WHEREAS, CONTRACTOR acknowledges and agrees that in such event, the CITY may apply to the State of Florida or the federal government for funds which will be used to pay CONTRACTOR or reimburse the CITY for payments made to CONTRACTOR, and that the federal government will only consider reimbursing for contracts which contain the requisite FEMA provisions; and

WHEREAS, CONTRACTOR acknowledges and agrees that any work performed under this Agreement and pursuant to the RFP will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives; and

WHEREAS, CONTRACTOR acknowledges and agrees to the terms laid out in RFP and **Exhibit "B"**, which are the provisions required to be included in contracts

funded by federal grants, including FEMA Public Assistance (see 2 C.F.R. § 200.326 and applicable FEMA guidance); and

WHEREAS, the CITY finds making the non-exclusive award of the RFP to the CONTRACTOR as described herein serves a valid public purpose.

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

1. TERM

The initial term of this non-exclusive Agreement shall be from the date of execution by the CITY for an initial term of three (3) years with two (2) additional 1-year renewal options unless earlier terminated in accordance with the terms of this Agreement.

Rates shall remain firm for the first three (3) years of the Agreement subject to terms and conditions to be negotiated on requests for consideration of a price adjustment after that term.

2. SCOPE OF WORK

2.1 The scope of work includes all implements, machinery, equipment, transportation, tools, materials, supplies, labor and other things necessary to provide repairs to CITY's electrical transmission and distribution systems immediately after a hurricane or other disaster. CONTRACTOR represents that it is capable of efficiently repairing electrical transmission and distribution systems for a large CITY area in a timely and cost-effective manner. The CONTRACTOR is also capable of assembling, directing, and managing a work force that can complete the repairs in timely and efficient manner

2.2. The CONTRACTOR represents that it is experienced and proficient in all phases of construction and repairs of transmission and distribution systems, including but not limited to: substation build, pole setting, pole framing and insulation, transferring/replacing conductors, acquiring Maintenance of Traffic (MOT)s for both road work, railway work, etc.

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

2.3 The CONTRACTOR represents that it is licensed to do business in the State of Florida and holds and will maintain all applicable licenses required for the work to be

completed under this Agreement. The CONTRACTOR further warrants its capability and experience to perform the work provided for herein in a professional and competent manner.

2.4 The Scope of Work shall be performed by the CONTRACTOR or under its supervision and all personnel engaged in performing the Scope of Work shall be fully qualified and, if required, authorized or permitted under the state and local law to perform such Scope of Work. All of the CONTRACTOR's personnel (and all subcontractors), while on CITY premises, shall comply with all CITY requirements governing safety, conduct and security.

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

3. INDEPENDENT CONTRACTOR; USE OF AGENTS OR ASSISTANTS

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

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

4. MATERIALS

4.1 The CONTRACTOR shall provide all materials as more specifically set forth in the Scope of Work.

5. FEE AND ORDERING MECHANISM

5.1 For services to be rendered under this Agreement, the CONTRACTOR shall be entitled to a billing rates set forth in CONTRACTOR's proposal for Equipment and Personnel Rate Schedule, which is attached hereto as **Exhibit "C"**. Billing rates shall remain fixed for the first three (3) years of this Agreement. After the first three (3) years of this Agreement, if due to applicable price escalations and/or reductions which impact the CONTRACTOR's Equipment and Personnel Rate Schedule, the CITY and CONTRACTOR may execute a written amendment to this Agreement to establish new

Equipment and Personnel Rate Schedule for the renewal term(s). The City Manager may approve changes in the CONTRACTOR's Equipment and Personnel Rate Schedule based on the recommendation of the City's Electric Utility Director or designee.

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

5.3 The CITY's ordering mechanism for the Scope of Work performed under this Agreement may be a Work Order or City Purchase Order; however, the terms and conditions stated in a City Purchase Order shall not apply. CONTRACTOR shall not exceed amounts expressed on any Purchase Order. The CITY's Fiscal Year ends on September 30th of each calendar year and the CITY cannot authorize the purchase of goods or services beyond September 30th of each calendar year, prior to the annual budget being approved by the CITY's City Commission. Additionally, the CITY must have budgeted appropriate funds for the goods and services in any subsequent Fiscal Year. If the budget is approved for said goods and services, the CITY will issue a new Purchase Order for required and approved goods and/or services.

5.4 This Agreement does not guarantee that the CITY will utilize the CONTRACTOR in any capacity or for any services hereunder. When the CITY identifies a need for the CONTRACTOR's services, the CITY will request a proposal from the CONTRACTOR to provide the services requested. The CITY will provide the CONTRACTOR with plans and/or specifications in order for the CONTRACTOR to develop its proposal. The CONTRACTOR's proposal shall be submitted in the format of the sample work order, attached hereto and incorporated herein as **Exhibit "D"** along with a copy of the CONTRACTOR's proposal and shall be based on the CONTRACTOR's Equipment and Personnel Rate Schedule attached hereto as **Exhibit "B"**. Upon receipt of the CONTRACTOR's proposed work order and proposal, the CITY shall decide in its sole discretion whether to award the work order to the CONTRACTOR. In an event of declared disaster, the work order or a Purchase Order may be awarded by the CITY's City Manager. If the work order is approved by the CITY, the CONTRACTOR shall commence the identified services upon the CITY's approval of the work order for the services and issuance of a notice to proceed. The CITY reserves the right to reject any and all proposals submitted by the CONTRACTOR. A CITY-approved work order shall include (by reference) the plans and/or specifications provided by the CITY to the CONTRACTOR.

6. MAXIMUM COSTS

6.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to complete the Scope of Work in accordance with the RFP and this Agreement is not to exceed **the amount(s) set forth in the approved City work order or Purchase Order issued to the CONTRACTOR annually**, and no additional costs shall be authorized without prior written approval from the CITY.

7. INVOICE & PAYMENT

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

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

7.3 Payment to the Contractor shall be made pursuant Florida's Prompt Payment Act (for construction services), section 218.735, Florida Statutes, except as provided herein. Specifically, the City will withhold ten percent (10%) of each payment from a work order to the CONTRACTOR as retainage until fifty percent (50%) of the work order price is paid to the CONTRACTOR. Upon payment of fifty percent (50%) of the work order price to the CONTRACTOR, the City will withhold only five percent (5%) of each work order payment made to the CONTRACTOR. Upon written request from the CONTRACTOR, the Contract Administrator may agree in writing with the CONTRACTOR to release a portion of the retainage upon payment of fifty percent (50%) of the work order price being paid to the CONTRACTOR (not to exceed fifty percent (50%) of the total retainage amount).

7.4 Upon substantial completion, the CONTRACTOR shall establish a punch-list of items that must be completed by the CONTRACTOR. The punch-list shall be provided to the CITY within ten (10) days of substantial completion. The CITY shall have five (5) business days to review the punch-list and revise the same. The CITY shall return the punch-list to the CONTRACTOR. The CONTRACTOR shall complete all items identified on the punch-list prior to the CONTRACTOR submitting its final payment request including the request for all retainage.

7.5 Final Payment. Upon final completion and acceptance of the work in accordance with this Agreement (including all punch-list items) and final inspection by the appropriate agency with jurisdiction over the project (if other than the CITY), the CONTRACTOR shall submit a "final invoice" to the CITY. In order for both parties to close their books and records, the CONTRACTOR will clearly state "FINAL" on the CONTRACTOR's final invoice. This certifies that all work under the applicable work order has been properly completed and all charges have been invoiced to the CITY. Since this account will

thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the CONTRACTOR. If the CONTRACTOR's Final Invoice is approved as set forth above, the CITY shall pay the remainder of the work order price including any amount held as retainage.

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

7.7 Final payment shall not become due until the CONTRACTOR and all of its subcontractors submit to the CITY releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of this Agreement or otherwise related to the Program.

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

8. PUBLIC CONSTRUCTION BOND

It is anticipated that work awarded under this Agreement may require a public construction bond under section 255.05, Florida Statutes. Due to the likelihood of services having to be performed on an emergency basis, the CONTRACTOR must provide the CITY with a public construction bond in amount of \$200,000 at the beginning of the hurricane season (no later than June 1 of each year) which is in accordance with section 255.05, Florida Statutes. Said bond shall remain in place until December 1 of each year. The bond must be recorded in the Official Records in and for Palm Beach County and a copy of the recorded bond must be provided to the CITY prior to the CONTRACTOR providing any services under this Agreement.

If the CITY approves a Purchase Order or a work order which exceeds \$200,000 in total construction cost, the CONTRACTOR must provide the CITY with an amendment to the bond which covers the amount in excess of \$200,000. Said bond amendment must be recorded in the Official Records in and for Palm Beach County and a copy of the recorded bond amendment must be provided to the CITY prior to the CONTRACTOR providing any services under the Purchase Order or work order. The CITY reserves the right to request a separate public construction bond for any Purchase Order or work order which is less than \$200,000. The cost of the public construction bond(s) as required under this section shall be a direct pass through cost to the CITY without any mark-up by the CONTRACTOR.

The public construction bond shall be on forms attached hereto as **Exhibit "E"** or substantially similar as approved by the CITY and shall incorporate by reference the terms of this Agreement in its entirety.

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

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

(a) The Surety Company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.

(b) The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.

(c) The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the CONTRACTOR submits its proposed work order for CITY approval.

(d) The Surety Company shall have at least the ratings of A-/Class V in the latest issue of Best's Key Rating Guide.

(e) The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:

1. Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to do business in this state have been met.

2. In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

9. AUDIT BY CITY

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

and indirect charges for work performed and detailed documentation for all such work performed or to be performed under this Agreement.

10. COPIES OF DATA/DOCUMENTS

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

11. OWNERSHIP

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

12. WRITTEN AUTHORIZATION REQUIRED

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

13. DEFAULTS, TERMINATION OF AGREEMENT

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

13.2 Notwithstanding paragraph 13.1, the CITY reserves the right and may elect to terminate this Agreement at any time, with or without cause. At such time, the CONTRACTOR would be compensated only for that work which has been satisfactorily completed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

14. INSURANCE

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

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

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

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

15. WAIVER OF BREACH

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

16. INDEMNITY

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

16.2 The CONTRACTOR's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the CONTRACTOR whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement.

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

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

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

17. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

17.1 This Agreement consists of the terms and conditions provided herein; the RFP (including all specifications, exhibits and addenda attached thereto or referenced therein and the Scope of Services attached as Exhibit "A"); all applicable federal grant requirements (Exhibit "B"); and, the CONTRACTOR's Equipment and Personnel Rate Schedule (Exhibit "C"). To the extent that there exists a conflict between this Agreement

and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement along with Exhibit "A" shall prevail with the RFP (including all specifications, exhibits and addenda attached thereto or referenced therein and the Scope of Services attached as Exhibit "A") next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

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

18. ASSIGNMENT

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

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

19. SUCCESSORS AND ASSIGNS

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

20. OF TRIAL BY JURY

20.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

21. GOVERNING LAW AND REMEDIES

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

21.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

22. TIME IS OF THE ESSENCE

22.1 Time is of the essence in the completion of the Scope of Work as specified herein.

23. NOTICES

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

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

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

Wilco Electrical LLC.
Attn. Thomas Nemic
430 Business Park Way
Royal Palm Beach, Florida 33411

24. SEVERABILITY

24.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

25. DELAYS AND FORCES OF NATURE

25.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR's request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time. If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may decide. No extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary. The CONTRACTOR's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

25.2 Neither party shall be considered in default in the performance of its obligations hereunder or any of them, if such obligations were prevented or delayed by any cause, existing or future beyond the reasonable control of such party which include but are not limited to acts of God, labor disputes or civil unrest.

26. COUNTERPARTS

26.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. This Agreement may be executed with electronic signatures.

27. LIMITATIONS OF LIABILITY

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

28. PUBLIC ENTITY CRIMES

28.1 CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

29. PREPARATION

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

30. PALM BEACH COUNTY INSPECTOR GENERAL

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

31. ENFORCEMENT COSTS

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

32. PUBLIC RECORDS

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

- (a) Keep and maintain public records required by the CITY to perform the services under this Agreement.
- (b) Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that said public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement, if the CONTRACTOR does not transfer the records to the CITY.
- (d) Upon the completion of the Agreement, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the services. If the CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, DANDREA@LAKEWORTHBEACHFL.GOV, OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.

33. COPYRIGHTS AND/OR PATENT RIGHTS

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

34. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH

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

35. FEDERAL AND STATE TAX

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

36. PROTECTION OF PROPERTY

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

37. DAMAGE TO PERSONS OR PROPERTY

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

38. WARRANTY

38.1 CONTRACTOR warrants and guarantees to the CITY that the Scope of Work provided under this Agreement shall be in accordance with the Agreement and the other documents specifically included in this Agreement. CONTRACTOR warrants that all materials and parts supplied under the Scope of Work and this Agreement shall be free from defects for a minimum of one (1) year from the final completion of the Scope of Work. CONTRACTOR guarantees that all services and labor performed under the Scope of Work and this Agreement will be free from defects for a minimum of one (1) year from the final completion of the Scope of Work. CONTRACTOR shall provide to the CITY any and all manufacturers' warranties for the goods and services being provided under the Scope of Work. CONTRACTOR agrees to pay for all transportation and handling costs

of returning the boilers, if required, for repair or replacement. If a boiler(s) must be returned, CONTRACTOR, shall provide a replacement boiler(s) for the duration.

39. SCRUTINIZED COMPANIES

39.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

39.2 If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

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

39.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

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

39.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

40. SURVIVABILITY

40.1 Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

41. WORK FOR HIRE

41.1 All documents, including but not limited to drawings, specifications, plans, reports, other items and data or programs stored in hard-copy, electronically or otherwise (collectively referred to as "Documents" hereafter), prepared by the CONTRACTOR or its subcontractors under this Agreement shall be considered a "Work for Hire" and the exclusive property of the CITY. To the extent such Documents may not be deemed a "Work for Hire" under applicable law, CONTRACTOR and CONTRACTOR's Subcontractors will assign to the CITY all right, title and interest in and to CONTRACTOR and/or CONTRACTOR's Subcontractors' copyright(s) for such Documents. CONTRACTOR shall execute and deliver to CITY such instruments of transfer and take such other action that CITY may reasonable request, including, without limitation, executing and filing, at CITY's expense, copyright applications, assignments and other documents required for the protection of CITY's right to such Documents. The CONTRACTOR shall retain copies of the Documents for a period of three (3) years from the date of completion of the scope of services. The CITY grants to the CONTRACTOR and CONTRACTOR's Subcontractors the right and/or limited license to use a portion of the Documents prepared by the CONTRACTOR or the CONTRACTOR's Subcontractors in future projects of the CONTRACTOR or CONTRACTOR's Subcontractors with said right and/or limited license to use a portion at CONTRACTOR's or CONTRACTOR's Subcontractor's own risk and without any liability to CITY. Any modifications made by the CITY to any of the Contractor's Documents, or any use, partial use or reuse of the Documents without written authorization or adaptation by the CONTRACTOR will be at the CITY's sole risk and without liability to the CONTRACTOR.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement for Electric Utility Storm Restoration Services on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Pam Triolo, Mayor

By: _____
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director

CONTRACTOR:

Wilco Electrical LLC.

[Corporate Seal]



By: _____
Print Name: Thomas Nemk
Title: PRESIDENT

STATE OF Florida)
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me this 11th day of Sept, 2020, by Thomas Nemk, who was physically present, as PRESIDENT (title), of **Wilco Electrical LLC.**, a company which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following _____ as identification.

Notary Public

LEESA PFEUFFER
Print Name: Leesa Pfeuffer
My commission expires: 11-21-20

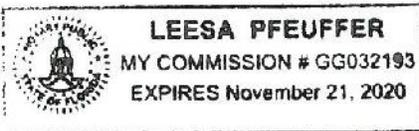


Exhibit A

RFP Scope of Services

The City of Lake Worth Beach is expecting that the CONTRACTOR to provide repairs to City's electrical transmission and distribution systems immediately after a hurricane or other disaster. The objective of this Agreement is to secure the services of an experienced CONTRACTOR who is capable of efficiently repairing electrical transmission and distribution systems for a large City area in a timely and cost-effective manner. The CONTRACTOR should be experienced and proficient in all phases of construction and repairs of transmission and distribution systems, including but not limited to: substation build, pole setting, pole framing and insulation, transferring/replacing conductors, acquiring Maintenance of Traffic (MOT)s for both road work, railway work, etc. The CONTRACTOR must be capable of assembling, directing, and managing a work force that can complete the repairs in timely and efficient manner.

This is an acknowledgement that FEMA financial assistance will be used to fund the resulting contract. The CONTRACTOR shall perform all work in compliance with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives in order to maximize recovery of reimbursable expenses. This shall include the provision of audit quality documentation as required by and acceptable to FEMA for all work accomplished. This includes compliance with any disaster management or monitoring services the CITY may have under contract.

The CONTRACTOR may be required, at the CITY's discretion, to be under the direction of an agent of the CITY.

While intended to cover electrical transmission and distribution systems repair needs in any major disaster scenario, the primary focus is on the threat of hurricane damage to the City of Lake Worth Beach. The planning standards used for this project are based on the anticipated impacts of a named storm event or major flood impacting Palm Beach County, Florida.

If activation is required, the CITY intends to activate contracts on an as-needed basis as solely determined by the CITY. The CITY intends to activate the CONTRACTORS in the order of final ranking as best meets the needs of the CITY. The CITY reserves the sole right to assign/reassign any or all CONTRACTORS at any time as may be deemed appropriate depending upon the circumstance(s), the event, or any other condition which may warrant such action.

The CITY envisions the need for multiple contracts to carry out the electrical transmission and distribution systems work throughout the City. The CONTRACTOR must have the experience and capability to manage a major workforce with multiple subcontractors and

to cover the expenses associated with a major recovery operation prior to the initial CITY payment and between subsequent payments, as well as the capacity to provide the necessary insurance. The CONTRACTOR must also have an established management team, an established network of resources to provide the necessary equipment and personnel to complete comprehensive electrical transmission and distribution systems repairs and demonstrable experience in major disaster recovery projects.

This Agreement is a contingency contract that will be activated via purchase order or work order only in the case of an emergency or immediately after an emergency. As such, no compensation will accrue to the CONTRACTOR unless and until a purchase order or a work order is issued either in anticipation of a natural disaster or immediately after such disaster. Each purchase order/work order will contain a price ceiling (not-to-exceed amount) that the CONTRACTOR exceeds at its own risk.

The CITY does not guarantee a CONTRACTOR will be activated under this Agreement.

The CITY'S goal is to complete the electrical transmission and distribution systems repair process post-event in a timely and efficient manner. Due to the low elevation and potential for flooding, some areas of the work might not be accessible for several weeks after a major natural disaster. The CONTRACTOR must be aware that it might not be possible to initiate operations in all parts of the city simultaneously immediately after a storm.

In addition to using CITY forces and equipment, the CITY intends to award three (but reserves the right to execute more or less than three) electrical transmission and distribution systems repair contracts on a contingency basis for the purpose of having CONTRACTOR(S) immediately available and committed to assisting the CITY in the aftermath of an emergency or major disaster. Each CONTRACTOR awarded an electrical transmission and distribution repair contract will serve as a General Contractor for the purpose of electrical transmission and distribution systems repair operations, and will be able to use his/her own resources and subcontractor resources to meet the obligations of the contract and specific purchase order. It is anticipated that the CONTRACTOR will use both local and non-local subcontractors. Notwithstanding, the CONTRACTOR 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.

When a major disaster or emergency occurs or is imminent, the CITY intends to contact the highest ranked CONTRACTORS awarded Electrical Transmission and Distribution Systems Repair contracts to advise them of the CITY's intent to activate the Contracts via purchase order.

When a major disaster or emergency occurs or is imminent, the CITY will initially send out an alert to the selected CONTRACTOR(S). This Alert will serve to activate the lines of communication between the CONTRACTOR representatives and the CITY.

Subsequently, the CITY will issue the first Purchase Order which will authorize the CONTRACTOR to send an Operations Manager to the CITY within 24 hours of receiving such Purchase Order to begin planning for the operations and mobilizing the personnel and equipment as necessary to perform the stipulated work. The CONTRACTOR should anticipate receiving this first Purchase Order 24 to 72 hours before projected landfall of a hurricane. Depending on the nature of the storm and circumstances, the CITY may activate more than one (1) Contractor. CONTRACTOR will generally be activated in order of final ranking.

Specific purchase orders will be issued to select CONTRACTORS based on the best interest of the City. The CITY reserves the right to assign purchase orders to various CONTRACTORS based on pricing submitted. The CITY does not guarantee a cradle to grave pricing arrangement but reserves the right to pick and choose CONTRACTORS based on ranking.

The general concept of electrical transmission and distribution systems repairs shall include but not limited to: substation build, pole setting, pole framing and insulation, transferring/replacing conductors, acquiring MOTs for both road work, railway work, etc. The CITY will prescribe the specific schedule to be used after ascertaining the scope and nature of the disaster's impacts.

Reporting

The CONTRACTOR shall submit a report to the CITY Emergency Management Coordinator or designee by close of business each day of the term of the Purchase Order. Each report shall contain, at a minimum, the following information:

1. Contractor's Name
2. Contract Number
3. Daily and cumulative hours for each piece of equipment, if appropriate
4. Daily and cumulative hours for personnel, by position, and tasks performed, if appropriate
5. Volumes of repairs handled

Failure to provide audit quality information by 5:00 p.m. of the following day of operation will subject CONTRACTOR to non-payment in each instance at the sole discretion of the CITY.

Performance of Contractor

It is the intent of the Agreement is to ensure that the CONTRACTOR provides a quality level of services. To this end, all complaints received by the Emergency Management Coordinator or designee, and reported to the CONTRACTOR shall be promptly resolved pursuant to the provisions of this Agreement.

The Emergency Management Coordinator or designee may levy administrative charges for the following infractions:

1. Failure to mobilize pre-storm identified sites within three (3) calendar days of after being tasked by the CITY. The City reserves the right to collect liquidated damages of \$500 per day for each day not started.
2. Inability to perform repairs due to CONTRACTOR equipment or operational failures liquidated damages of \$500 per day, for each day repair site must remain attended.

CONTRACTOR may also be subject to non-payment and liquidated damages of \$50 for each of the following infractions:

1. Failure to provide audit quality information by 5:00 p.m. of the following day of operation.

CONTRACTOR may be immediately terminated and may not paid for the following:

1. Starting repairs of any non-eligible, non-CITY approved areas.
2. Moving to another designated Work Area without prior CITY approval.
3. Failure to provide service in accordance to guidelines set forth by FEMA and the CITY.
4. Soliciting work from private citizens or others to be performed in the designated Service Area during the period of this Agreement.

The City reserves the right to delete or amend any of the services as listed and described herein in negotiations with the selected CONTRACTOR(S) or in specific purchase orders.

END OF SCOPE OF SERVICES

Exhibit B

Federal Contract Provisions

The Contractor hereby agrees that the following terms, at a minimum, are incorporated into this Agreement:

Equal Employment Opportunity. During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the

contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this 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 contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) 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 contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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 contractor 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 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.

(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 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. FEMA, 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 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.

(4) Subcontracts. The contractor 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 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.

Clean Air Act.

1. The contractor 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 contractor 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 contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act.

1. The contractor 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 contractor 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 contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

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 contractor is required to verify that none of the contractor'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 contractor 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 contractor 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.

Contractors 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 Contractor 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 Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Access to Records.

(1) The Contractor agrees to provide the State of Florida, the CITY, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor 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 Contractor agrees to provide the FEMA Administrator or his authorized representative's 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 Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

DHS Seal, Logo, and Flags. The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

Compliance with Federal Law, Regulations, and Executive Orders. By signing this agreement, The CONTRACTOR acknowledges that FEMA financial assistance will be

used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA 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, contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

Affirmative Steps. Required Affirmative Steps

If the Contractor intends to subcontract any portion of the work covered by this Contract, the Contractor 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.

EXHIBIT C

CONTRACTOR'S EQUIPMENT AND PERSONNEL RATES

Exhibit "K"
RFP 20-205 ELECTRIC UTILITY STORM RESTORATION SERVICES

Equipment & Personnel Rate Schedule

Equipment Rate Schedule

Equipment Class:	Equipment type (or similar)	Hourly Rate:
Small Vehicles & Trucks	Pick-up Truck 1-Ton or Less/SUV	INC
	Pickup 3/4T 4x4	INC
	1/2 Ton Pickup - 4 Wheel Drive (T&E)	INC
	3/4 ton Pickup - 4 Wheel Drive (T&E)	INC
	1 to 1 1/2 ton Truck - 4 Wheel Drive (T&E)	INC
	2 to 3 Ton Truck (T&E)	INC
	5 Ton Truck - 4 or 6 Wheel Drive (T&E)	INC
	3 Ton Material Truck w/ Knucle Boom (T&E)	INC
	S ton Material truck w/ Knucle Boom (T&E)	INC
	10 Ton Tractor - Semi (T&E)	INC
	Pick-up Truck >1-Ton	INC
	All Terrain Vehicle (Gator or equal)	N/A
	Mechanics Truck	INC
	Welding Truck	INC
	Stake Body Truck	INC
	Box Truck	INC
Tractor Trailer Dual-Axle	INC	
Trailers	Job/Equipment Trailer	INC
	Tool/PPE Trailer	INC
	Distribution Pole Trailer	INC
	Transmission Pole Trailer	N/A
	LowBoy Equipment Hauling Trailer	INC
	Low Boy (Semi Trailer)	\$80.00
Buckets	Boom trk 10-12T	INC
	Boom Trk 12-15T	INC
	Boom Trk 17T	INC
	Boom Trk 22T	INC
	Boom Trk 35T 4x6	N/A
	35-49' Flex Track Buckets	N/A
	50-60' Flex track Buckets	N/A
	61-72' Flex Track Buckets	N/A
	73-93' Flex Track Buckets	N/A
	94-100' Flex Tractl Buckets	N/A
	101-125' Flex Bucket	N/A
	MH or non MH Bucket Truck < 50'	INC

	MH or non MH Bucket Truck 50' to 60'	INC
	MH or non MH Bucket Truck 61' to 74'	INC
	MH or non MH Bucket Truck 75' to 90'	N/A
	MH or non MH Bucket Truck 91' to 99'	N/A
	MH or non MH Bucket Truck 100' to 110'	N/A
	MH or non MH Bucket Truck 111' to 125'	N/A
	Rear Lot Machine (Standard)	INC
	Rear Lot Machine (Patriot)	N/A
	Track Machine/Bucket < 60'	N/A
	Track Machine/Bucket 61' to 80'	N/A
	Track Machine/Bucket 81' to 105'	N/A
Diggers	Digger Derrick < 50'	INC
	Digger Derrick 51' to 65'	INC
	Digger Derrick 66' to 80'	N/A
	Line trk/Digger Derrick	INC
	Line Trk Commander II	N/A
	Line Trk/Digger Derrick 4x4	INC
	20' to 35' - Yard Machine Pin-On Bucket	INC
	36' to 43' - Yard Machine Pin-On Bucket	INC
	20' to 35' - Yard Machine Digger	INC
	36' to 43' - Yard Machine Digger	INC
	41' to 50' Digger Derrick	INC
	51' to 60' Digger Derrick	INC
	61'to 70' Digger Derrick	N/A
	71' to 80' Digger Derrick	N/A
	41' to 50' Flex Track Digger Derrick	N/A
	51' to 60' Flex Track Digger Derrick	N/A
	61' to 70' Flex Track Digger Derrick	N/A
	71' to 80' Flex Track Digger Derrick	N/A
	Hydro - Excavation Truck	N/A
	Track Machine/Digger < 51'	N/A
	Track Machine/Digger 51' to 65'	N/A
	Track Machine/Digger 66' to 80'	N/A
	Pressure Digger Wheeled (Texoma 330)	N/A
	Pressure Digger Wheeled (Texoma 650/Watson 1100)	N/A
	Pressure Digger Wheeled (Texoma 800)	N/A
	Pressure Digger Tracked (Texoma 330)	N/A
	Pressure Digger Tracked (Lodril EDT-7)	N/A
Production Digger 60"x20'	N/A	
Production Digger 60"x28'	N/A	
Cranes	18-25 Ton Crane	\$180.00
	32-40 Ton Crane	

	41-65 Ton Crane	\$200.00
	Mantis Crane 30T	N/A
Lifts	Manlift Straight or Articulating 40' to 52'	N/A
	Manlift Straight or Articulating 53' to 66'	N/A
	Manlift Straight or Articulating 67' to 92'	N/A
	Manlift Straight or Articulating 93' to 131'	N/A
	Manlift Straight or Articulating 131' to 150'	N/A
	Manlift Scissor 32' and below	INC
	Manlift Scissor 33' to 46'	N/A
	Wire Handling/Pulling Equipment	Single Reel Trailer Small
Single Reel Trailer Large		INC
3 or 4 Reel Trailer Small		INC
3 or 4 Reel Trailer Large		INC
20,000-30,000# Reel Stand		N/A
Single Drum Puller 4000#		INC
Single Drum Puller 10000#		INC
Single Drum Puller 30000#		N/A
4 Drum Puller 2000#		INC
4 Drum Puller 3500# to 4000#		N/A
4 Drum Rope Puller 3,000#		N/A
Tensioner 3000# 36"/38" Bullwheel		INC
Tensioner 5000# 52" Bullwheel		N/A
Tensioner 10000# 72" Bullwheel		N/A
2-Bundle Hydraulic Transmisson Tensioner		N/A
Spiders		INC
Wire Pulling Accessories (hot arms, rollers, set of 6)		INC
Wire Puller (Hardline)		INC
Wire Tensioner Sgl Cond. 48" Bull Wheels		INC
Wire Tensioner Sgl Cond. 60" Bull Wheels		N/A
Wire Tensioner Bundle Cond.		N/A
Towmotor		N/A
Material Handling	Telehandler <10,000#	N/A
	Telehandler 10,000# to 15,000#	N/A
	Telehandler 20,000#	N/A
	Backhoe	INC
	Track Loader Bobcat 590 or Equivalent	N/A
	Track Loader Bobcat 650 or Equivalent	N/A
	Track Loader Bobcat 750 or Equivalent	N/A
	Mini Excavator CAT 303/303.5 or Equivalent	INC
	Mini Excavator CAT 304 or Equivalent	INC
	Mini Excavator CAT 305 or Equivalent	INC
	Mini Excavator CAT 308 or Equivalent	N/A

	Excavator Komatsu PC138 or Equivalent	N/A
	Excavator Komatsu PC170 or Equivalent	N/A
	Excavator Komatsu PC228 or Equivalent	N/A
Dirt/Construction Equipment	D3/D4 Dozer or Equivalent	N/A
	D5 Dozer or Equivalent	N/A
	D6 Dozer or Equivalent	N/A
	D7 Dozer or Equivalent	N/A
	D8 Dozer or Equivalent	N/A
	Dump Bed Sgl. Axle 6-10 C.Y.	INC
	Dump Bed Dbl Axle 6-10 C.Y.	N/A
	Flatbed 1-4T or 2 1/2T Crew Cab 4x4	INC
	Wheel Loader 3.0 to 3.5 yard	N/A
	Wheel Loader 4.0 yard	N/A
	Compactor Roller	N/A
	Water Truck	INC
	Dump Trailer	INC
	Dump Truck 3 Yards	INC
	Dump Truck Single Axle	INC
	Dump Truck 5.0 cubic yards	INC
	S Yard Dumo Truck	N/A
	10 Yard Dump truck	N/A
	Dump Truck 10.0 cubic yards	N/A
	Flex Track With Dump Box	N/A
	Flex Track ATV (T&E)	N/A
	Track Dump Truck 14,000# and below	N/A
	Track Dump Truck 14,001# to 22,000#	N/A
	Track Dump Truck 22,001# to 33,100#	N/A
	ATV (All Terrain Vehicle - Ranger, Prowler, etc.)	N/A
	Welder/Mechanic's Truck	INC
	Trencher	N/A
	Trencher w/ Rock Wheel	N/A
	Water Truck - 4,000 Gallon	INC
Misc. Equipment	Pole Jack	INC
	Concrete Breaker	INC
	Light Tower (used as Generator)	INC
	Generator 15kW	INC
	Air Compressor 185/210 CFM	INC
	Air Compressor 375 CFM	N/A
	60-100 Ton Press	N/A
	DMC Press 45 Ton	N/A
	DMC Press 65 Ton	N/A
	Arrow Board	INC
	Portable Traffic Light System	N/A

	30 Yard dumpster (PER EXCHANGE)	\$1000.00
	Port a John (MONTHLY RATE)	N/A
	66 - 80 Ton Crane	N/A
	80 - 120 Ton Crane	N/A
	Vacuum Truck	\$160.00
	Snow Plow Attachment	N/A
	Storage container (MONTHLY RATE)	N/A

Personnel Rate Schedule

Standard Time	Billing Rate
General Foreman	\$175.00 STD, \$225.00 O/T, \$320.00 Double
Foreman	*
Small Job Foreman	*
Lineman, Journeyman	*
Apprentice 7th period	*
Apprentice 6th period	*
Apprentice 5th period	*
Apprentice 4th period	*
Apprentice 3rd period	*
Apprentice 2nd period	*
Apprentice 1st period	*
Equipment Operator A	*
Equipment Operator B	*
Equipment Operator	*
Vac Tr/Dir. Boring	*
Gr. Truck Driver (W)	*
Groundman Truck Driver	*
Groundman	*
Groundman - 1st Year	*
Flagman	\$75.00 STD, \$100.00 O/T, \$150.00 Double
Line Equip. Mech/Welder	\$120.00 STD, \$170.00 O/T, \$220.00 Double
Eq. Serv/Mech Helper	\$120.00 STD, \$170.00 O/T, \$220.00 Double

* Same as General Foreman Rates

Standard time is calculated for the first 8 hours Monday through Friday

O/T is calculated for every hour over 8 hours Monday through Friday and all hours on Saturday

Double time is calculated for all hours Sunday and Holidays

EXHIBIT D
SAMPLE WORK ORDER

CONTRACTOR AGREEMENT
(ELECTRIC UTILITY STORM RESTORATION SERVICES)
WORK ORDER NO. _____

THIS WORK ORDER for Electric Utility Storm Restoration Services ("Work Order" hereafter) is made on the _____, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth, Florida 33460 ("City" hereafter) and **Wilco Electrical LLC.**, a Florida company ("Contractor" hereafter).

1.0 Project Description:

The City desires the Contractor to provide all goods, services, materials and equipment as identified herein related to the Electric Utility Storm Restoration Services project generally described as:

_____ (the "Project"). The Project is more specifically described in the plans prepared by _____, dated _____, and which are incorporated herein by reference.

2.0 Scope

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

3.0 Schedule and Liquidated Damages

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

Liquidated Damages. The City and Contractor recognize that time is of the essence under this Work Order and the Contract Documents, and that the City will suffer financial loss if the services and work described in this Work Order and the Contract Documents are not completed within the times specified in this Work Order. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the services and work within the time specified. Accordingly, instead of requiring any

such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City _____ hundred dollars (\$_____.00) for each day that expires after the time specified in this Work Order.

4.0 Compensation and Direct Purchases

This Work Order is issued for a lump sum, not to exceed amount of \$_____ (_____). The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

The following Direct Purchases are to be made under this Work Order by the City:

_____.

5.0 Project Manager

The Project Manager for the Contractor is _____, phone: _____; email: _____; and, the Project Manager for the City is _____, phone: _____; email: _____.

6.0 Progress Meetings

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

7.0 Contractor's Representations

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

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

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

7.3 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or

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

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

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

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

9.0 Authorization

This Work Order is issued pursuant to the System Hardening and Reliability Improvements Contract for between the City of Lake Worth and the Contractor, dated [REDACTED], 2020 ("Contract" hereafter). If there are any conflicts between the terms and conditions of this Work Order and the Contract, the terms and conditions of the Contract shall prevail.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE FOLLOWS

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

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Pam Triolo, Mayor

ATTEST:

By: _____
Deborah M. Andrea, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director

CONTRACTOR: **Wilco Electrical LLC.**

By: ____ (DO NOT SIGN – SAMPLE)

[Corporate Seal]

Print Name: _____

Title: _____

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, who was physically present, as _____ (title), of **Wilco Electrical LLC.**, a Company which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following _____ as identification.

Notary Public

Print Name: _____
My commission expires: _____

EXHIBIT E

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 _____, 2015.

Witness

Principal

Title

(Corporate Seal)

Witness

Surety

Attorney-in-Fact
(Attach Power of Attorney)

Print Name

(Corporate Seal)

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Electric Utility

TITLE:

Ratification of Emergency Construction Contract with Restore It All, Inc., for installation of underground conduit and feeder cable at the East Switch Substation

SUMMARY:

Ratification of the Emergency Construction Contract authorizing Restore It All, Inc., to complete installation of new underground conduit and feeder cable at the East Switch Substation in the amount not to exceed \$59,275.

BACKGROUND AND JUSTIFICATION:

On August 12th, 2020 at approximately 2:32 pm, we experienced a fault on the 26B1E03 circuit which disrupted service to 5,851 customers. The circuit is built with a combination of both overhead and underground primary cable. The fault was located on the underground cable at our East Switching Station. Concurrent to the fault investigation, Line Crews began restoration response by transferring customers to alternate circuits restoring service to customers by 3:16 pm. The Line Department team working through the night to isolate the faulted section of line, pinpointed the fault location and spliced in a new section of line completing temporary repairs the following morning.

In the days following the event, an overhead by-pass was constructed by The LE Myers Co. allowing the faulted underground cable to be safely removed from service without disruption to customers. The Line Department contacted several contractors under contract to complete the underground feeder replacement, however they were unable to respond in the time-frame needed. Restore It All, Inc., a company we have utilized for underground services in the past, was available and provided a proposal to complete the underground repairs in a timely manner. Restore It All Inc., has completed installation of new underground conduits and feeder cable and is currently in service. Purchase Order No. 183447 has been issued in the amount not to exceed \$59,275 to complete these services.

MOTION:

Move to approve/disapprove ratify the Emergency Construction Contract with Restore It All, Inc., for installation of underground conduit and feeder cable at the East Switch Substation in the amount not to exceed \$59,275.

ATTACHMENT(S):

Fiscal Impact Analysis
Emergency Construction Contract
PO183774 – Restore It All

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	0	0	0	0	0
Operating Expenditures	\$59,275	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	\$59,275	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

B. Recommended Sources of Funds/Summary of Fiscal Impact: Funds have been identified in account No. 401-6034-531-31.90. Balance shown includes issuance of PO 183447 in the amount of \$59,275.

Account Number	Account Description	Project Number	FY20 Budget	Current Balance	Agenda Expenditure	Balance
421-6034-531-63.15	Prof Serv/ Other		\$180,000	\$1,585	-\$59,275	\$1,585

**CONSTRUCTION CONTRACT FOR
EMERGENCY CONDUIT INTSALLATION AND RESTORATION**

THIS CONSTRUCTION CONTRACT (“Contract”) is made on this the 9/2/2020, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Restore It All, Inc.**, a Florida corporation (“Contractor”).

WHEREAS, the City has emergency need for conduit installation and restoration services at 2nd Ave South, in the City of Lake Worth Beach; and

WHEREAS, the City sought quotes from qualified contractors and the Contractor was the only qualified firm capable of completing the required services on an emergency basis; and

WHEREAS, the City’s procurement code and policy authorizes an emergency procurement when the delay incident to competitive selection would cause an immediate threat or danger to public health, safety, or welfare or interruption of an essential government service; and

WHEREAS, the emergency need for the conduit installation and restoration services from the Contractor is necessary to repair a direct buried cable that has failed at or near the East Switch Station at 2nd Avenue South and South F Street; and

WHEREAS, the Contractor has provided the City with a written quotation dated August 26, 2020, which is attached as **Exhibit “A”**; and

WHEREAS, the City desires to award the Contract for the emergency conduit installation and restoration services to the Contractor; and

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

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

ARTICLE 1. WORK.

Contractor shall complete all emergency conduit installation and restoration services (“Work”) as specified or indicated in the Contract Documents, as defined herein. The Work is generally described as follows: emergency conduit installation and restoration services.

ARTICLE 2. CONTRACT TIME.

2.1 The Work will be substantially completed within **thirty (30) calendar** days from the date of the City’s written Notice to Proceed. Final completion of the Work, which includes all punch-list items and final approval by the City of all Work, shall be within **forty-five (45) calendar** days from the City’s written Notice to Proceed.

2.2 Time is of the essence under this Contract.

2.3 **LIQUIDATED DAMAGES.** The City and Contractor recognize that time is of the essence of this Contract and that the City will suffer financial loss if the Work described in the

Contract Documents is not completed within the times specified in paragraph 2.1 above. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the work within the time specified. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City five hundred dollars (\$500.00) for each calendar day that expires after the time specified in paragraph 2.1.

2.4 In the City'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 City.

ARTICLE 3. CONTRACT PRICE.

3.1 For completion of the Work in accordance with the Contract Documents, the City shall pay the Contractor a lump sum, not to exceed amount of **Fifty-Nine Thousand, Two Hundred Seventy-Five Dollars (\$59,275.00)**, which shall be payable in accordance with Article 4 of this Contract.

ARTICLE 4. PAYMENT PROCEDURES.

4.1 Generally. Contractor shall submit invoices on a monthly basis detailing all Work accomplished in the prior month, which is installed and completed. Contractor's invoices shall be submitted to:

City of Lake Worth Beach
Attn: Financial Services Department
7 N. Dixie Highway
Lake Worth Beach, FL 33460

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

4.2 Payment to the Contractor shall be made pursuant to the Florida's Prompt Payment Act (for construction services), section 218.735, Florida Statutes, except as provided herein. Specifically, the City will withhold ten percent (10%) of each payment to the Contractor as retainage until fifty percent (50%) of the Contract Price is paid to the Contractor. Upon payment of fifty percent (50%) of the Contract Price to the Contractor, the City will withhold only five percent (5%) of each payment made to the Contractor. Upon written request from the Contractor, the Contract Administrator may agree in writing with the Contractor to release a portion of the retainage upon payment of fifty percent (50%) of the Contract Price being paid to the Contractor (not to exceed fifty percent (50%) of the total retainage amount).

4.3 Final Payment. Upon final completion and acceptance of the Work in accordance with the Contract Documents (including completion of all punch-list items) and final inspection by the appropriate agencies with jurisdiction over the Work, the Contractor shall submit a "final invoice" to the City. In order for both parties to close their books and records, the Contractor will clearly state

“FINAL” on the Contractor’s final invoice. This certifies that all Work has been properly completed and all charges have been invoiced to the City. If paid, this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the Contractor. If the Contractor’s Final Invoice is approved as set forth above, the City shall pay the remainder of the Contract Price including any amount held as retainage.

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

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

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

ARTICLE 5. INDEMNITY AND INSURANCE

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

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

furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith.

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

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

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

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

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

ARTICLE 6. TERMINATION.

6.1 **TERMINATION BY CITY:** The City may terminate the Contract Documents if the Contractor:

1. refuses or fails to supply enough properly skilled workers or proper materials;
2. fails to prosecute the Work in a timely manner;
3. fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
4. disregards or takes action contrary to any laws, ordinances, or rules, regulations orders of a public authority having jurisdiction;
5. takes action, short of declaring bankruptcy, evidencing insolvency;

6. fails or refuses to provide and/or maintain insurance or proof of insurance or the public construction bond as required by the Contract Documents; or,
7. otherwise is in breach of a provision of the Contract Documents.

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

1. take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by or paid for by the City; and,
2. finish the Work by whatever reasonable method the City may deem expedient.

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

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

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

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

1. cease operations as directed by the City in the notice;
2. take actions necessary, or that the City may direct, for the protection and preservation of the Work; and
3. except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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

ARTICLE 7. CONTRACT DOCUMENTS.

7.1 Contract Documents. The Contract Documents are incorporated herein by reference as if originally set forth in this Contract, and comprise the entire agreement between the City and Contractor. The Contract Documents consist of this Contract, the quotation submitted by the Contractor dated August 26, 2020 (which is attached as **Exhibit "A"**), the sketch of the Work (entitled, "20200817 East Switch 1E03 New UG Feeder PDF"), which is attached as **Exhibit "B"**, and including all other sketches, plans or drawings issued by the City and any written and fully executed Change Orders, Work Directive Changes, written Field Orders, and amendments relating thereto. If, during the performance of the Work, the Contractor finds an ambiguity, error or discrepancy in the Contract Documents, the Contractor shall so notify the City, in writing, within five (5) days and before proceeding shall obtain a written interpretation or clarification. Failure to obtain

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

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

First Priority:	Exhibit "B" and any other City issued sketches, plans or drawings
Second Priority:	Written and fully executed Change Orders, Work Directive Changes, Field Orders and Amendments
Third Priority:	This Contract
Fourth Priority:	Contractor's Quotation (Exhibit "A")

7.2 Contract Administrator. Whenever the term Contract Administrator is used herein, it is intended to mean the City Manager or designee, for the City of Lake Worth Beach, Florida. In the administration of this Contract, all parties may rely upon instructions or determinations made by the Contract Administrator except that all determinations or changes in the Work that result in an increase in Contract Time and/or an increase in the Contract Price, shall require a formal Change Order executed by the City Manager or the City Commission (depending on the authority set forth in the City's Procurement Code).

ARTICLE 8. CONTRACTOR'S REPRESENTATIONS AND SCOPE OF WORK.

8.1 In order to induce City to enter into this Contract, Contractor makes the following representations:

8.1.1 Contractor has examined and carefully studied the Contract Documents and any data and reference items identified in the Contract Documents.

8.1.2 Contractor has visited the Project site ("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.

8.1.3 Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress and performance of the Work.

8.1.4 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 Contract Documents, especially with respect to any 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 Contract Documents, 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.

8.1.5 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.

8.1.6 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.

8.1.7 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.

8.1.8 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.

8.1.9 Contractor has given the Contract Administrator written notice of all conflicts, errors or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by the Contract Administrator is acceptable to Contractor.

8.1.10 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.

8.1.11 Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Contract are premised upon performing and furnishing the Work required by the Contract Documents.

8.1.12 Contractor is aware of the general nature of work to be performed by City and others at the Site that relates to the Work as indicated in the Contract Documents.

8.1.13 Contractor agrees to be solely responsible for compliance with all applicable environmental and safety laws and regulations, for any liability arising from non-compliance with the laws and regulations and to reimburse the City for any loss incurred in connection therewith. This compliance provision specifically includes the Contractor's compliance with all applicable standards, orders or regulations 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).

8.2 The scope of the Work includes all materials and services and other things necessary for the Contractor to complete the Work as described the Contract Documents.

8.3 The Contractor represents to the City that the Work provided under the Contract Documents shall be in accordance with accepted and established trade practices and procedures recognized in the Contractor's trade in general and that the materials shall conform to the highest standards and in accordance with the Contract Documents.

8.4 The Contractor represents that it is licensed to do business in the State of Florida and holds and will maintain all applicable licenses required for the Work to be completed under the Contract Documents. The Contractor further warrants its capability and experience to perform the Work provided for herein in a professional and competent manner.

8.5 The Work shall be performed by the Contractor or under its supervision and all personnel engaged in performing the Work shall be fully qualified and, if required, authorized or permitted under the state and local law to perform such Work. All of the Contractor's personnel (and all subcontractors), shall comply with all applicable laws and regulations governing safety and security.

8.6 Should the City require additional materials or services not included in the Contract Documents, fees and payment for such Work will be set forth in a separate written amendment or change order prior to any such additional materials or services being provided by the Contractor. The Contractor has no authority to approve any changes to the Contract Documents without prior written authorization from the City's Contract Administrator or City Manager or City Commission as applicable.

8.7 The City's Fiscal Year ends on September 30th of each calendar year. The City cannot authorize the purchase of goods or services beyond September 30th of each calendar year, prior to the annual budget being approved by the City Commission or funds otherwise being available to pay the Contractor. Additionally, the City must have budgeted appropriate funds for the goods and services in any subsequent Fiscal Year. If the budget is approved for said goods and services, the City will issue a new Purchase Order for required and approved goods and/or services.

ARTICLE 9. MISCELLANEOUS.

9.1 *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.

9.2 *Successors and assigns.* City 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.

9.3 *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 City 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.

9.4 *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.

9.5 *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.

9.6 *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.

9.7 *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.

9.8 *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 City. 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.

9.9 *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 City 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.

9.10 *Preparation*. The Contract Documents shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

9.11 *Public Records Law*. As applicable, the Contractor shall comply with Florida's Public Records Laws, and specifically agrees to:

- 9.11.1 Keep and maintain public records required by the City to perform the service.
- 9.11.2 Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

- 9.11.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.
- 9.11.4 Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT: ATTENTION DEBBIE ANDREA, (561) 586-1660 OR DANDREA@LAKEWORTHBEACHFL.GOV OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.

9.12 *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.

9.13 *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 City 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.

9.14 *Assignment of warranties.* Contractor shall assign to City 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 City.

9.15 *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:

9.15.1 "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;

9.15.2 "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

City, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive City of the benefits of free and open competition;

9.15.3 “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of City, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

9.15.4 “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.

9.16 *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.

9.17 *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 CITY 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 City 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 *Scrutinized Companies.*

9.19.1 Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Contract 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 Contract.

9.19.2 If this Contract 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 Contract 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 Contract.

9.19.3 The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.

9.19.4 The Contractor agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Contract, including any and all renewals.

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

9.19.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

9.20 *Counterparts*: This Contract may be executed electronically in two or more counterparts, each of which shall be deemed to be an original, but all of which shall be deemed to be an original, but each of which together shall constitute one and the same instrument. Further, this Contract may be executed by electronic signature as authorized by the City.

9.21 *Entire Contract and Amendment*: This Contract (together with the other Contract Documents) supersedes any and all prior negotiations and oral or written agreements heretofore made relating to the subject matter hereof and, except for written agreements, if any, executed and delivered simultaneously with or subsequent to the date of this Contract, constitutes the entire agreement of the parties relating to the subject matter hereof.

9.22 *Governing Law; Consent to Jurisdiction*: This Contract (together with the other Contract Documents) shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto irrevocably submit itself to the exclusive jurisdiction of the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida for state actions and jurisdiction of the United States District Court for the Southern District of Florida, Palm Beach Division, for the purposes of any suit, action or other proceeding arising out of, or relating to, this Contract; waives and agrees not to assert against any party hereto, by way of motion, as a defense of otherwise, in any suit, action or other proceeding, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever; and, to the extent permitted by applicable law, any claim that such suit, action or proceeding by any part hereto is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper or that this Contract or the subject matter hereof may not be enforced in or by such courts.

9.23 *Third Party Beneficiary rights*: This Contract shall create no rights or claims whatsoever in any person other than a party herein.

9.24 *Severability*: If any one or more of the provisions of the Contract shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

9.25 *Effective date*: The effective date of this Contract is the date the Contract is approved by the City Commission or City Manager as appropriate.

9.26 *Compliance*: Each of the parties agrees to perform its obligations under the Contract Documents in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of the work and under the Contract Documents.

9.27 *Work for Hire*: All documents, including but not limited to drawings, specifications, plans, reports, other items and data or programs stored in hard-copy, electronically or otherwise (collectively referred to as "Documents" hereafter), prepared by the Contractor or its subcontractors under this Contract shall be considered a "Work for Hire" and the exclusive property of the City. To the extent such Documents may not be deemed a "Work for Hire" under applicable law, Contractor and Contractor's Subcontractors will assign to the City all right, title and interest in and to Contractor and/or Contractor's Subcontractors' copyright(s) for such Documents. Contractor shall execute and deliver to City such instruments of transfer and take such other action that City may reasonable request, including, without limitation, executing and filing, at City's expense, copyright applications,

assignments and other documents required for the protection of City's right to such Documents. The Contractor shall retain copies of the Documents for a period of three (3) years from the date of completion of the Project. The City grants to the Contractor and Contractor's Subcontractors the right and/or limited license to use a portion of the Documents prepared by the Contractor or the Contractor's Subcontractors in future projects of the Contractor or Contractor's Subcontractors with said right and/or limited license to use a portion at Contractor's or Contractor's Subcontractor's own risk and without any liability to City. Any modifications made by the City to any of the Contractor's Documents, or any use, partial use or reuse of the Documents without written authorization or adaptation by the Contractor will be at the City's sole risk and without liability to the Contractor.

9.28 *Continuing Obligations:* Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

9.29 *Notice:* Any notice required to be given under the Contract Documents shall be sent by certified mail (return receipt requested) or by nationally recognized overnight courier or by hand-delivery as follows to the City:

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

and to the Contractor as follows:

Restore It All, Inc
Attn: Flavius Borz
300 N. 63 Ave.
Hollywood, FL 33024

Either party may amend this provision by written notice to the other party. Notice shall be deemed provided upon receipt of certified mail (signed receipt) or overnight courier (signed receipt) or hand-delivery (signed receipt).

9.30 *Warranty/Guaranty:* All Work, materials, labor, and equipment to be furnished and/or installed by the Contractor under the Contract Documents shall be guaranteed by the Contractor or manufacturer, if any, for a period of one year from the date of final approval of the Project against defective materials, design and workmanship. Upon receipt of notice from the City of failure of any part covered under such warranty/guaranty period, the affected Work, labor, materials, or equipment shall be repaired and/or replaced promptly by the Contractor or the manufacturer at no expense to the City. In the event the Contractor fails to make the necessary repairs or replacements within thirty (30) days after notification by the City, the City may accomplish the repairs and/or replacements at the expense of the Contractor.

9.31 *Protection of Work and Property:* The Contractor shall continuously maintain adequate protection of all Work from damage, and shall protect such Work and the City's property from injury or loss arising during the term of the Contract. Except for any such damage, injury, or loss which may be directly caused by the City or its employees, the Contractor shall adequately protect adjacent property, as provided by the law, and shall provide guard fences, lights, and any other necessary materials to carry out such protection.

Until final acceptance of the Project by the City, the Contractor shall take every necessary precaution against injury or damage to the Work by the action of the elements or from any other cause whatsoever, and the Contractor shall repair, restore and make good, without additional charge any work occasioned by any of the above causes before its completion and acceptance by the City.

9.32 *Subcontractors*: The total work to be accomplished by subcontractors is listed in the Contractor's bid and may not be changed unless approved in writing by the Contract Administrator. The balance of Work must be accomplished by the Contractor's own forces. The Contractor shall be responsible for the acts or omissions of its subcontractors. The subcontractors shall have insurance consistent with the insurance required of the Contractor as set forth in the Contract Documents unless otherwise agreed in writing by the Contract Administrator.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the City and Contractor have caused this Construction Contract for the emergency conduit installation and restoration to be executed the day and year shown below.

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: Melissa Ann Coyne
FOR: Ms. Sorah M. Andrea, City Clerk



By: Michael Bornstein
Michael Bornstein, City Manager

* The City Manager has approved this document pursuant to his emergency powers under the City's procurement code. As soon as reasonably possible, this document will be presented to the City Commission for ratification.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY

By: Christy Goddeau
Glen J. Torcivia, City Attorney

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

CONTRACTOR:

Restore It All, Inc.

[Corporate Seal]

By: F. Borz
Print Name: Flavius Borz
Title: President

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 1 day of September, 2020, by Flavius Borz, who was physically present, as President (title), of Restore It All, Inc., A Corporation, which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following _____ as identification.

Notary Public

J. Rivera
Print Name: Olga Rivera
My commission expires: 10/19/2020



Exhibit "A"
Contractor's Quotation
(1 page)

RESTORE IT ALL, INC.

8/26/2020

City Of Lake Worth Beach
7 North Dixie Hwy
Lake Worth Beach, Fl 33460

Ref : Conduit Installation & Restoration
Address: 2nd Ave S, Lake Worth

- Installation of 2-8" conduit at \$60.00/foot (we provide material) for approx. 550'
550' x \$60.00 = \$33,000.00
- Cable pull at \$5.00/foot (city will provide material) for approx. 600'
600' x \$5.00 = \$3,000.00
- Concrete restoration at \$25.00/sq ft (cut, remove, dispose & replace) for approx. 75'
75' x \$25.00 = 1,875.00\$
- Asphalt restoration at \$15.00/sq ft for approx. 50'
50' x \$15.00 = \$750.00
- Private locates(GPR) at \$1,500.00
- Material and delivery in the job site at \$15,950.00
- Fuse conduit at \$3,200.00
- Total estimate: \$59,275.00

If the above proposal is accepted please, sign, date and return.

If you have any questions or concerns regarding this proposal please, do not hesitate to contact us at flavius@restoreitall2012.com

Looking forward to doing business with you and your company!

Sincerely,

Flavius Borz

Flavius Borz
President



Accept (Y/N):

By.....

Signature:

Date:

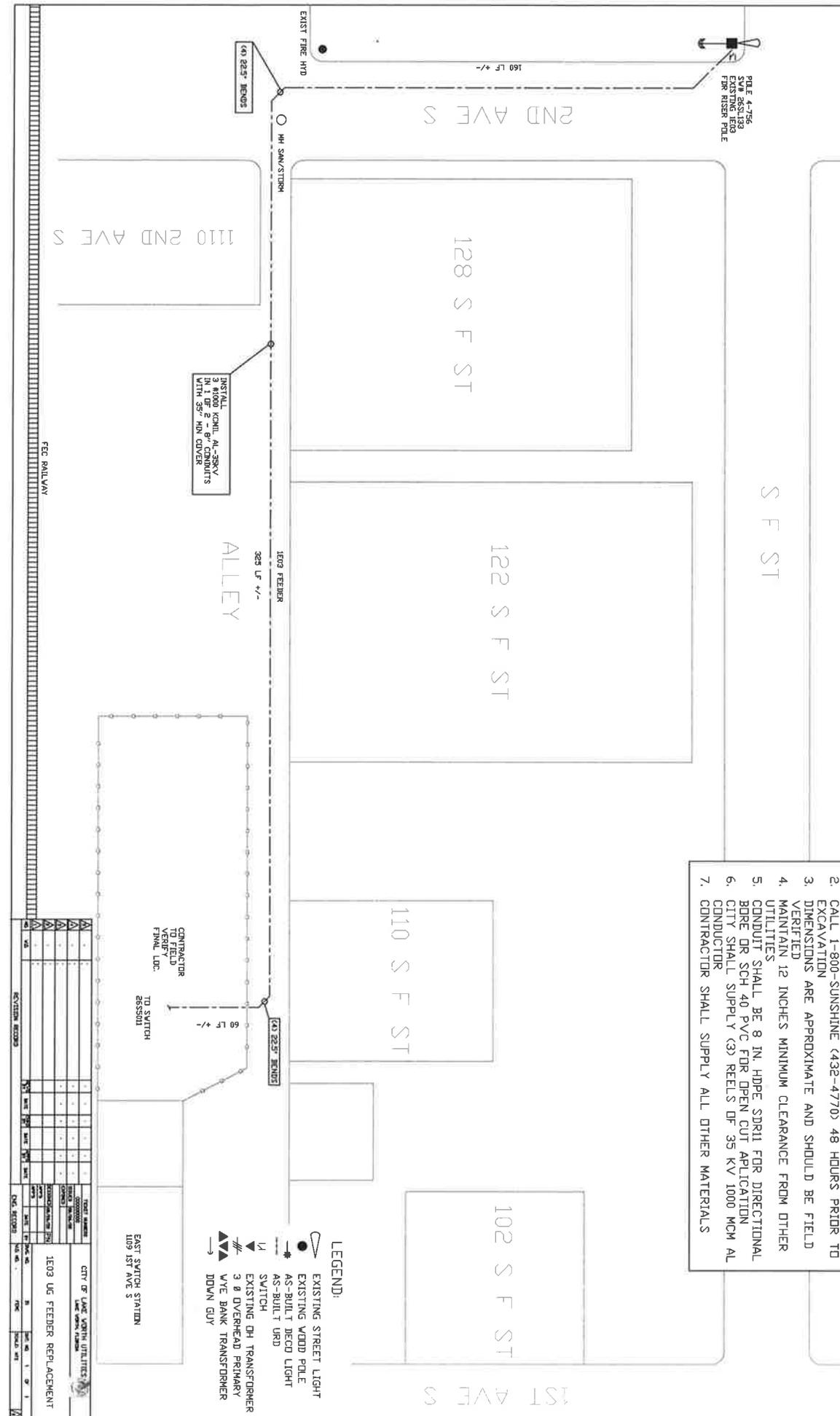
| 300 N. 63 Ave. Hollywood, FL 33024
Office #954-638-8736

Exhibit "B"
Sketch of East Switch 1E03 New UG Feeder
(1 page)



EAST SWITCH STATION
1E03 UG FEEDER REPLACEMENT

- NOTES:
1. CONTRACTOR TO LOCATE AND DETERMINE ALL UNDERGROUND UTILITIES
 2. CALL 1-800-SUNSHINE (432-4770) 48 HOURS PRIOR TO EXCAVATION
 3. DIMENSIONS ARE APPROXIMATE AND SHOULD BE FIELD VERIFIED
 4. MAINTAIN 12 INCHES MINIMUM CLEARANCE FROM OTHER UTILITIES
 5. CONDUIT SHALL BE 8 IN. HDPE SPIRIL FOR DIRECTIONAL BORE OR SCH 40 PVC FOR OPEN CUT APPLICATION
 6. CITY SHALL SUPPLY (3) REELS OF 35 KV 1000 MCM AL CONDUCTOR
 7. CONTRACTOR SHALL SUPPLY ALL OTHER MATERIALS



INSTALL 3 # 1000 MCM PRIMARY WITH 35' HD COVER

- LEGEND:
- EXISTING STREET LIGHT
 - EXISTING VOID POLE
 - AS-BUILT DEOD LIGHT
 - SWITCH
 - EXISTING OH TRANSFORMER
 - 3 Ø OVERHEAD PRIMARY
 - DAVE BANK TRANSFORMER
 - DOWN GUY

NO.	DATE	BY	CHKD BY	DESCRIPTION
1	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT
2	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT
3	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT
4	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT
5	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT
6	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT
7	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT
8	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT
9	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT
10	10/15/11	J. SMITH	M. JONES	1E03 UG FEEDER REPLACEMENT

CITY OF LANE NORTH UTILITIES
1E03 UG FEEDER REPLACEMENT

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: October 6, 2020

DEPARTMENT: Electric Utility

TITLE:

Interlocal Agreement with Palm Beach County for Pole Attachments related to the Student Wi-Fi Project

SUMMARY:

The Interlocal Agreement authorizes Palm Beach County to attach and maintain Wi-Fi devices, wireline and ancillary equipment on the City's utility poles as part of the City's participation in the County's Student Wi-Fi Project. The In-Kind City Electric Utility contribution value of these attachments and related expenses is \$296,215.50.

BACKGROUND AND JUSTIFICATION:

The City, Palm Beach County School District (PBCSD) and Palm Beach County have been working together to address the digital divide for students and their families within Lake Worth Beach. The recognition that there were many students who did not have home access to adequate or any internet services led to a partnership with the School District and Palm Beach County. The goal has been to find a way to install and operate a Wi-Fi system throughout the City for access by students who are in need. Almost 4 years earlier, with the leadership of the CRA and LWB Electric Utilities staff, the City participated in a similar Wi-Fi grant application to fund a similar project. Unfortunately, the grant was unsuccessful and the needs in the community persisted.

The recent COVID-19 closures of schools and libraries has exacerbated the problems with internet access as children are having to do their school work from home. The ability to access reliable internet services regardless of ability to pay, directly affects the learning process especially during the pandemic. As part of the CARES Act, funding has been identified to help with the implementation of free Wi-Fi for students in Lake Worth Beach.

On June 18th, 2020, representatives from PBCSD and Palm Beach County Information Systems Services (PBC ISS) presented the Student Wi-Fi Project to the City's Commission. Funds provided through the CARES Act will be utilized to fund the purchase of radios and fiber build out.

The City's contribution in this effort consists of providing space on the utility poles for the installation of the Wi-Fi radios and associated wireline attachments as well as providing power to the Wi-Fi devices. The in-kind contribution provided by the City, which would normally be charged to the private sector, is shown below

Item	Quantity	Rate Annual	Total
Wi-Fi Devices	225	\$1,300	\$292,500
Wire-line Attachments	100	\$16.50	\$1,650
Electrical Consumptions	225	\$9.18	\$2,065.50
Total In-Kind Value			\$296,215.50

Currently, the City is working with the PBC ISS team to identify radio locations for optimal coverage in the most needed areas in addition to routing options for the fiber back-haul system. It is anticipated, through PBC ISS's expanded fiber network, that the City will also have the ability to expand our communications footprint.

MOTION:

Move to approve/disapprove the Palm Beach County and City of Lake Worth Beach Interlocal Agreement for Pole Attachments.

ATTACHMENT(S):

Fiscal Impact Analysis-N/A
Pole Attachment Agreement

**INTERLOCAL AGREEMENT FOR
POLE ATTACHMENTS
BETWEEN
CITY OF LAKE WORTH BEACH
AND
PALM BEACH COUNTY**

This Interlocal Agreement for Pole Attachments ("Agreement") is dated this ____ day of ____ 2020, and is made by and between City of Lake Worth Beach, Florida (the "Licensor"), a Florida municipal corporation, and Palm Beach County ("Licensee"), a political subdivision of the State of Florida.

RECITALS

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Part I of Chapter 163, Florida Statutes, permits public agencies to enter into agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the Licensor and Licensee recognize the immediate need for the residents', guests' and citizens' school age children within the City of Lake Worth Beach to have free public virtual access to the Palm Beach County School District and related on-line learning tools during the COVID-19 pandemic ("Student Wi-Fi Access"); and

WHEREAS, the Licensor and Licensee recognize their ability to partner and leverage their resources for the greater good and provide Student Wi-Fi Access for the benefit of the City's residents, guests and citizens; and

WHEREAS, Licensee proposes to install and maintain, fiber optic and or coaxial cables, wires, antennas and associated wireline and wireless communications equipment on Licensor's Poles to provide Student Wi-Fi Access and all related lawful Communications Services to the public; and

WHEREAS, Licensor is willing, when it may lawfully do so, to issue one or more Permits authorizing the placement or installation of Licensee's Attachments on Licensor's Poles, provided that Licensor may refuse, on a non-discriminatory basis, to issue a Permit where in its reasonable judgment there is insufficient capacity (of space or pole loading requirements) or for reasons of safety, reliability and generally applicable engineering purposes; and

WHEREAS, the Licensor supports the rapid deployment of communications facilities within its service area pursuant to prudent pole attachment terms and conditions that will not (i) compromise the safety and reliability of the Licensor's electric distribution system; (ii) detrimentally affect the Licensor's ability to deliver exceptional customer service; or (iii) unreasonably interfere with the functionality of third-party communications

networks that share Licensor Poles. This Agreement shall be interpreted consistent with these principles; and,

WHEREAS, the Licensor, in support of the partnership with Licensee and desire to provide Student Wi-Fi Access, is willing to waive the Licensor's fees, assessments and charges set forth in this Agreement in order to provide an in-kind contribution that benefits the City of Lake Worth Beach; and,

WHEREAS, the City Commission of the City of Lake Worth Beach and the Palm Beach County Board of Commissions desire to partner with each other in the provision of Student Wi-Fi Access and finds such partnership, including the in-kind contribution set forth herein by both parties, is in the best interests of the City of Lake Worth Beach and Palm Beach County and serves a valid public purpose.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions and remunerations herein provided, and the rights and obligations created hereunder, the parties hereto agree as follows:

AGREEMENT

I. DEFINITIONS

For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Paragraph of this Agreement. Words used in the present tense include the future tense, words in the single number include the plural number, and words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- A. Affiliate: when used in relation to Licensee or other Attaching Entity, means another entity who owns or controls, is owned or controlled by, or is under common ownership or control with such Attaching Entity.
- B. Anchor: means a metal plate or screw placed in the ground to provide a counter load to the stringing tensions of Licensor and/or Licensee. Anchors shall be of sufficient size to hold the load placed on them.
- C. Applicable Standards: means all applicable engineering and safety standards governing the installation, maintenance and operation of facilities and the performance of all work, including Make-Ready Work, in or around electric Licensor Facilities and includes the most current versions of National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), the regulations of the Occupational Safety and Health Administration ("OSHA"), and the applicable laws of Florida, each of which is incorporated by reference in this Agreement, and/or other reasonable

safety and engineering requirements of Licensor or other authority with jurisdiction over Licensor Facilities.

- D. Attaching Entity: means any public or private entity that attaches to a Licensor Pole to provide Communications Service.
- E. Attachment: means the point of connection to a Licensor Pole of a cable or fiber optic wire facility or other Communications Facility utilized to provide Communications Service, together with all associated equipment (excluding climbing aids) necessary to physically attach such facility to Licensor's Poles, placed directly on Licensor's Poles within the Communication Zone. For billing purposes, an Attachment shall be counted only for each 12 inches of space occupied by a strand attached with through-bolt.
- F. Cable: means any communications cable, wire, or strand, including without limitation fiber optic cable, coaxial cable, and twisted pair copper cable.
- G. Communications Facilities: means a wire or other facility utilized to provide Communications Service, together with all associated equipment necessary to physically attach such facility to Licensor's Poles.
- H. Communications Service: means the transmission [or receipt] of voice, video, data, internet or other forms of digital or analog signals over wire or other facilities, but does not include any such transmission [or receipt] by Licensor when utilized to provide internal, non-commercial communications related to the operation of the Licensor.
- I. Communication Zone: means the space above the lowest permitted point of strand attachment minimum grade on a Pole, as defined by the NESC and other Applicable Standards that is available for Attachments.
- J. Make-Ready Work: means all work required by Applicable Standards, as reasonably determined by Licensor, required to accommodate Licensee's Communications Facilities. Such work includes, but is not limited to, rearrangement and/or transfer of Licensor Facilities or existing Attachments, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance or storm restoration purposes), pole strengthening and construction by pole removal and replacement.
- K. Outside Plant Facilities or OSP Facilities or Licensor Facilities: means all personal property and real property owned or controlled by Licensor, including but not limited to Poles and fiber.

- L. Overlash: means to lash an additional wire or other facility to an existing facility attached to a Pole.
- M. Permit: means written or electronic authorization of Licensor for Licensee to make, or maintain, Attachments to specific Poles pursuant to the requirements of this Agreement.
- N. Pole: means a pole owned by Licensor used for the distribution or transmission of electricity of less than 69kV that is capable of supporting Attachments for Communications Services. Generally the distribution Poles subject to this Agreement shall consist of 50 foot, class 2, wood poles which meet the requirements of the NESC for Pole Capacity, support and clearance of supply and communication conductors under conditions existing at the time this Agreement was established. The foregoing definition is not intended to preclude the use of Poles of different heights or strengths.
- O. Pole Capacity: is the maximum allowable stress, strain, or force the Pole can be subjected to, as determined by Licensor's Standards and the guidelines within the NESC.
- P. Pre-Permit Survey: means all work or operations required by Applicable Standards or Licensor to determine the Make-Ready Work necessary to accommodate Licensee's Communications Facilities on a Pole. Such work includes, but is not limited to, field inspection, and loading calculations.
- Q. Rearrange or Rearranging: is the moving of Attachments from one position to another on the same Pole.
- R. Reserve Capacity: means capacity or space on a Pole that Licensor has identified in writing at the time of attachment and reserved for its own electric utility requirements, pursuant to a reasonable, bona fide projected need or business plan for the provision of its core utility service.
- S. Riser: means metallic or plastic encasement materials placed vertically on the Pole to guide and protect communications wires and cables.
- T. Tag: means to place distinct markers on wires and cables, coded by color or other means specified by Licensor that will readily identify the type of Attachment and its owner.
- U. Transfer or Transferring: is the moving of Attachments from one Pole and placing them upon another.
- V. Unauthorized Attachment: means an Attachment to a Licensor Pole without Licensor's authorization required hereunder, including unauthorized third

party Overlapping as more specifically set forth in Section II L of this Agreement.

- W. Vertical Ground Wire: means a conductor of either party attached vertically to the Pole and extending from the multi-grounded neutral through the Communication Zone to the base of the Pole where it may be either butt wrapped on the Pole or attached to a ground electrode.
- X. Wireless Telecommunications Attachment: means any installation on a pole that sends and/or receives radio frequency signals, including but not limited to directional, omnidirectional and parabolic antennas, structures to support sending or receiving and/ or transmitting devices, cabinets, accessory equipment and other ancillary equipment. A span wire required to support an unbalanced load for a wireless telecommunication attachment shall be considered a pole attachment if the operator does not have a licensed attachment on that same pole.

II. SCOPE OF AGREEMENT

- A. Grant of License. Subject to the provisions of this Agreement, Licensor hereby grants Licensee a nonexclusive license authorizing Licensee to attach and maintain Attachments to Licensor's Poles subject to Licensor's termination rights set forth in Article XXII.
- B. Parties Bound by Agreement. Licensee and Licensor agree to be bound by all provisions of this Agreement and of the Permit(s) issued pursuant to this Agreement.
- C. Permit Issuance Conditions. Licensor will issue a Permit(s) to Licensee when Licensor determines, in its reasonable judgment that: (i) it has sufficient capacity (as it relates to both space for the equipment and pole loading requirements) to accommodate the requested Attachments within the Communication Zone; (ii) Licensee meets all requirements set forth in this Agreement; and (iii) such Permit(s) comply with all Applicable Standards. Sufficient capacity will be presumed to exist where the pole can accommodate Licensee's attachment consistent with Applicable Standards with or without Make-Ready Work.
- D. Reserve Capacity. Access to Poles will be made available to Licensee with the understanding that such access is subject to Licensor's Reserve Capacity as that term is defined herein. On giving Licensee at least ninety (90) days prior notice, Licensor may reclaim such Reserve Capacity anytime during the life of the Agreement following the installation of Licensee's Attachment if required for Licensor's future electric service use, including the attachment of communications lines for internal Licensor operational requirements. Licensor shall give Licensee the option to remove

its Attachment(s) from the affected Pole(s) or to request modifications needed to expand capacity so that Licensee can maintain its Attachment on the affected Pole(s) or to transfer its facilities to the nearest Pole. The parties will work together to address the requested modifications. If any Attachments permitted on the Pole in reserved capacity are not removed after ninety (90) days' notice or such additional time as is reasonably necessary under the circumstances, Licensor may, at its sole option, after providing three (3) business days' advance notice, remove or relocate said facilities. To the extent feasible, Licensor shall assist Licensee in finding other Licensor poles which may be suitable for Licensee's attachments

- E. No Interest in Property. No use, however lengthy, of any Licensor Facilities, nor the payment of any cost related to Licensee's Facilities, shall create or vest in Licensee any easements or other ownership or property rights of any nature in any portion of such Facilities. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of Licensor's rights to the Licensor Facilities. Notwithstanding anything in this Agreement to the contrary, Licensee shall, at all times, be and remain a mere licensee.
- F. Licensee's Right to Attach. Nothing in this Agreement, other than a Permit issued pursuant to Article VI, shall be construed as granting Licensee any right to attach Licensee's Communications Facilities to any specific Pole or to compel Licensor to grant Licensee the right to attach to any specific Pole.
1. Licensor reserves the right to deny Attachments to Licensor Poles on a non-discriminatory basis for capacity, safety, reliability, or engineering concerns.
 2. Pursuant to the right provided for in the above subsection, Licensor hereby excludes its Poles used to provide street lighting service only and limits use to Poles used to support those distribution and transmission lines in voltages below 69 kV. The Licensor may allow, under special circumstances and at the Licensor's discretion, cable attachments to Poles used to support transmission lines in excess of 69 kV and Poles used to provide street lighting service only.
- G. Necessity of Authorizations. Licensee is obligated to obtain all legally necessary certification, permitting, and franchising from Federal, State and Local authorities prior to making any Attachments.
- H. Licensor's Rights over Poles. The parties agree that this Agreement does not in any way limit Licensor's right to locate, operate and maintain its Poles in the manner that it reasonably believes will best enable it to fulfill its own service requirements.

- I. Expansion of Capacity. Licensor will take reasonable steps to expand Pole capacity when necessary to accommodate Licensee's request for Attachment. Notwithstanding the foregoing sentence, nothing in this Agreement shall be construed to require Licensor to install, retain, extend, or maintain any Pole for use by Licensee when such Pole is not needed for Licensor's own service requirements.
- J. Other Agreements. Except as provided herein, nothing in this Agreement shall limit, restrict, or prohibit Licensor from fulfilling any agreement or arrangement regarding Poles, including Joint Use Agreements, into which Licensor has previously entered, or may enter in the future, with others not party to this Agreement.
- K. Permitted Uses. This Agreement is limited to the uses specifically stated in the Recitals and no other use shall be allowed without Licensor's express written consent to such use. Nothing in this Agreement shall be construed to require Licensor to allow Licensee to use Licensor's Poles after the termination of this Agreement except to the extent that the parties are in good faith negotiations to extend this Agreement or enter into a new Agreement, in which case the terms of this Agreement shall govern until such renewed or new Agreement is executed.
- L. Overlapping. The following provisions will apply to Overlapping:
 - 1. Prior notice, but no permit, is needed for Licensee's overlapped cable. Licensee will stay in compliance with generally accepted engineering practices when installing the overlapped cable. Licensor has the right to deny the overlapped attachment for reasons of safety, reliability or generally applicable engineering reasons.
 - 2. Licensee shall not sub-license space on the pole to any third-party, or place an Attachment or Overlap for the benefit of any third-party. An affiliate of Licensee shall not be deemed a third-party. Any such action shall constitute a material breach of this Agreement. The use of Licensee's Communications Facilities by third-parties (including, but not limited to, leases of dark fiber or leased telecommunications services) that involves no additional Attachment or Overlap is not subject to the provisions of this Section II L.
 - 3. Except as otherwise set forth herein, if Overlapping is required to accommodate facilities of a third party who is not affiliated with Licensee, such third party must obtain Permits and a License Agreement with Licensor, and pay an Annual Attachment Fee. No such Permits to third parties may be granted by Licensor allowing Overlapping of Licensee's Communications Facilities unless Licensee has consented in writing to such Overlapping.

4. Make-Ready procedures set forth in Article VII shall apply, as necessary, to all Overlashing.
- M. Risers and Climbing Aids. Licensee shall not place risers, vertical grounds, climbing aids or J-hooks on any Poles without Licensor's prior written permission. Such permission shall not be unreasonably withheld.

III. FEES AND CHARGES

- A. [WIRELINE]. Annual Fee and Fee Adjustments. Licensor shall waive the annual pole fee.
- B. [WIRELESS]. Annual Fee and Fee Adjustments. Licensor shall waive the annual fee for any antennas attached to the pole.
- C. Payment of Agreed to Charges. If Licensee requests that the Licensor, or its contractor(s), perform Make Ready Work, Rearranging, Transferring or any other work necessary to add, remove or otherwise accommodate Licensee's Facilities including Attachments, the parties' Project Managers shall agree prior to such work commencing as to whether Licensor will waive the cost of such work or whether Licensee will pay for all or a portion of such work. If Licensee's Project Manager agrees to pay for all or a portion of such work or any other amount due under this Agreement, payment to the Licensor shall be made within thirty (30) days of Licensor providing an invoice for such agreed to cost. Nothing in this Agreement shall require Licensor to perform Make Ready Work, Rearranging, Transferring or any other work necessary to add, remove or otherwise accommodate Licensee's Facilities.

IV. SPECIFICATIONS

- A. Installation/Maintenance of Communications Facilities. When a Permit is issued pursuant to this Agreement, Licensee's Communications Facilities shall be installed and maintained in accordance with Licensor's installation and maintenance requirements and specifications, which may be amended on a non-discriminatory basis from time to time upon thirty (30) days' prior notice, and may not run afoul to the terms of this agreement. All of Licensee's Communications Facilities must comply with all Applicable Standards. Licensee shall be responsible for the installation and maintenance of its Communications Facilities. Licensee shall, at its own expense, make and maintain its Attachments in safe condition and good repair, in accordance with all Applicable Standards. Notwithstanding the foregoing, Licensee shall not be required to retrofit any Attachments that were installed in compliance with the requirements and specifications at the

time of installation except to the extent required by the NESC, including NESC Rule 013B.

- B. Additional Attachments. Licensee shall not have the right to place any equipment in addition to that initially authorized by its Permit, nor shall Licensee change the position of any Attachment to any Pole without first making application for and receiving permission to do so, as prescribed herein.
- C. Installation of Attachments. Licensee's fiber and/or cable Attachments on each Pole shall be restricted to one foot of pole space in the Communication Zone, utilizing any pre-drilled holes or banding. Licensee **may not** create any new holes in a concrete pole or ductile iron pole without Licensor's approval. If Licensee fails to install its Attachment at the lowest permitted point of the Pole and if Licensor should require the Licensee to lower its facilities for Licensor needs, Licensor will not be required to reimburse the Licensee for its modification expense.
- D. Tagging of Attachments. Licensee shall, upon written notice from Licensor, commence Tagging or marking all its Communications Facilities so they can be easily identified from the ground and distinguished from other similar cables on the pole. Commencing on the effective date of this Agreement, all cables shall be marked at the time of installation and be secured so as to remain permanently affixed to the attaching company's cable. The tagging requirement shall apply immediately to all new Attachments that are made subsequent to the execution of this Agreement. All other existing Attachments not already tagged shall be tagged by Licensee whenever Licensee has reason, in the normal course of business, to complete work on such attachments.
- E. Interference. Licensee shall not allow its Communications Facilities to impair the ability of Licensor or any third party to use Licensor's Poles (provided that such third party's equipment was installed and in operation on the applicable Licensor's Pole prior to the issuance of the applicable Permit to Licensee), nor shall Licensee allow its Communications Facilities to interfere with the operation of any Licensor Facilities.
- F. Protective Equipment. Licensee, its employees and contractors, shall utilize and install adequate protective equipment to ensure the safety of people and facilities. Licensee shall at its own expense install protective devices designed to handle the voltage and current impressed on its Communications Facilities in the event of a contact with the supply conductor.
- G. Violation of Specifications. If Licensee's Communications Facilities, or any part thereof, are installed, used, or maintained in violation of this

Agreement, and Licensee has not corrected the violation(s) within forty five (45) calendar days from receipt of written notice of the violation(s) from Licensor, Licensor may at its own option correct said conditions. Licensor will attempt to notify Licensee in writing prior to performing such work whenever practicable. When Licensor reasonably believes, however, that such violation(s) pose an immediate threat to the safety of any person, interfere with the performance of Licensor's service obligations, or pose an immediate threat to the physical integrity of Licensor OSP Facilities, after a good faith attempt to notify Licensee, unless Licensee can immediately remedy the violation, then Licensor may perform such work and/or take such action as it deems necessary without first giving written notice to Licensee. As soon as practicable thereafter, Licensor will advise Licensee of the work performed or the action taken. Licensee shall be responsible for paying Licensor for all costs Licensor incurred taking action under this subsection.

- H. Restoration of Licensor Service. Licensor's service restoration requirements shall take precedence over any and all work operations of Licensee on Licensor's Poles.
- I. Effect of Failure to Exercise Access Rights. If Licensee does not exercise any access right granted pursuant to this Agreement and applicable Permit within the period prescribed and any extension thereof, Licensor may use the space scheduled for Licensee's Attachment, for its own needs or other Attaching Entities. In such instances, Licensor shall endeavor to make other space available to Licensee, upon reapplication for a Permit, as soon as reasonably possible.

V. PRIVATE AND REGULATORY COMPLIANCE

- A. Necessary Authorizations. Licensee shall be responsible for obtaining from the appropriate public and/or private authority or other appropriate persons any required authorization to construct, operate and/or maintain its Communications Facilities on public and/or private property before it occupies any portion of Licensor's Poles. Licensor retains the right to require evidence that appropriate authorization has been obtained before any Permit is issued to Licensee to the extent such authorizations are actually required or applicable. Licensee's obligations under this Article V include, but are not limited to, Licensor franchise agreements and/or registration requirements, Florida P.S.C. certification, its obligation to obtain all necessary approvals to occupy public/private rights-of-way and to pay all costs associated therewith.
- B. Lawful Purpose and Use. Licensee's Communications Facilities must at all times serve a lawful purpose, and the use of such Facilities must comply with all applicable local, state and federal laws.

- C. Forfeiture of Licensor's Rights. No license granted under this Agreement shall extend to any Pole on or within which the Attachment of Licensee's Communications Facilities would result in a forfeiture of Licensor's rights. If Licensee's Communications Facilities would cause such forfeiture, Licensee shall promptly remove its Communications Facilities upon receipt of written notice from Licensor. Licensor will perform such removal at Licensee's expense after the expiration of sixty (60) calendar days from Licensee's receipt of the written notice.
- D. Effect of Consent to Construction/Maintenance. Consent by Licensor to the construction or maintenance of any Attachments of Licensee shall not be deemed to be an acknowledgment that Licensee has the necessary authority to construct or maintain any such Attachments. It is Licensee's responsibility to obtain all necessary approvals from all appropriate parties or agencies.
- E. Responsibility for Other Payments. If Licensee's use of Licensor's OSP Facilities create liability for any taxes, assessments, and governmental charges of any kind whatsoever lawfully levied or assessed, including without limitation, all franchise and other fees due to any federal, state, county, city or other jurisdiction having the authority to levy any such charges, the parties' Project Managers shall discuss such charges and determine if such charges should be waived by Licensor, shared or paid by solely by Licensee. Licensor shall pay any taxes, fees, or charges attributable to its ownership of Licensor OSP Facilities when such taxes, fees, or charges are not based on or imposed by virtue of Licensee's use of any such Facilities.

VI. APPLICATION FOR PERMIT PROCEDURES

- A. Permit Required. Licensee shall not install any Attachments on any Pole without first applying for ("Application") and obtaining a Permit pursuant to the applicable requirements of the Procedure. The rights to lease or occupy other Licensor OSP Facilities, including right of way, power supply space, ducts or conduits, or transmission towers (except as specifically provided herein) are not covered by this Agreement and must be separately negotiated. Licensee shall notify Licensor on a quarterly basis, of all service drops made during the previous quarter.
- B. Permits for Third Party Overlapping. As set out in Article II, Paragraph L, Permits and a separate pole attachment agreement are required for any third party Overlapping.
- C. Pre-Permit Survey. As part of the Permit application process, the Licensee shall collect field data for, provide digital photographs of each Pole, perform

pole loading calculations and submit them to Licensor with the permit Application. Each digital photograph shall be identified by address and street name. Pole loading calculations shall be performed for each height and class worst case pole (s) included in the permit survey.

- D. Certification of Use. Licensee must certify in its application that it will attach its Communications Facilities to the Poles within ninety (90) calendar days of the grant of Permit or such additional time as agreed to by the parties for minor system additions or upgrades. The time frame shall be extended to one hundred and twenty days (120) or such additional time as agreed to by the parties for major system upgrades or initial system build out occurring throughout Licensor's entire service territory. Licensee may apply at any time for an extension of the applicable attachment period which will at the discretion of Licensor be granted for a reasonable period of time upon a finding of good cause and that the grant of such extension does not materially prejudice any pending requests for Attachment(s).
- E. Licensor Review of Permit Application.
1. Upon receipt of a properly executed Application, including certified Pre-Permit Survey, Licensor will review the Permit Application as promptly as possible, and discuss any issues with Licensee, including unusual engineering or Make-Ready Work requirements associated with the Application. Licensor's acceptance of the submitted design documents does not relieve the professional engineer and Licensee of full responsibility for any errors and/or omissions in the engineering analysis. Within forty five (45) days of Licensor's receipt of a properly executed application for permit, Licensor shall issue a response to Licensee granting, denying or seeking additional information on the permit. No Permit shall be granted in advance of Licensee obtaining all requisite federal, State and local authorizations.
 2. Licensor may enter into an agreement with a third-party contractor who shall pursuant to Applicable Standards receive permit information, coordinate issue and/or deny Permits, perform design work and determine Make-Ready Work requirements on Licensor's behalf.
- F. Timing. Licensor, or its duly authorized agent, shall process Permits and establish Attachment rights on a non-discriminatory basis, based upon the time in which properly executed applications are received.
- G. Performance of Make-Ready Work. If Make-Ready Work is required to accommodate Licensee's Attachments, Licensor or its contractors may in

its sole discretion perform such work to the extent such work does not require modification, transfer or removal of Licensee facilities. The Licensee has the option of hiring a Licensor approved contractor to perform the Make-Ready Work.

- H. Permit as Authorization to Attach. If Licensor finds the Permit Application to be satisfactory and in accordance with the requirements of this Agreement and applicable law, Licensor will sign and return the Permit Application, which shall serve as authorization for Licensee to make its Attachment(s), provided, that Licensee has obtained all necessary federal, state and local authorizations.
- I. Failure to Construct. Absent circumstances beyond its control, if the Licensee fails to construct its facilities within ninety (90) calendars days of grant for minor system additions or upgrades and one hundred and twenty days (120) of grant for major system upgrades or initial system build out occurring throughout Licensor's entire service territory, all applicable Permits expire, unless waived or extended for good cause by Licensor. Upon expiration of a Permit, Licensee must resubmit all permit application materials.

VII. MAKE-READY WORK/INSTALLATION

- A. Estimate for Make-Ready Work. In the event Licensor determines that it can accommodate Licensee's request for Attachment(s) it will upon request, advise Licensee of any estimated Make-Ready Work and the parties' Project Managers shall discuss the costs necessary to accommodate the Attachment. The parties shall agree to such costs prior to Licensor or its contractor commencing any Make-Ready Work.
- B. Who May Perform Make-Ready Work. Make-Ready Work involving modification or removal of Licensor's facilities shall be performed only by Licensor or a contractor authorized by Licensor to perform such work. If Licensor does not agree to perform the Make-Ready Work to accommodate Licensee's Communications Facilities within ninety (90) days of Licensee's request for Attachments, Licensee may employ a contractor, approved by Licensor, to perform such work. Notwithstanding the forgoing, in the event that required Make-Ready Work involves ten (10) or fewer poles, and Licensor does not agree to perform the Make-Ready Work to accommodate Licensee's Communications Facilities within thirty (30) days, Licensee may employ a contractor, approved by Licensor, to perform such work.
- C. Scheduling of Make-Ready Work. If Licensor agrees to perform Make-Ready Work to accommodate Licensee's Communications Facilities, Licensor will include such work in its normal work schedule. Nothing herein

is intended, however, to require performance of Licensee's work before other prior scheduled work.

- D. Written Approval of Installation Plans Required. Before commencing any installation of its Communications Facilities on Licensor's Poles, Licensee must obtain Licensor's written approval of Licensee's plans for installation; including the identity of any third party performing such work and the date(s) and time(s) during which such work will be completed. All such work is subject to the insurance requirements of this Agreement.
- E. Licensee's Installation/Removal/Maintenance Work.
1. All of Licensee's installation, removal and maintenance work shall be performed at Licensee's sole cost and expense unless otherwise provided in this Agreement, in a good and workmanlike manner, and must not adversely or materially affect the structural integrity of Licensor's Poles or Licensor OSP Facilities or any other facilities or equipment attached thereto.
 2. All of Licensee's installation, removal and maintenance work performed on Licensor's Poles or in the vicinity of other Licensor Facilities, either by its own employees or contractors, shall be in compliance with all applicable regulations specified in Article IV, Paragraph A. Licensee shall assure that any person installing, maintaining, or removing its Communications Facilities is duly qualified and familiar with all Applicable Standards and the provisions of Article XIX.

VIII. TRANSFERS AND REARRANGEMENTS

- A. Required Transfers and Rearrangements of Licensee's Communications Facilities. If Licensor reasonably determines that a Transfer or Rearrangement of Licensee's Communications Facilities is necessary to accommodate Licensor's or a third party's needs, Licensee will perform such Transfer or Rearrangement within sixty (60) days after receiving notice from Licensor or such additional time as agreed to by the parties. If Licensee fails to Transfer or Rearrange its Communications Facilities within sixty (60) days after receiving such notice from Licensor or such additional time as agreed to by the parties, Licensor shall have the right in its sole discretion to Transfer or Rearrange Licensee's Communications Facilities using its own personnel or Licensee's pre-approved contractors at no cost to the Licensee, or remove Licensee's Communications Facilities. Licensor shall not be liable for damage to Licensee's Facilities if Licensee fails to Transfer or Rearrange its Communication Facilities within sixty (60) days after receiving notice from Licensor or such additional time as agreed to by the parties. Within 30 days of the execution of this Agreement, Licensee shall

submit to Licensor a list of Licensee Approved Contractors who are qualified and available for Licensor to call upon. Licensee shall update such list quarterly.

- B. Removed Communication Facilities. If Licensor removes Licensee's Communication Facilities because Licensee failed to timely Transfer or Rearrange the same as set forth above, Licensor shall hold the removed Communication Facilities for thirty (30) days for the Licensee to retrieve from Licensor. After thirty (30) days, Licensor may dispose of such Communication Facilities in Licensor's sole discretion.

IX. POLE MODIFICATIONS AND/OR REPLACEMENTS

- A. Licensee's Action Requiring Modification/Replacement. In the event that any Pole to which Licensee desires to make Attachments is unable to support or accommodate the additional facilities in accordance with all Applicable Specifications, Licensor will notify Licensee of the changes necessary to provide an NESC compliant Pole, including but not limited to replacement or extension of the Pole. Licensor generally shall not increase pole height to exceed fifty (50) feet.
- D. Strengthening/Guying. Licensee shall place guys and anchors to sustain any unbalanced loads caused by Licensee's attachments. Any strengthening of Poles through the use of guying to accommodate Licensee's Attachments shall be provided to the satisfaction of Licensor. Communications cables must be properly guyed and anchored before tensioning and if necessary the Licensee must install separate guying and anchoring devices to secure their cables.
- E. Grounding/Bonding. Licensee may bond its Attachments on Licensor Poles to the Vertical Ground Wire where the same exists. Under no condition will the Licensor Vertical Ground Wire be broken, cut, severed, or otherwise damaged by Licensee. The Licensee shall immediately repair any damage to the vertical grounds caused by the Licensee.
- F. Costs. If there are any costs for any Rearrangement or Transfer of Licensee's Communications Facilities or the replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of Licensor's cables or wires), the parties' Project Managers shall agree to how such costs shall be waived, shared or otherwise apportioned. No Rearrangement, Transfer or replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of Licensor's cables or wires) shall commence until an agreement on the costs for the same is made by the parties' Project Managers. Nothing in this Agreement shall require Licensor to remove, relocate or otherwise modify Licensor's equipment, poles or other facilities.

X. ABANDONMENT AND CHANGE-OUT

- A. Notice of Abandonment/ Change-Out/ Removal of Licensor Facilities. If Licensor desires at any time to abandon, replace, or relocate any Licensor Facilities to which Licensee's Communications Facilities are attached, it shall give Licensee notice in writing to that effect. Within sixty (60) days of receipt of said notice or such longer period mutually agreed to by the parties, Licensee shall remove and/or Transfer all of its Communications Facilities therefrom. Licensor shall reimburse Licensee for such removal and Transfer. Should Licensee not remove or Transfer its Communications Facilities within the prescribed time period or additional agreed to time, Licensor shall have the right, if necessary under applicable laws and regulations, to have Licensee's Communications Facilities removed and/or transferred from the Pole at Licensee's expense. Licensee shall indemnify and hold Licensor harmless for any such removal or Transfer of Licensee's Communications Facilities except to the extent any claim, action, loss, damage, injury, liability, cost or expense is caused by the sole negligence or willful misconduct of Licensor. Licensor shall give Licensee prior written notice of any such removal or transfer of Licensee's Facilities.
- B. Required Removal of Licensor Facilities. Upon receipt of not less than forty-five (45) days' prior written notice from Licensor to Licensee that any Licensor Facilities must be removed by reason of any Federal, State, County, Municipal or other governmental requirement, or the requirement of a property owner, the license covering the use of said Licensor Facilities shall terminate and Licensee's Communications Facilities shall be removed promptly from the affected Licensor Facilities. Notwithstanding the foregoing, Licensee shall have a reasonable opportunity to pursue and exhaust its available legal and administrative remedies prior to termination of its Permit, provided, that no enforcement action is being taken or threatened against Licensor and no order has been issued directing Licensor to remove Licensee's facilities, and that Licensee agrees to indemnify and hold harmless Licensor for Licensee's continued attachment pending any such exhaustion of remedies. If Licensee fails to remove its Communications Facilities from such Licensor Facilities in accordance with this paragraph, Licensor shall have the right, to remove such facilities at Licensee's expense.
- C. Removal on Expiration/Termination. At the expiration or other termination of this License Agreement or individual Permit(s), unless the parties are in good faith negotiations to renew the, or enter a new, pole attachment agreement, Licensee shall remove its Communications Facilities from the affected Poles at its own expense. If Licensee fails to remove such facilities within ninety (90) calendar days of written notice from Licensor of

such expiration or termination or some greater period as allowed by Licensor, Licensor shall have the right to have such facilities removed, or, if necessary under applicable laws and regulations, have such facilities declared “abandoned” and remove such facilities at Licensee’s expense..

XI. TERMINATION OF PERMIT

- A. Automatic Termination of Permit. Any Permit issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have authority to construct and operate its Communications Facilities on public or private property at the location of the particular Pole covered by the Permit. Notwithstanding the above, Licensee shall have a reasonable opportunity to pursue and exhaust its available legal and administrative remedies prior to termination of its Permit, provided, that no enforcement action is being taken or threatened against Licensor and no order has been issued directing Licensor to remove Licensee’s facilities, and that Licensee agrees to indemnify and hold Licensor harmless for Licensee’s continued Attachment pending any such exhaustion of remedies.

- B. Right to Cancel. Unless the length of time to make attachment under a Permit is extended for good cause, Licensor retains the right to cancel, with thirty (30) days written notice, any Attachment Permit not utilized by placement of Licensee’s Communications Facilities therein within ninety (90) calendar days of Permit issue date for minor system additions or upgrades, and one hundred and twenty (120) calendar days for major system upgrades or initial system build out occurring throughout Licensor’s entire service territory, unless an extension is granted.

- C. Surrender of Permit. Licensee may at any time surrender any Permit for Attachment and remove its Communications Facilities from the affected Pole(s) at its own expense. All such work is subject to the insurance requirements of Article XVIII. If Licensee surrenders such Permit pursuant to the provisions of this Article, but fails to remove its Attachments from Licensor’s Poles within forty five (45) days thereafter or if removal cannot be completed within forty five (45) days, such additional time as agreed to by the parties, Licensor shall have the right to remove Licensee’s Attachments at Licensee’s expense.

XII. INSPECTION OF LICENSEE’S FACILITIES

- A. Initial Inventory, Inspection and Audit.
 - 1. The Parties agree that the initial inventory of Licensee’s attachments to Licensor’s poles is accurately depicted on **Exhibit A (if any)**.

2. At the end of each year of the term of this Agreement, Licensor may conduct an audit of Licensee attachments. If the results of the pole audit show attachments to poles by Licensee not previously authorized by Licensor, Licensor may add such poles to the Inventory or provide Licensee with ten (10) days notice to obtain a Permit or remove the same. If Licensee fails to obtain a Permit or remove the unauthorized attachments, Licensor in its sole discretion may remove the unauthorized attachments.
 3. Inspections. Licensor shall have the right at any time to make periodic inspections of Licensee's Communications Facilities, utilizing its own employees or contractors, and Licensee shall reimburse Licensor for the actual and reasonable expense of such inspections, but only for the costs of inspecting the poles on which Licensee is found to be in violation of any Applicable Standard.
- B. Notice. Licensor will give Licensee reasonable advance written notice of such audits or inspections, except in those instances where safety considerations justify the need for such inspection without the delay of waiting until written notice has been received.
- C. No Liability. The making of any inspections under this Article XV, or the failure to do so, shall not operate to impose upon Licensor any liability of any kind whatsoever or relieve Licensee of any responsibility, obligations or liability whether assumed under this Agreement or otherwise existing.
- D. PSC Violations. Licensee agrees to correct any and all violations it causes as required by the Florida Public Service Commission ("PSC") within ten (10) business days' notice from Licensor or such longer period as may be permitted by the PSC.

XIII. UNAUTHORIZED OCCUPANCY OR ACCESS

- A. Unauthorized Attachment. Within 30 days of the effective date of this Agreement, Licensee shall submit to Licensor, a complete list of all its attachments and such list shall become **Exhibit B** to this Agreement. After that 30 day period, if any of Licensee's Attachments are found occupying any Pole for which no Permit has been issued, Licensee shall immediately submit a Permit Application for any such attachment or in the event it causes a material safety violation (as determined by Licensor), shall immediately remedy such violation or remove at Licensee's own cost. In the event Licensee fails to remedy or remove its Unauthorized Attachments in accordance with this paragraph within ten (10) days of notification, Licensor may remove such Unauthorized Attachments at Licensee's expense.

- B. No Ratification of Unlicensed Use. No act or failure to act by Licensor with regard to said unlicensed use shall be deemed as ratification of the unlicensed use and if any Permit should be subsequently issued, such Permit shall not operate retroactively or constitute a waiver by Licensor of any of its rights or privileges under this Agreement or otherwise; provided, however, that Licensee shall be subject to all liabilities, obligations and responsibilities of this Agreement in regards to said unauthorized use from its inception.

XIV. LIABILITY AND INDEMNIFICATION

- A. Licensor Reservation. Licensor reserves to itself the right to maintain and operate its Poles in such manner as will best enable it to fulfill its own service requirements. Licensor shall exercise reasonable precaution to avoid damaging Licensee's Communications Facilities and shall make an immediate report to Licensee of the occurrence of any such damage caused by its employees, agents or contractors.
- B. Responsibility for Negligence. The parties to this Agreement recognize that each party is entitled to sovereign immunity under the law. Without waiving their rights to sovereign immunity, each party agrees to be responsible for its negligence which arises from or is a result of this Agreement.
- C. Indemnification by Licensee's Contractor(s). The Licensee agrees that its use of any of Licensee's approved contractor(s), including their subcontractor(s), which perform work on behalf of Licensee under this Agreement, each such contractor, including each of its subcontractor(s), shall agree in writing to indemnify, defend, save and hold harmless the Licensor, and all of its commissioners, officers, employees, agents, successors and assigns against any claim, action, loss, damage, injury, liability, cost or expense including, but not limited to, reasonable attorneys' fees and court costs at all trial and appellate levels, directly or indirectly arising out of or related to the contractor's, including its subcontractors, its directors, officers, employees, agents, licensees or representatives, negligent acts and/or negligent omissions. Proof of such indemnification shall be provided to the Licensor upon request.
- D. Waiver of Consequential Damages. Neither party shall be liable to the other for any indirect, incidental, consequential, special, punitive or exemplary damages (including but not limited to loss of profits, damages to business reputation, lost opportunity, or other remote items of damage) caused by the use of Licensor's poles hereunder.
- E. Liens. Licensee shall not allow any lien upon Licensor property, facilities or plant arising from any work performed, materials furnished or other obligations incurred by Licensee relating to this Agreement. Licensee shall

comply with Chapter 255, Florida Statutes, and any other applicable laws and shall indemnify and hold Licensor harmless for any such claim or cause of action.

- F. Indemnification Shall Survive Termination. Any indemnification set forth in this Agreement shall be in addition to any other remedy available under this Agreement or at law or equity and shall survive the term of this Agreement executed pursuant hereto, with respect to any circumstance or event occurring before termination.
- G. Environmental Hazards. Licensee represents and warrants that its use of Licensor's Poles and Licensee's Communications Facilities attached to Licensor Poles will not constitute, contain or generate any hazardous substance, and that it will not store or dispose on or about Licensor's Poles or transport to Licensor's Poles any hazardous substances in violation of state or federal law now or hereafter in effect including any amendments. "Hazardous substance" shall be interpreted broadly to mean any substance or material designated or defined now or in the future by any federal, state, or local laws, regulations or rules as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance or other similar term.
- F. Sovereign Immunity. Nothing in this Agreement shall be interpreted as waiving or abrogating Licensor's or Licensee's right of sovereign immunity, pursuant to Section 768.28, Florida Statutes, or any successor statute. Nothing herein shall be construed as the parties' intention to be sued by third parties.

XV. DUTIES, RESPONSIBILITIES, AND EXCULPATION

- A. Duty to Inspect. Licensee acknowledges and agrees that Licensor does not warrant the condition or safety of Licensor's Poles, or the premises surrounding the Poles, and Licensee further acknowledges and agrees that it has an obligation to inspect Licensor's Poles and/or premises surrounding the Poles, prior to commencing any work on Licensor's Poles or entering the premises surrounding the Poles.
- B. **DISCLAIMER. LICENSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO LICENSOR'S POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- C. Licensee agrees to warn its employees, agents, contractors, and invitees of the fact that the electrical facilities and appurtenances installed or to be installed by Licensor are of high voltage electricity and to inform such

persons as to safety and precautionary measures which he or she must use when working on or near Licensor poles and other facilities.

- D. Licensee shall ensure that its permanent or temporary employees and its contractor's/subcontractor's employees, working on Licensor owned Poles have received training in pole safety and are knowledgeable of the electrical hazards present as required by OSHA or other authority.
- E. Drug and Alcohol Free Workplace. The Licensor wants to ensure that all employees working on Licensor projects and facilities are fully able to do their job and are not impaired by drug or alcohol use – a major cause of work site accidents. Licensee shall provide, and shall also require that its contractor(s) and subcontractor(s) who work on Licensor structures provide, pre-employment testing for drugs and alcohol.
- F. Licensor representatives will periodically visit job sites to ensure safety programs are being followed. Licensor reserves the right to stop work relating to Licensor Poles where Licensee or its contractor or subcontractor's activities constitute an imminent danger to life or health. Licensor shall provide Licensee with a 24-hour number for technical assistance on safety related issues. Licensee shall provide Licensor with a 24-hour number of a designated safety representative who has the authority to correct unsafe conditions.
- G. Requests to De-energize. In the event Licensor de-energizes any equipment or line at Licensee's request and for its benefit and convenience in performing a particular segment of any work, Licensee shall reimburse Licensor in full for all costs and expenses incurred in order to comply with Licensee's request for de-energization of any equipment or line. Before Licensor de-energizes any equipment or line, it shall provide upon request an estimate of all costs and expenses to be incurred in accommodating Licensee's request
- H. Interruption of Service. In the event that Licensee shall cause an interruption of Licensor's service by damaging or interfering with any equipment of Licensor, Licensee at its expense shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting there from and shall notify Licensor immediately. In the event that Licensor shall cause an interruption of Licensee's service by damaging or interfering with any equipment of Licensee, Licensor at its expense shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting there from and shall notify Licensee immediately
- I. Force Majeure. Neither party shall be liable for any failure or delay in the performance of its obligations under this Agreement due to a force majeure event, including but not limited to, acts of civil or military authority, acts of

courts and/or regulatory agencies, war, riot or insurrection, embargoes, sabotages, strikes or lockouts (provided such strike or lockout does not arise from inequitable labor practices), epidemics, fires, floods, earthquakes, tornadoes, hurricanes. In the event of any failure or delay resulting from such causes, upon notice to the other party within five (5) days of occurrence of the event giving rise to the delay or such additional time as agreed to by the parties, the time for performance hereunder shall be extended for a period of time reasonably necessary to overcome the effects of such delays.

XVI. INSURANCE

- A. Coverage. Without limiting or otherwise altering its liability as stated elsewhere herein, Licensee is a self-insured political subdivision of the State of Florida subject to the limitations of section 768.28, Florida Statutes, as amended. Licensee shall maintain a prudent fiscal program with regard to its liability obligations under this Agreement. Further, should Licensee utilize any third-party to perform any work under this Agreement, Licensee shall require such third-party contractors to provide and maintain in force, from companies authorized to do business in the State of Florida and rated A-, VII or better by AM Best, policies of insurance with minimum limits as follows:
1. Workers' Compensation and Employer's Liability insurance for all of Licensee's employees. Limit of insurance for Employer's Liability shall be a minimum of \$500,000 per accident.
 2. General Liability insurance for bodily injury and property damage of \$1,000,000 each occurrence and \$2,000,000 annual aggregate, combined single limit.
 3. Automobile Liability for bodily injury and property damage (covering owned, hired or non-owned vehicles) of \$1,000,000 each occurrence, combined single limit.
 4. Excess Liability insurance for bodily injury and property damage of \$8,000,000 each occurrence and annual aggregate, combined single limit. This is additional coverage and limits above the following primary insurance: Employer's Liability, Commercial General Liability, and Automobile Liability. Overall limits of liability insurance may be met through any combination of primary and excess liability policies.
 5. Licensee shall specify Licensor as an additional insured for all required coverage to the extent permitted by 768.28, Florida Statutes, except Workers' Compensation and Employer's Liability.

Such insurance shall be primary to any and all other insurance or self-insurance maintained by Licensor as required by state law and with respect to losses for which Licensee is responsible hereunder.

- B. Certificates. Within thirty (30) days of the effective date of this Agreement, Licensee shall furnish Licensor proof of self-insurance in compliance with the 768.28, Florida Statutes, as amended.

XVII. AUTHORIZATION NOT EXCLUSIVE

Licensor shall have the right to grant, renew and extend rights and privileges to others not party to this Agreement, by contract or otherwise, to use Licensor Facilities covered by this Agreement. Such rights shall not interfere with the rights granted to Licensee by the specific Permits issued pursuant to this Agreement.

XVII. ASSIGNMENT

Licensee shall not assign its rights or obligations under this Agreement, nor any part of such rights or obligations, without the prior written consent of Licensor, which shall be not be unreasonably withheld, delayed, or conditioned. Notwithstanding the foregoing, Licensee shall have the right to assign this Agreement without consent to any Affiliate of Licensee.

XIX. FAILURE TO ENFORCE

Failure of Licensor or Licensee to take action to enforce compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect.

XX. TERMINATION OF AGREEMENT

- A. Licensor shall have the right to terminate this entire Agreement, or any Permit issued hereunder, in the event that Licensee fails to cure a default of any term or condition of this Agreement, including but not limited to the following circumstances:
1. Construction, operation or maintenance of Licensee's Communications Facilities in violation of law or in aid of any unlawful act or undertaking; or
 2. Construction, operation or maintenance of Licensee's Communications Facilities after any authorization required of Licensee has lawfully been denied or revoked by any governmental or private authority, provided, however, Licensee shall have a

reasonable opportunity to pursue and exhaust its available legal and administrative remedies prior to termination of its Permit, provided that no enforcement action is being taken or threatened against Licensor, and no order has been issued directing Licensor to remove Licensee's facilities and Licensee agrees to indemnify and hold harmless Licensor for Licensee's continued attachment pending any such exhaustion of remedies; or

3. Construction, operation or maintenance of Licensee's Communications Facilities without the required insurance coverage.
- B. Licensor will notify Licensee in writing within ten (10) business days, or as soon as reasonably practicable, of any default(s). Licensee shall take immediate corrective action to eliminate any such condition(s) within thirty (30) business days after receipt of such notice, or if the default cannot reasonably be cured within thirty (30) business days after receipt of such notice and Licensee commences the cure and thereafter continuously and diligently pursues the cure to completion, or such longer period mutually agreed to by the parties, and shall confirm in writing to Licensor that the cited condition(s) has(have) ceased or been corrected. If Licensee fails to discontinue or correct such condition(s) and/or fails to give the required confirmation, Licensor may immediately terminate this Agreement or any Permit(s). In the event of termination of this Agreement or any of Licensee's rights, privileges or authorizations hereunder, Licensor may remove Licensee's Communications Facilities pursuant to the terms of Article X(C); however, the timeframe in Article X(C) shall not apply.
 - C. Licensee shall have the right to terminate this Agreement, without cause, for any reason, including, but not limited to, due to lack of funding or convenience, upon ten (10) business days' notice to Licensor. Licensee shall have thirty (30) days from the date of its notice to terminate to remove all of its Facilities. In the event of Licensee fails to timely remove its Facilities, Licensor may remove Licensee's Facilities pursuant to the terms of Article X(C); however, the timeframe in Article X(C) shall not apply.
 - D. Each party's performance and obligations under this Agreement for subsequent fiscal years is contingent upon annual appropriations from each party's governing body for its purpose. If no such annual appropriation is provided by a party's governing body, either party may terminate this Agreement in accordance with paragraph (C) above.

XXI. TERM OF AGREEMENT

- A. This Agreement shall become effective upon its execution and, if not terminated in accordance with other provisions of this Agreement, shall continue in effect for a term of ten (10) years. By mutual written agreement

of the parties this Agreement may be extended for up to three (3) additional terms of five (5) years each, provided that Licensee has given Licensor sixty (60) days written notice prior to the end of the then current term of its desire to renew.

- B. All indemnity obligations set forth herein shall survive the expiration or termination of this Agreement.

XXII. AMENDING AGREEMENT

Notwithstanding other provisions of this Agreement, the terms and conditions of this Agreement shall not be amended, changed or altered except in a writing signed by an authorized representatives of both parties.

XXII. NOTICES AND PROJECT MANAGERS

- A. Any notice, demand, consent, request or other communication required or permitted to be given under this Agreement shall be in writing and delivered by hand, or by registered or certified mail, return receipt requested and postage prepaid, or by nationally recognized over-night courier, and shall be considered effective upon receipt, at:

If to Licensor, at:

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

With copy to: City of Lake Worth Beach
 Attn: City Attorney
 7 N. Dixie Highway
 Lake Worth Beach, FL 33460

And:

City of Lake Worth Beach Electric Utility
Attn: Electric Utility Director
1900 2nd Avenue North
Lake Worth Beach, FL 33461

If to Licensee:

Verdenia C. Baker, County Administrator
c/o Archie Satchell, Information Systems Services CIO
Palm Beach County Board of County Commissioners
301 N. Olive Avenue, 8th floor

West Palm Beach, FL 33401

With copy to: County Attorney's Office
Palm Beach County Board of County
Commissioners
301 N, Olive Avenue, FL 33401

- B. Changes in the respective addresses to which such notice is to be directed may be made from time to time by written notice.
- C. Upon the effective date of this Agreement, each party shall identify a Project Manager and provide the other party with the Project Manager's (and alternate Project Manager) contact information including e-mail. As required herein, the parties' Project Manager's shall confer from time to time on issues and make decisions regarding issues. Such decisions shall be documented via e-mail.

XXIV. ENTIRE AGREEMENT

This Agreement supersedes all previous agreements, whether written or oral, between Licensor and Licensee for placement and maintenance of Licensee's Communications Facilities on Poles within the geographical operating area covered by this Agreement; and there are no other provisions, terms or conditions to this Agreement except as expressed herein.

XXV. SEVERABILITY

If any provision or portion thereof of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement to either party, such provision shall not render unenforceable this entire Agreement but rather it is the intent of the parties that this Agreement be administered as if not containing the invalid provision.

XXVI. GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida and federal law to the extent applicable. The venue of any legal action brought or filed relating to any matter arising under this Agreement shall be exclusively in the federal or state courts sitting in Palm Beach County, Florida, having jurisdiction over such legal action.

XXVII. INCORPORATION OF RECITALS AND APPENDICES

The Recitals, appendices to this Agreement, and applicable federal and state law at the time of this Agreement's adoption, are incorporated into and constitute part of this Agreement.

XXIX. SCRUTINIZED COMPANIES CERTIFICATION

A. Licensee 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 Licensee or any of its subcontractors are found to have submitted a false certification; or if the Licensee 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 Licensee 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 Licensee, or any of its subcontractors are found to have submitted a false certification; or if the Licensee 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 Licensee agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

D. The Licensee 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 Licensee agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the Licensee 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.

XXX. JOINT PREPARATION.

The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not be construed more severely against one of the parties than the other.

XXXI. CONTINUING OBLIGATION.

Duties or obligations that are of a continuing nature extending beyond the Agreement's expiration or termination, including but not limited to the indemnification requirements, shall survive the Agreement's expiration or termination.

XXXII. NO THIRD PARTY BENEFICIARIES.

No provision of this Agreement is intended to or shall be construed to create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including without limitation, any citizen, resident, official, employee or volunteer of either party.

XXXIII. PALM BEACH COUNTY IG.

In accordance with Palm Beach County ordinance number 2011-009, the parties acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General.

XXXIV. COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have executed this Interlocal Agreement for Pole Attachments on the day and year first written above.

ATTEST:

Sharon R. Bock, Clerk & Comptroller

**Palm Beach County, By Its
Board of County Commissioners**

By: _____
Deputy Clerk

By: _____
Mayor

(SEAL)

**APPROVED AS TO LEGAL
SUFFICIENCY**

**APPROVED AS TO TERMS AND
CONDITIONS**

By: _____
County Attorney

By: _____
Archie Satchell, CIO, ISS

CITY OF LAKE WORTH BEACH, FLORIDA

ATTEST:

By: _____
Deborah M. Andrea,
City Clerk

By: _____
Pam Triolo, Mayor

**APPROVED AS TO FORM AND
SUFFICIENCY:**

**APPROVED FOR FINANCIAL LEGAL
SUFFICIENCY**

By: _____
Glen J. Torcivia,
City Attorney

By: _____
Bruce T. Miller,
Financial Services Director

**EXHIBIT A
INITIAL INVENTORY**

**EXHIBIT B
INVENTORY**